

Negligence in drafting Wills

Sometimes Will drafters make mistakes. They may take too long to draft a Will, fail to advise the testator how to execute the Will or misunderstand a testator and fail to record his true intentions in a Will. A Will drafter may draft a Will for someone who lacks the necessary mental capacity in circumstances where perhaps had they really considered the point it would have been clear.

Alternatively a solicitor or other professional may have been instructed to draw up a deed of trust to record the proportions in which a property is to be owned, or to give trustees certain powers, but who does so incorrectly.

In such circumstances it may be possible to bring an action against the person drafting the document to compensate the estate or disappointed beneficiaries for any loss they may have suffered.

In such a case it may be necessary to first attempt to “mitigate your loss”, i.e. to try to resolve the issue regarding the Will first. This may involve reaching a resolution with the beneficiaries of the defective Will and the disappointed beneficiaries, and then taking action against the Will drafter to the extent the resolution with the beneficiaries does not fully satisfy the loss.

We have experience in bringing such claims.

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