

# Price & Farrington's Estate and Tax Planning FastFacts

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Estate, Tax and Family Wealth Planning for Advisors and Clients

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## Do It Yourself (DIY) Estate Planning: The Perils of Foolish Frugality



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### Class Action Lawsuit Claims LegalZoom is Unfair and Misleading: DUH!

Hot off the press: A class action lawsuit filed in California accuses LegalZoom.com, the online legal document preparation service, of unfair and deceptive business practices. Among other things, the complaint says that LegalZoom claims to customize its documents, but the customization is limited to customers' names and identifying personal information.

Lead plaintiff Katherine Webster sued as executor of the estate of Anthony Ferrantino and trustee of the Anthony J. Ferrantino Living Trust. She claims that LegalZoom's website and advertising make the misleading claim that "virtually anyone" can create a valid legal document through the site, and that the "customized" documents made by nonlawyers would be reviewed for "accuracy and reliability", giving customers a false sense of secu-

rity. "Nowhere in the manual do defendants claim that using LegalZoom is not the same as using an attorney and that its documents are only 'customized' to the extent that the LegalZoom computer program inputs your name and identifying information, but not tailored to your specific circumstances," the complaint states.

The plaintiffs say they bought a living trust through LegalZoom which was to include a revocable living trust and a durable power of attorney. But Webster says the documents were flawed as a result of LegalZoom's failures, and Ferrantino's estate had to hire an attorney to correct the problems.

Webster claims that the site's founders, including Robert Shapiro, who was O.J. Simpson's criminal defense attorney, made misrepresentations to advance their business, buried disclaimers in LegalZoom's website and omitted relevant facts. She claims the business capitalizes on Shapiro's fame by using him in its TV commercials, in which Shapiro says, "I'm Robert Shapiro and I created LegalZoom".

Webster claims LegalZoom misleads customers about the availability and helpfulness of its customer service personnel, the extent of its 100 percent satisfaction guarantee, the degree to which documents are customized, and the quality of LegalZoom's documents compared to those prepared by an attorney.

Webster alleges that almost all of LegalZoom's other claims are contradicted by disclaimers that are accessible only by following links to secondary pages of the website and in much smaller type than that displayed on the website's main pages. For instance, she

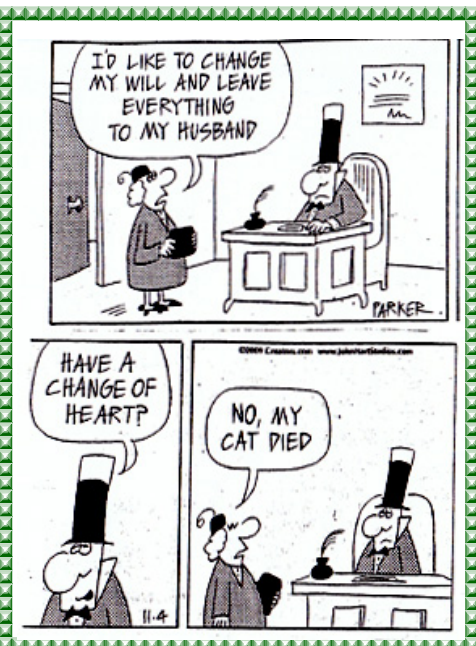
said that while the company claims that "virtually anyone" can use its product, the disclaimer states that "the law is a personal matter and no general information or legal tool like the kind LegalZoom provides can fit every circumstance."

The plaintiff also faults the defendants for not explaining what types of problems are "too complex to be addressed by LegalZoom".

The complaint alleges that LegalZoom advertises by claiming the following: "Remember: Your order comes with unlimited customer support". But in reality, "There is absolutely zero attorney support," adding that "the customer service representatives are not lawyers and cannot by law provide legal advice."

Webster claims the defendants failed to comply with laws and regulations governing the practice of law in California, led customers to practice law without a license, assisted in unauthorized practice of law, and used fraudulent business practices. She seeks disgorgement of LegalZoom's ill-gotten gains and punitive damages for negligence, elder financial abuse, consumer law violations and illegal and unfair business practices.

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## ***D.I.Y. (Do It Yourself) Estate Planning***

Way back in February, 2003, we wrote a *FastFacts* with the title: “Trust-in-a-Box”: *The Perils of Foolish Frugality*. It’s available on our website and it’s still recommended reading.

Pinching pennies on professional fees can be dangerously self-defeating, especially when one of your long-term goals is *saving money*. Estate planning for yourself and your family is a prime example.

***Just ask Suze Orman.*** Ah, the lure of the siren song of the on-line shortcut or Suze Orman “do-it-yourself” software-in-a-box marketed to the general public through outlets like Costco, Go ahead: buy Suze’s package for \$29.95, fill in the blanks, “create” your very own trust and print it out at home. Find a couple of witnesses. Dig up a notary. Sign all the form documents.

Let’s say you’re in a serious accident and maybe even die. Then your surviving spouse, grateful to you for your foolish frugality and misplaced sense of self-reliance in a matter of such importance, can activate the trust-in-a-box software, stare at the computer screen, and ask it what needs to be done. Or your spouse can drive down to Costco and seek out a warehouse clerk to ask what she should do. Comforting, huh?

Do you want your husband, wife or children scouring through the Yellow Pages the day after you become incapacitated or die, looking for a competent lawyer they’ve never met before who will reveal to them that this exercise in frugality has now become extremely expensive in time, fees, anxiety, publicity and perhaps taxes. Of course your family won’t know if you made a mistake in your trust-in-a-box “planning” until after your disability or death, when it’s a bit too late. The result? A disastrous failure of an estate plan, purchased for a song because you were too cheap to hire competent legal help to provide priceless counseling on issues of criti-

cal concern to you and your family. *A real bummer!*

The trust-in-a-box does nothing to provide post-death support for your loved ones. In fact, it prevents that support system from being in place because “Who needs a relationship with a lawyer if I can get this done for \$29.95? How’s *that* for a lasting legacy?”

***Priorities.*** We are all consumers of products and services, and saving money wisely is always a worthy goal. But trying to cut corners to save money where it counts the most — in the most sensitive planning for your and your loved ones’ long-term well being and security — is a dangerously false economy. *Estate planning isn’t about churning out one-size-fits-all boilerplate legal documents. It’s really about having a support team of advisors you’ve come to trust for their experience, expertise and interest in helping you achieve your goals. This should include an experienced estate planning attorney who you can rely upon as a trusted family advisor, who has helped you thoughtfully design and implement a plan that is uniquely right for you and your family, and who will be there to support your spouse and your children when the time comes.*

***Educated clients.*** Folks don’t know how complex (*not* complicated) estate planning can be and what can go wrong if they don’t take the time, make the effort, and pay a reasonable fee to plan well. Educate them and they will become believers ready to invest in a planning experience that will work for them throughout their lives and after they depart — exactly the times they and their family need it to work. *The effective estate planning attorney, along with the rest of the professional team — financial advisor, insurance agent and accountant — shifts the paradigm from a “documents” approach to a life planning approach — from an obsession with tax savings to an appreciation of goal attainment.*



Also see our August, 2005 Estate and Tax Planning *FastFacts* at [www.pricefarrington.com](http://www.pricefarrington.com): “Estate Planning is Not an Elastic Sock: One Size Doesn’t Fit Everyone”

Excerpts from U.S. News and World Report, June 29, 2010 “*The Dangers of DIY Estate Planning*”:

- “People... get a false sense of security from DIY estate planning.”
- “Estate planning attorneys “know the questions to ask and what to do with the answers.”
- “DIY advocates and estate planning attorneys do agree on one thing: the importance of keeping estate planning documents up-to-date. Be sure to revisit your documents at least once a year to make any necessary changes.”

***GDP***

