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Your Reference: Simple Single Will  
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Tuesday, 9 March 2021

Kyle Bogdanovic  
12 Banks Drive  
Parramatta NSW 2150  
Australia

Dear Kyle Bogdanovic,

Build this legal document at

<https://www.legalconsolidated.com.au/>

[single-will-with-choices-intro/](#) –

telephone us, we can help you  
complete the questions.

*Adj Professor, Dr Brett Davies - Partner*

## Single Will - Kyle Bogdanovic

Thank you for instructing us to prepare the attached **Simple Single Will**.

### How to print your document

When you are satisfied that the document is according to your instructions please:

1. Download the PDF (Don't print directly from the browser.)
2. Print the PDF Printer settings: A4 paper  
100% scale (turn off 'fit to page')
3. Print single sided (NOT duplex).
4. Once signed keep this covering letter with the document  
(However, do not staple the covering letter to the document.)

When you are happy that your Will expresses your wishes, then this is how you sign your Will.

### Signing your Will

1. Find 2 people that are: over 18 years of age, of sound mind and have an address in Australia. The witnesses can't be related to you or have any chance of being related to you (eg it can't be your son's girlfriend because your son could marry that person and then you would be related to the witness). The witness can't be a person that is likely to get anything under the Will. The best witnesses are 'strangers' or the 'next door neighbour'.
2. All beneficiaries and potential beneficiaries leave the room.
3. Get your 2 witnesses and yourselves in a room with at least 2 identical blue pens. Lock all the doors so that none of you leave the room. If either of you or either of your witnesses leave the room during the signing process then tear up the Will and print out another copy of the Will and start the Will signing process again.
4. You sign your Wills on each and every page where marked. Then both witnesses (WITH THE SAME BLUE PEN) sign each page of the Will. If you signed with different coloured pens (eg a dark blue and a light blue) then tear up the Wills. Print out new Wills and start the process again.

5. Ensure that you date the Will with the date at which the Will is signed and witnessed.
6. If you need reading glasses, then don't sign your Will until you put on those glasses.
7. If you have issues reading English, then let me know. An interpreter may be required.

### **Storing Wills**

An original signed Will is valuable. Keep it somewhere safe and let your Executors know where it is stored.

You can store it at home, at the bank or with the Executors. Keep it safe.

You should, if you wish, email an unsigned copy of your Will to the Executors. (Don't copy a signed copy of a Will.)

### ***Do not copy a signed Will***

It is best not to copy a signed Will. If you put a pen mark on the copy of the signed Will then it may become the new Will.

### **Executors**

Keep your Executors up-to-date as to where your signed Will is stored. Upon your death, the Executors need to get the original signed Will and carry out your wishes and instructions in your Will.

### ***Own assets in a foreign country?***

Generally, your Will is valid in most countries because it is valid under Australian law: 1961 Hague Convention. However, don't rely on this rule if you own real-estate out of Australia. Make separate Wills for each country in which you have real-estate.

### ***What if I have a Family Trust when I die?***

Certain assets don't go to beneficiaries via your Will. There may be a good reason for wanting this. Your Will can be challenged and completely re-written by a court. A Court has even the power to replace your Executor.

As mentioned above, joint tenancy assets don't go into your Will. Similarly, if you die, the assets in your Family Trust are not transmitted via your Will. A Family Trust lasts, generally for 80 years. However, your Family Trust can be corrupted by the Will. The way in which a Family Trust Deed is worded means that your Will may affect your Family Trust. Family Trust Deeds are often wrongly drafted to state that the Appointor of the Trust, after the death of the current Appointor (usually Mum or Dad) will be the person or persons who are their Executor. Our view is that this method can cause unwanted outcomes. For example - you appoint your oldest daughter as Appointor in your Will - you want her to get the valuable hair salon business. You die. Your two oldest sons challenge the Will. They get to be sole Executors named in your Will. Your sons now get to be the Appointors in your Family Trust and take everything in the Family Trust for themselves.

Quarantine your Family Trust from the *Family Provision Acts*. We suggest that Family Trust deeds be reviewed so that the Family Trust is operated by the persons you nominate.



You can instruct your solicitor to make changes to the Appointor clause of your Family Trust in a Deed of Variation. We recommend that you don't use your Will to appoint an Appointor.

I have stated that the general rule is that Family Trust assets don't form part of your estate. One exception to this rule is "unpaid present entitlements" (sometimes incorrectly called 'loan accounts'). This is when the trust distributes to you, as a beneficiary, but doesn't pay you anything. You have an unpaid but presently owing entitlement. You can often see these 'UPEs' in the trust's financials. Such 'UPEs' belong to your estate, or worse, creditors and people that challenge your Will when you die.

### ***Can someone challenge your Will?***

Yes, your Will can always be challenged. There are 2 ways to challenge a Will. Your family and dependants may be able to say that the split of your assets isn't fair and they want more. They argue 'sure the Will may be valid but it needs amending by the Court'.

Secondly, they may argue your Will is not valid at all. Is there any question of testamentary capacity? Senility, suffered a stroke or been seriously ill? Were you wearing your reading glasses? Can you understand and read English fluently? Was someone unfairly influencing or pressuring you: 'poisoning your mind'? Always get a written medical letter from your Doctors. After you die, the question of capacity may be called in question. The people whose evidence is of most value are your medical attendants and your witnesses to the Will.

You are able to validly sign a Will if you (here I am quoting court cases):

understand the nature of the act and its effects (ie you understand that you are signing a Will that gives away what you own)

1. understand the extent of the property of which you are disposing of (you know what assets you own)
2. are able to comprehend and appreciate the claims [i.e. the moral claims] to which you ought to give effect (e.g. while you don't have to, many people leave everything to their spouse, in the first instance, and then everything to the children equally)
3. suffered no disorder of the mind which poisons your affections, perverts your sense of right, or prevents the exercise of your natural faculties - that no insane delusion influences your Will in disposing of your property and bring about a disposal of it which, if the mind had been sound, would not have been made (e.g. you didn't have a 'loved one' putting pressure on you to leave everything to them 'otherwise they will put you out on the street').

If any one of these four aspects of capacity is defective, the Will may be wholly void.

For example, if you have cut a child out of the Will, then expect your Will to be challenged. Did the other children put pressure on you? Did they seek to poison your mind? Did they threaten you? Having a Will challenged is a bit like a divorce – except messier and expensive.

### ***Get a Doctor's note to say you are of sound mind***

Under all circumstances, get a doctor's note to say you are of sound mind. Keep that note with your original Will.
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Obtain a note from the doctor to the effect that: "I have today examined Kyle Bogdanovic. I believe that this person has the ability to understand the nature of a Will. I believe that this person is mentally competent to make a Will."

As discussed above, moving back to the issue of Joint Tenancy (although sometimes an issue for CGT) can be quite effective if someone is going to challenge your Will. If you own an asset as Joint Tenants then, generally, when you die, that asset goes directly to the survivor (or survivors). The asset does not generally pass through the estate – and therefore can't be challenged through the Will. I have not given you advice or checked to see if any particular asset is owned as Joint Tenants. If you are in doubt, then please instruct me and I will conduct searches to see if any particular asset is owned as Joint Tenants.

### ***How do I bind or staple a Will?***

A Will is a stand-alone document. It is **not** attached to anything such as another Will or a covering letter.

You can either bind or staple the Will. This should be done before you start signing the Will. (This is just in case you make a mistake in the binding or stapling.)

While stapling the Will is common and acceptable, it is important to never remove the staple. (For example, you can't undo the staple to copy the Will.) If you remove the staple you get left with a staple hole. A staple hole suggests that you had another document with the Wills, such as a codicil or some other information. Staple holes cause problems.

Similarly, binding the Will is also common and acceptable. However, it is important to never remove the binding. This leaves holes in the document. Such holes suggest that other documents were attached to your Will.

### ***Can I print the documents in duplex (back to back)?***

You should print your Wills single sided.

### ***Funeral Arrangements***

Your Will only does one thing. It gives away your assets.

A Will is not designed to deal with body disposal. If you want to be buried, cremated or follow certain religious rites then that is a discussion to have with your family and loved ones.

Also, your body is disposed of, generally, well before anyone looks at your Will.

And in any event, directions in your Will as to your human remains are not binding on your Executor and loved ones.

It is inappropriate to put burial arrangements in a Will. We, therefore, have not done so in your Will.

A related issue is the Organ Donor Register. Again, your Will does not, and should not, document these issues.

### ***"Wish List"***

You may have tools in the shed, jewelry, photographs and a Lladro collection. You may have a desire for certain people to get certain items. But it is best not to include Specific

Gits in a Will. It adds complexity. Also items worth over \$500 may be subject to Capital Gains Tax.

If you wish to give the Executors and loved ones some direction do a "Wish List".

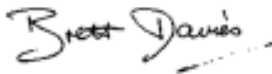
A "Wish List" has no specific form. Rather, it is just a letter you keep with the Will. Do not sign the Wish List. Merely print or type your name at the end of the letter.

The beginning of the "Wish List" should state: "This is merely a Wish List and there is no legal compulsion for the Executors to follow any of the following. My wishes are ....."

If you have young children you can also put in the Wish List your views on how they should be brought up and their religion.

This now concludes the matter. Thank you for your instructions.

Yours sincerely,



Adj Professor, Dr Brett Davies, CTA, AIAMA, BJuris, LLB, LLM, MBA, SJD  
National Taxation Partner  
LEGAL CONSOLIDATED BARRISTERS & SOLICITOR

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*Dr Brett Davies - Partner  
Legal Consolidated Barristers & Solicitors*



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<https://www.legalconsolidated.com.au/single-will-with-choices-intro/> – telephone us. We can help you answer the questions.

On our law firm's website, you:

1. Retain legal professional privilege
2. Receive legal advice
3. Get a signed letter on our law firm's letterhead with the legal document
4. We take responsibility for the legal document

Only a law firm provides the above. We also offer a 100% money back guarantee on every document you build.

*Adj Professor, Dr Brett Davies - Partner*

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## The last Will of Kyle Bogdanovic

Containing:

- Last Will



This Will is made by me, Kyle Bogdanovic of 12 Banks Drive, Parramatta NSW 2150, Australia. My date of birth is 16 March 1984.

## 1 Revoking Previous Wills

I revoke all previous Wills, testamentary trusts and testamentary dispositions (including Wills requiring revocation in writing). This is my last Will and Testament.

## 2 Appointment of Executor

I appoint:

- Kyle Bogdanovic of 12 Banks Drive, Parramatta NSW 2150, Australia as my Executor.

## 3 Definitions and Interpretation

In this Will, except where the context otherwise requires:

“Age of Majority” 18 years of age

“Executor” the executor and executors named in my Will and from time to time appointed

“Tax Act” the *Income Tax Assessment Act 1936* and *1997* as appropriate

“Trust Fund” the residue of my estate both real and personal, any income or capital accretions arising from time to time from such residue, any capital and income added from time to time and all property from time to time contained in the above sub-clauses

“Trust Property” any property comprised in the Trust Fund

⇒ Headings do not interpret this Will

⇒ All statutes and regulations are as amended from time to time

## 4 Executor Activities

My Executor holds all my estate on trust:

### Payment of Tax and other Debts of Kyle Bogdanovic

I suggest that my Executor obtain advice concerning the administration of the expense of my estate, from one or more of a lawyer, accountant or financial planner. I then direct that my Executor pay and discharge all of my estate debts, taxes, funeral and testamentary expenses and then distribute the Trust Fund as follows.

### Testamentary Gifts for Beneficiaries

To give the Trust Fund to:

- Ivana Bogdanovic of 25 James Road, Fortitude Valley QLD 4006, Australia - amount of 50%
- Marko Bogdanovic of 25 James Road, Fortitude Valley QLD 4006, Australia - amount of 50%

Why build a Single Will and not a Mutual Will?  
A single Will is a Will for a single person. In contrast, Mutual Wills are for couples who leave everything to each other.

Build a Single Will where:

- your spouse has died
- you are divorced; or
- you don't have a life partner.

(usual signature) Kyle Bogdanovic	First Witness (use same blue pen):	Second Witness (use same blue pen):
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(each share is referred to in this clause as "respective share") as each person attains the Age of Majority.

## 5 The Children of the Beneficiary

Unless my Will otherwise directs, if any Beneficiary dies before me or dies after reaching the Age of Majority, leaving children then those children (as each of those children reach the Age of Majority) take what their parent would have taken if they had died before the Age of Majority, had the parent died before the Age of Majority, equally as tenants in common.

When you die, everything is divided up among the Beneficiaries. The Beneficiaries divide up your assets as per the percentages that you leave them.

If all the above residuary gifts fail, only then I give the Trust Fund to (as follows)

- Mission Australia ABN 15000002522 of - amount of 100%

## 6 Minors, Bankrupts and protective trusts

A Beneficiary is unable to take control or have influence over any gifts or the Trust Fund or act as trustee or appointor of any trusts relating to (or established by or under) this Will if they:

- ⇒ have not attained the Age of Majority; or
- ⇒ lack the requisite mental capacity; or
- ⇒ are an undischarged bankrupt (collectively "Lacks Capacity")

When (if ever) the applicable above sub-clause no longer applies then, the Executor relinquishes control of the gifts and trusts applicable to the relevant Beneficiary in favour of that Beneficiary (or the person or persons nominated by that Beneficiary). In the meantime, the gifts and trusts relating to that Beneficiary are retained in the trusts and only applied for the maintenance, education, advancement, support and benefit of that Beneficiary. The Executor's powers include the powers in this Will. The Executor has absolute discretion.

## 7 Executor and Beneficiary Discretionary Powers

I, Kyle Bogdanovic, give my Executor and Beneficiaries the following powers (in addition to those given by law, equity and statute):

- ⇒ To accumulate income
- ⇒ To sell, lease, exchange, postpone the sale of my estate
- ⇒ To borrow money secured by my estate
- ⇒ To carry on any business in any business structure such as a trust, company and partnership
- ⇒ To determine whether receipts and outgoings are capital or income notwithstanding that the receipts are from a company that has made a decision on the matter
- ⇒ To open in the trustee name current and cheque accounts with full power to operate such accounts

(usual signature) Kyle Bogdanovic

First Witness (use same blue pen):

Second Witness (use same blue pen):

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- ⇒ To apply for the maintenance, education (including travel to broaden the mind), advancement, support and benefit of a beneficiary the whole or part of any income and capital to which that beneficiary is or may become entitled
- ⇒ To pay the income or capital of any beneficiary to the parent or guardian of the beneficiary and accepting that person's receipt as a good discharge
- ⇒ To make payments to a minor beneficiary's parent or guardian or a person with whom the beneficiary lives and accept the receipt of that payee as an absolute discharge
- ⇒ To open, operate, invest or reinvest in or acquire for the purpose of receiving income, interest, profit or capital gain in any country of the world, any of the following (and freely change such investments, without reference to any trustees acts):
  - shares, stock units, trusts, property trusts, common funds debentures, debenture stock, bonds, notes including convertible notes, or other securities of any company or of any statutory authority
  - land of any tenure including leasehold and land held by company title and land subject to any mortgage or charge
  - mortgages, including contributory mortgages
  - the units or interest of or in a trust including a fixed or flexible trust
  - mutual funds
  - friendly society investments
  - antiques, works of art, coins, stamps or other collectibles
  - insurance bonds and policies of life insurance
  - bank accepted or endorsed bills of exchange
  - deposits with any public company, bank, credit union, building society, co-operative society, trust or public body
- ⇒ To acquire and keep up a residence or any personal property for any beneficiary
- ⇒ To acquire or lease assets for occupation or enjoyment by a beneficiary (whether alone or with some other person or persons)
- ⇒ To sell to (or buy from) any beneficiary any assets on any terms
- ⇒ To divide assets and Trust Funds in specie (in kind) between any of the beneficiaries
- ⇒ To mix investments with investments of other people or trusts
- ⇒ To vary, replace, encumber and deal with the investments as if it was dealing with its own property
- ⇒ To appoint nominees to hold or operate investments
- ⇒ To pay those executors who are accountants, advisers and lawyers on the same basis as if employed to act on behalf of my executors and trustees in that capacity. Such professionals are entitled to be paid fees for work done by themselves or the professional's firm on the same basis as if the professional was not an Executor or trustee but employed by my Executor or trustee
- ⇒ To reimburse the executors for their reasonable out of pocket expenses
- ⇒ To engage or dismiss agents and staff
- ⇒ To vote in and exercise all rights, of whatsoever nature for voting in any company or trust in which my estate or any fund arising from my estate may be interested or concerned

(usual signature) Kyle Bogdanovic

First Witness (use same blue pen):

Second Witness (use same blue pen):

- ⇒ To accept a receipt from an authorised officer of a beneficiary that is a charity or incorporated entity as sufficient discharge to my Executor and trustees who shall not be obliged to see the application of such gifts
- ⇒ The Executors act unanimously at all times.
- ⇒ While my Executor and trustees act honestly in the discharge of duties in accordance with and under the terms of this will, they are:
  - not liable for loss
  - entitled to be indemnified out of the estate for any loss suffered
- ⇒ To amend any trust under this Will so as to add or vary the terms of the trusts
- ⇒ Any obligations under any trustees acts are read down and do not apply to this Will

However, no power can be used to create a delegation of testamentary power that would invalidate the Will or any trust arising under this Will or offend any perpetuity period.

## 8 Considered Person Clause

I have considered my obligation towards Emily Bogdanovic of 12 Banks Drive, Parramatta NSW 2150, Australia. I expressly declare myself completely satisfied that all proper provision has been made for Emily Bogdanovic.

## 9 Testamentary Guardian of infant children of Kyle Bogdanovic

I appoint:

- Emily Bogdanovic of 25 James Road, Fortitude Valley QLD

as Guardian of my infant orphan children. I express the wish that my trustees exercise such power as to ensure that the persons caring for my children suffer a minimal financial burden or loss as a result of caring for them.

## 10 Severing Unenforceable Parts of the Will of Kyle Bogdanovic

At times powers under this Will may become void or unenforceable. I hereby sever from this Will to the extent that all powers that are not void or unenforceable remain in full force and unaffected by any severance.

*If someone believes their share of your Will is not adequate, or if they are left out altogether, they may be able to challenge your Will. People commonly contest Wills on the basis that their entitlement in the estate is not enough. This is for their "maintenance and support". This is known as a testator's family maintenance claim.*

(usual signature) Kyle Bogdanovic	First Witness (use same blue pen):	Second Witness (use same blue pen):

Signed the      day of      month 20     
by Kyle Bogdanovic in our presence and  
witnessed by us in the presence of Kyle  
Bogdanovic and of each other. All three of us  
being present together throughout the entire  
signing of this Will. We attested the signature of  
Kyle Bogdanovic in the presence of Kyle  
Bogdanovic and of each other.

\_\_\_\_\_  
Kyle Bogdanovic (*usual signature*)

First Witness	
First Witness Signature: <i>(Use same blue pen)</i>	
Full Name <i>(Print)</i>	
Address	
Occupation	

Second Witness	
Second Witness Signature: <i>(Use same blue pen)</i>	
Full Name <i>(Print)</i>	
Address	
Occupation	

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