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Who Gets Grandma's China?

When I work with clients on a Will, the first thing they naturally think about is personal tangible items, and I'll often get asked questions like, "What if I change my mind later on about who gets Grandma's china? Do I have to make out a new will?" And the answer is, Yes.... if you put it into your Will, you will have to do a codicil, which is an amendment to your Will to change it.

The solution to that is...don't put Grandma's china in the Will. I advise my clients not to include personal items in legal documents like a Will or trust. Those things can change. Items may be lost, stolen, given away, or destroyed before you die... Or you may change your mind... or the person may say they don't want the item. Then, if those things are specified in a legal document, the document must be changed...costing you time, hassle, and legal fees.

You still want to give certain items to specific individuals, however. A family heirloom to the oldest child, or my wedding ring to my daughter, or my favorite shotgun to my long time hunting partner. So what I do is to suggest that we reference a list in the Will or trust or both. The language will instruct the Personal Representative or Trustee to look for a list among the other legal documents and to distribute the listed items to the specified individuals before the rest of the property is divided.

Because the list is mentioned in the Will and Trust it's incorporated by reference as a part of those documents.

The list does not have to be witnessed or notarized...just signed and dated by the person executing the Will or trust. This means that the list can be changed at anytime, right up to the day of death without any legal assistance... or cost.

Just make sure to adequately describe each item so that the trustee or personal representative can identify it, and be sure to designate by full name to whom the item is to go. If you wrote... "My ring to my son." ... there could be confusion if you had more than one son and/or more than one ring.