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Mistakes and Misconceptions:

Why You Should Not Put Your Last Will And Testament In A Safe Deposit Box

Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood, can undermine the plan's effectiveness.

Many people believe that it is important to keep their original Last Will and Testament in a safe deposit box. Each bank has its own rules regarding the use and access to its customers' boxes and, for this reason, unanticipated problems arise. Ordinarily, only persons authorized under the contract, or agreement under which the box was opened, may enter the box. A box that is leased in two names, jointly, means that, **while both lessees are alive**, either may freely enter the box alone, examine, remove or insert contents, and/or surrender the box. Some banks permit the appointment of a "deputy," one who has equal access to the box with the one who has appointed him, but only **during the lifetime** of the owner of the box. What most of our clients don't realize is that the bank also has the right to refuse access to a box if it learns that a lessee is incapacitated or has died. This is true even if there are two names on the box and the other lessee is the one who seeks entry. Your Will should not be kept in your safe deposit box because, after your death, when the Will is needed, access may be denied by the bank and a special proceeding may be required in order to secure the Will for filing.