

ADVANTAGES AND DISADVANTAGES

Of having a before witness will

A Before Witness Will is a **simple, integral** and **economical** type of will you could sign. All you need is paper, pen and two witnesses. Follow the instructions on page 4. Make sure to, initial, sign and date the document. That's it !

However, please note that a Before Witness Will is **not the most secure** kind of Last Will you could have in Quebec. After death, your heirs will have to apply for a court probate of the will. This is a legal procedure that is lengthy (3+ months) and costly (+\$2,500). Also, your will is not registered. It could be lost and never found. It could be destroyed accidentally or by those who disagree with its contents. Your witnesses could predecease you or be difficult to locate after your death. Your writing will be analyzed and your capacity questioned. Your Before Witness Will is contestable by law.

VALIDITY

A Before Witness Will is only valid if

- ◆ Handwritten by testator or typed
- ◆ Signed and Dated by the Testator
- ◆ Every page initialed by Testator and Witnesses
- ◆ Signed before two witnesses

BEWARE

Problems with Before Witness Wills

- ◆ Requires Will Probate at Court after death
- ◆ Witness Affidavit required after death
- ◆ Contestable
- ◆ Unregistered



NEED HELP ?

If you purchased this Before Witness Will Kit and you :

- ◆ Need legal advice ? Contact us for a consultation or an appointment book online.
- ◆ Prefer to do a Notary Will ? Contact us for an appointment or book online. Provide us with your receipt for the purchase of this kit and we will credit your payment after signing your Notary Will at our office.



FREQUENT QUESTIONS

CAN MY BEFORE WITNESS WILL BE NOTARIZED BY A NOTARY ?

No. A Before Witness Will cannot become a Notary Will by notarization at any time. A Notary Will must be written by a notary in a particular form, printed on a particular paper, registered and entered into a notarial vault by a notary. Unlike a Notary Will, your Before Witness Will must undergo the legal process of court probate after death to become official. Without court verification, your will cannot be used to liquidate your estate.

WHAT HAPPENS IF I AM ILL OR INCAPACITATED BUT NOT DEAD ?

A Last Will is only opened in the event of death. If you become incapable of taking care of your property or your health due to an accident, age, or illness, then another document is required : A Mandate of Protection. This is commonly known as a "living will".

WHAT IF I HAVE MINOR CHILDREN ?

Please note that there are special rules that apply to minor children. It will be important to consider what they are inheriting and how much. Also, it will be important to determine how and who will administer their inheritance before they come adults. As well as who will have custody and be the tutor with parental authority. If you have minor children, it is advisable to get a notary consultation. It is also recommended to proceed with a Notary Will in order to avoid complex legal problems for your family after death.

CAN ME AND MY SPOUSE SIGN THE SAME BEFORE WITNESS WILL ?

No. A Last Will is a unilateral document. The law does not recognize a "couple's will". Any will signed by two or more testators is automatically null and void. It will be as if you died without a will.

IS IT POSSIBLE TO REGISTER MY BEFORE WITNESS WILL AT THE CHAMBER OF NOTARIES WILL REGISTRY ?

Yes. If you purchased our Before Witness will kit and wish to have your Before Witness Will preserved in our notary vault and registered at the Chamber of Notaries of Quebec, then please contact us for this additional service and include your receipt information. Kindly note that despite registering your Holographic Will, your last will must still undergo the legal process of probate at court after death. It does not become a Notary Will.

HOW DO I CHANGE MY WILL ?

Seek legal advice from a notary regarding making amendments to your will. You can also simply make a new Last Will that revokes all previous wills.

In Quebec, there are 3 kinds of Wills. And they are all legally different.

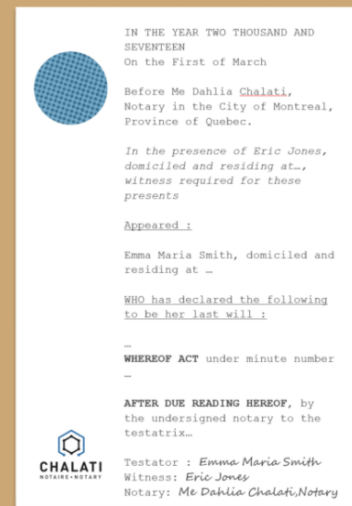
Holographic Will



Before 2 Witnesses Will



Notary Will



Before Witness Will

The Before Witness Will is certainly a **valid** type of Last Will.

The two other types of Wills that exist in Quebec are : **Holographic Will** and the **Notary Will**.

Out of the three types of wills in Quebec, the Before Witness Will is a **simple** and **integral** form. Legally, it must undergo **court verification** before it can be used to administer an estate.

INSTRUCTIONS

What you need

- ◆ Handwritten or typed Will
- ◆ Two Witnesses
- ◆ Ink Pen

About the witnesses

- ◆ The Before Witness will must be signed before TWO witnesses
- ◆ The witnesses must be 18 years or older
- ◆ The witnesses cannot be mentioned in the Last Will. They must be independent third parties.
- ◆ The witnesses must initial every page of the Last Will
- ◆ The witnesses must witness the Testator sign the Last Will and appose their full signature on the Last Will document
- ◆ It is highly recommended that the witnesses sign affidavits to facilitate the court probate process after death

What to do

Write or type your Will on a blank piece of paper :

- ◆ The date (DD, Month, Year)
- ◆ Your full name and address
- ◆ Follow our template to indicate who will inherit your property
- ◆ Designate a substitute heir
- ◆ Nominate a liquidator (a.k.a. executor) of your estate
- ◆ Nominate a substitute liquidator
- ◆ Describe your preferred funeral arrangements if any
- ◆ Initial every page of the Will
- ◆ Sign the document before two witnesses
- ◆ The witnesses will initial every page of the will
- ◆ The Witnesses will sign their names in full before the testator's signature
- ◆ The Witnesses will complete the enclosed affidavits (recommended)

Check-list

- The will is handwritten in ink or typed
- The date is indicated
- Your name and address are indicated
- You expressed your last wishes
- You initialed every page of the Last Will
- The Witnesses have each initialed every page of the last Will
- You apposed your signature at the end of the will
- The Witnesses have completed and signed the affidavits (recommended)
- The affidavits has been signed before a commissioner of oath or Notary (recommended)

Where to store your Before Witness Will

- ◆ A safe place where it can be found by your heirs or liquidator
- ◆ It is not recommended to store any last will in a bank deposit box
- ◆ In our Notary vault after registration at the Chamber of Notaries Will Registry. (See Frequent Questions and Contact us for more information about this service)



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Last Will and Testament

On the [day], [month], [year]

I, the undersigned, [Full Name], domiciled at [address] born on [Date of birth], SIN [Social insurance number], write my Last Will and Testament as follows:

Civil Status

I am [●...married, single, widowed, in a common-law relationship, etc.].

Revocation:

I hereby revoke all previous wills, codicils and legacies predating this present Will.

Funeral Arrangements

[Describe your funeral arrangements. (ex. I wish to be buried)]

Legacy

I bequeath all my property, movable and immovable, that I possess at the time of my death to [● full name], that I designate as my universal legatee.

Should [● full name], predecease me or renounce to my legacy, I bequeath all my property, movable and immovable to [● full name].

Liquidator

I designate [● full name] as the liquidator of my estate. Should [● full name] predecease me, be incapacitated, or renounce to the charge of liquidator by notarial deed, I nominate [● full name] as my liquidator, with the same powers.

Duties and Powers of the Liquidator

- a) My liquidator shall be charged with the full administration of the property of my succession
- b) My liquidator shall pay all of my debts from the assets of the Estate
- c) My liquidator shall perform an inventory of all my assets as prescribed by law either notarized or performed before two witnesses
- d) My liquidator shall render an account of his administration as prescribed by law either notarized or performed before two witnesses
- e) My liquidator shall not be remunerated for the performances of his duties but shall be entitled to reimbursement of expenses
- f) My liquidator may invest sums of money that are part of my estate, at his discretion
- g) My liquidator may sell my property without consent of my heirs, at his discretion
- h) My liquidator may reorganize or administer my estate or any business or enterprise in which I was involved in at the time of my death, at his discretion
- i) My liquidator shall be responsible for the partition of my estate, whether in liquid assets or in kind. He shall proceed to the evaluation and creation of shares at his discretion, in a just and reasonable manner
- j) My liquidator may resign of his duty as liquidator provided he renders an account of his administration and such account is notarized or performed before two witnesses

IN WITNESS WHEREOF, I have initialled each page of the present Will and I sign the whole document in the presence of the following two (2) witnesses designated below.

Signed on the [dd/mm/yyyy]

Signature of the testator

In witness whereof, the witnesses have initialled each of the pages of the present Will and sign it in the presence of each other.

Signature of Witness 1

Name: [name of Witness 1]

Address: [Address of Witness 1]

Occupation: [occupation of Witness 1]

Signature of Witness 2

Name: [name of Witness 2]

Address: [Address of Witness 2]

Occupation: [occupation of Witness 2]

AFFIDAVIT (RECOMMENDED)

I, the undersigned, [Full Name Witness #1], domiciled at [address of Witness #1], declare under oath that:

1. I am one of the witness in the Last Will and Testament of [name of deceased], which is a Last Will made in the presence of witnesses on the [date the Last Will is signed].
2. [Name of deceased] signed the said Last Will in the presence of [name of the other witness] and myself

Signature of Witness

SWORN BEFORE ME
At the City of _____
Province of _____
This ___ / ___ / ___

Signature of Commissioner of Oath or Notary
Name :

[S E A L]

AFFIDAVIT (RECOMMENDED)

I, the undersigned, [Full Name Witness #2], domiciled at [address of Witness #2], declare under oath that:

1. I am one of the witness in the Last Will and Testament of [name of deceased], which is a Last Will made in the presence of witnesses on the [date the Last Will is signed].
2. [Name of deceased] signed the said Last Will in the presence of [name of the other witness] and myself

Signature of Witness

SWORN BEFORE ME
At the City of _____
Province of _____
This ___ / ___ / ___

Signature of Commissioner of Oath or Notary
Name :

[S E A L]