



Angela G. Carlin is the Co-Chair of Weston Hurd's Estate, Trust and Probate Practice Group. She focuses her practice on estate, trust and probate administration and litigation, and tax matters. Angela is the author of the Merrick-Rippner Probate Law publication which is the recognized authority in Ohio on probate law. She received the Nettie Cronise Lutes Award from the Ohio State Bar Association in 1996 as the Outstanding Woman Lawyer and for many years, she has been named as an *Ohio Super Lawyer* by [Thomson Reuters](#) and a *Leading Lawyer* by [Inside Business Magazine](#).



Karen A. Davey focuses her practice on estates, trust and probate administration. She also handles litigation in probate related matters, such as will contests, trust contests, and power-of-attorney disputes.



Jerrold L. Goldstein focuses his practice on estate planning, probate and corporate law. Jerry is also Co-Chair of Weston Hurd's Estate, Trust and Probate Practice Group. He represents clients in a wide variety of matters involving probate administration, probate litigation, estate and income tax compliance, wills and trusts, business formation, contract negotiations, and commercial real estate.



Gary W. Johnson advises clients on matters involving commercial litigation, business entities creation and maintenance, land use, construction law, zoning, estate planning and probate. Gary has been recognized as an *Ohio Super Lawyer* in the area of Business Litigation by [Thomson Reuters](#).



Eugene (Gene) A. Kratus advises individuals in the areas of tax, business and estate planning and counsels privately-owned businesses and their owners on corporate, tax, mergers, acquisitions and business succession issues. His estate planning practice includes implementing various estate planning techniques, ranging from modest By-Pass Trusts to the implementation of sophisticated planning with family limited partnerships, family limited liability companies, charitable trusts and private foundations.



Samuel J. Lauricia III focuses his practice on tax planning, at both the Federal and state level, involving corporate, partnership, individual and gift tax issues, succession planning and general corporate transactions, contracts, mergers and acquisitions. Sam has been recognized as an *Ohio Rising Star* in the area of Taxation by [Thomson Reuters](#).



Shawn W. Maestle is the Chair of Weston Hurd's Appellate section and a member of the firm's Litigation section. He focuses his practice in the areas of appellate, estate planning and probate litigation.

In the *Estate of Eric Anthony Hand*, the Butler County, Ohio, appellate court on October 24, 2016, in 2016-Ohio-7437, upheld the decision of the probate court denying the application of his widow and appellant therein, Natalie Hand ("Natalie"), to admit to probate the purported will of her late husband, Eric ("Eric"). The parties were married in April 2014. Eric died on September 7, 2014. He was survived by Natalie and four minor children from a previous marriage. Eric's former wife was Shannon ("Shannon") who is the minor children's mother. In searching for a will, the appellant discovered, in a box of love letters she received from Eric over the years, a three-page handwritten letter dated January 23, 2014 (the "Love Letter Will"). Unlike the other love letters, decedent Eric signed this letter with his full name. It consisted of three paragraphs (the first two paragraphs professed his love for appellant) and a post-scriptum not relevant to the case. The last paragraph read as follows:

As my last will and testament, I appoint you the primary beneficiary of all I have and all I have worked for. With the complete trust that you will look after the children, my business interests and all other things that I have put together over the years and not let anyone try to deprive you of those things.

I love you eternally,
ERIC ANTHONY HAND
s/ Eric Anthony Hand

Subsequently, appellant discovered in decedent's office a draft titled "the Last Will and Testament of Eric Anthony Hand," which decedent had prepared though LegalZoom.com, an online digital forms company. This draft, which was unsigned, left 52% of decedent's estate to appellant and 48% of his estate to his children. The record indicates that decedent paid LegalZoom and prepared such will draft the day before he wrote the Love Letter Will. The appellant first sought to admit the Love Letter Will as a lost, spoliated, or destroyed will, which was objected to by Shannon on behalf of her minor children. The probate court ordered appellant to file an application to admit the original of the Love Letter Will to probate which appellant did and thereupon the probate court issued an interlocutory order refusing admission and ordered a hearing, which was held in October 2015. At the hearing, two friends of the appellant testified that they saw decedent sign the Love Letter Will at his home on January 23, 2014. However, it was established that one friend was in Indiana on that date and did not arrive at decedent's home until the next day. Then both women changed their testimony and asserted they witnessed decedent sign the Love Letter Will on a different date in January 2014. Both women had different recollections where decedent signed such will in which room in his house, and, importantly, neither witness signed such will as a witness, nor had either woman remembered such will when decedent died.

Appellant testified that decedent signed the Love Letter Will, gave it to her and told her "what it was," she then put such document in the same box as other love letters. Later that evening decedent told appellant that he was going to prepare a LegalZoom document, and that when decedent called appellant and one of the two friends into the room, "he explained to us that this was his will and he would get it legally done at a later date." On January 21, 2016, the probate court denied to admit decedent's Love Letter Will to probate.



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The probate court in the *Estate of Eric Anthony Hand* found that the Love Letter Will could not be admitted to probate under R.C.2107.03 or 2107.181 because it was not signed by two witnesses. In addition, such document could not be admitted to probate under RC 2107.24 because while there was clear and convincing evidence that decedent prepared such document, and signed it in the presence of the two friends, there was no clear and convincing evidence that decedent "intended the three-page hand-printed document to constitute his will."

In Ohio, a will must meet certain statutory requirements under R.C. 2107.03 before such document can be admitted to probate: be in writing; signed at the end by the testator or by some other person at testator's express direction in the testator's conscious presence; and attested and subscribed in the testator's conscious presence by two or more competent witnesses who saw the testator subscribe the document with testator's signature or heard testator acknowledge his or her signature. Because the Love Letter Will was only signed by decedent, it did not meet the requirements of RC 2107.03.

Appellant argued that even if the Love Letter Will did not meet the requirements of RC 2107.03 under RC 2107.24, decedent's testamentary intent was that he intended the Love Letter Will to be his last will and that such document clearly and convincingly demonstrated his testamentary intent. But under RC 2107.24, the probate court held, and the appellate court confirmed, that the subject document would be treated as if it complied with RC 2107.03 only if the appellant proved by clear and convincing evidence (certainly a stricter proof than by a mere preponderance of the evidence) that the decedent: (1) prepared the document, (2) signed the document and intended it to be his will, and (3) signed the document in the presence of two or more witnesses. In response, the appellant cited certain cases which the appellate court found inapplicable because in each case the issue dealt with interpretation of wills already admitted to probate. There were also other issues in the instant case relative to which burden of proof was to be applied to appellant's argument relative to the admission to probate of the Love Letter Will which space here precludes such inclusion, but suffice it to say that appellant argued that decedent intended the Love Letter Will to be his last will because he described it "as my last will and testament," named appellant as beneficiary, both printed and signed his full name, and asked two persons to witness him sign the document. The probate court, in response, ruled that: (1) none of the three pages in the Love Letter Will had a title, (2) usual words of gifting such as "give," "devise" or "bequeath" do not appear in such document, (3) although not legally required, the document did not have an exordium (introductory clause containing testator's name and capacity to make a will) and/or a testimonium clause (reciting the date when signed and in what capacity), and (4) by contrast, the LegalZoom Will decedent prepared the day before included all such clauses. Therefore, the decedent "was somewhat familiar with how a formally drafted Will appeared," and the Love Letter Will was more consistent with the other "love notes" written to the appellant and, where in this case, the purported will is a single, run-on sentence in a love letter.

The appellate court determined that there was no clear and convincing evidence that decedent intended the Love Letter Will to be his last will, and such document was properly denied admission to probate.