

**D**o you think of “Find & Replace” as your primary drafting system? Do you wish that you could develop your own drafting system based on your own language, provisions, and forms? Would you prefer to rely on others for the fundamental components of your drafting system? What types of drafting systems are available for estate planning (or “trust and estate”) attorneys?

Estate planning attorneys approach drafting in different ways. Some estate planning attorneys want to use the documents with which they are familiar and comfortable and which they have probably used for many years. Other estate planning attorneys want to use documents designed by well-known practitioners. Regardless of the particular approach, an effective drafting system is a crucial tool for an estate planning attorney.

This article is intended to provide a helpful overview of the various drafting systems currently available to estate planning attorneys. It draws from the authors’ practical experience and the numerous reviews of drafting systems that they have conducted.

(2) the flexibility of the drafting system (also from both perspectives above; for example, to what extent can a document be customized within the drafting system or at least in the user’s word processing program after the document is produced?); (3) the vendors, creators, and/or authors of the drafting system; (4) effective technical support; (5) regular updating; (6) the nature of the drafting system’s licensing (does the user own the drafting system or is it purchased as a license, which will expire and disable the program?); and (7) pricing.

The old saying, “you get what you pay for,” applies equally well in the process of selecting a drafting system, as identified in the final enumerated factor (above). Some drafting systems obviously cost more than others. Nevertheless, some drafting systems offer much more to the consumer. For example, one drafting system mentioned below has conducted a post-program “debriefing” session for the past two years (2003 and 2004) at the Heckerling Institute on Estate Planning. Within weeks of these debriefing sessions, new and updated provisions have been implemented within this

# Deftly Drafting Estate Planning Documents

By Joseph G. Hodges Jr. and Jason E. Havens

## Factors to Consider in Selecting Drafting Software

An estate planning attorney must first consider how he or she approaches drafting before he or she begins to evaluate particular drafting systems. Drafting systems range from document assembly programs that are built on the user’s own language, which this overview will refer to as a drafting “engine” or “shell,” to programs that produce documents using language authored by others, which this overview will refer to as the “what-you-see-is-what-you-get” drafting systems. After deciding on an approach, the following overview of drafting systems should assist the estate planning attorney in selecting a software solution.

An estate planning attorney’s selection of a drafting system is somewhat analogous to a client’s selection of an estate planning attorney. Factors to consider in selecting a drafting system include (1) the quality of the drafting system (from both the technological and drafting perspectives);

drafting system. Wisely selecting a drafting system involves researching beyond the vendor brochures to determine what the estate planning attorney, as the consumer, is receiving in exchange for the advertised pricing.

## Drafting Software Reviews

Following are some of the drafting systems the authors have reviewed. This overview should assist an estate planning attorney in choosing a drafting system to meet his or her particular needs. Please note that *any pricing information con-*

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Product	What You Get	Engine/Word Processor	Ease of Customizing	Reviewer Comments	Technical Support
<b>WinDraft/EP Expert</b>	Engine to build own document assembly.	Proprietary engine (WinDraft)	Very Easy	"Drag-and-drop" interface to assign relationships or identities. Very easy to customize, but more challenging to implement system. Very expensive (unless discount applies, and then only expensive).	Good
<b>Lawgic by Holland &amp; Knight</b>	Basic/advanced wills, revocable trusts, gifting trusts, ILITs, various grantor trusts & ancillary forms.	Proprietary engine (Java-based)	Difficult	Very stable software, easy input, and client-friendly documents. Ability to use templates. Scope limited to Cal., Fla., and Ga. currently. More states coming, including N.Y. Affordable.	Good
<b>WealthDocs by WealthCounsel</b>	Comprehensive document creation software.	HotDocs (compatible with Microsoft Word only)	Easy	Very stable software, easy input, client-friendly documents and highly customizable. Many users like "collegiality" of WealthCounsel. Very expensive.	Very Good
<b>Wealth Transfer Planning by Blattmachr &amp; Graham</b>	Comprehensive document creation software.	Proprietary engine (SmartWords)	Very difficult	Highly technical and expert language, but operates on a very different engine with a "nontraditional" word processor. Expensive.	Good
<b>Essential Estate Planning Document System by Begley</b>	Basic/advanced wills, revocable trusts, gifting trusts, ILITs, and ancillary forms.	HotDocs (compatible with Word or WordPerfect)	Easy	Very stable software, client-friendly documents, and customizable. Alternative to WealthDocs if more sophisticated documents not needed. Very good state-specific integration. Very affordable.	Good
<b>TrustDocs by Albee</b>	Basic/advanced wills, revocable trusts, and ancillary forms.	HotDocs (compatible with Microsoft Word only)	Difficult	Very stable software and client-friendly documents. Easy input using "buttons" of hierarchical menus and error-checking system. Expensive.	Unknown (New as of 1/2004)
<b>ProDoc by Lipman</b>	Comprehensive document creation software.	Proprietary engine (ProDoc)	Difficult	Stable software, easy input, and client-friendly documents. Scope limited to Fla. and Tex. Affordable.	Good
<b>Cowles Legal Systems by Colleen Cowles</b>	Basic/advanced wills, revocable trusts, and ancillary forms.	Proprietary engine	Difficult	Suitable for practitioners who draft only wills and trusts, but do not need advanced trusts (or use other approaches for those documents). Very expensive.	Good
<b>Drafting Wills and Trust Agreements by Wilkins &amp; Jordan</b>	Basic/advanced wills and revocable trusts.	CAPS (but migrating soon to GhostFill)	Very easy	"Wordy" language, but customizable. Currently in CAPS, but migrating soon to GhostFill, which is used by Amicus Attorney. Very affordable.	Fair

tained in this overview is subject to change and should be confirmed by direct communication with an official representative of the system, the author, or the vendor.

Before choosing a drafting system, consider other relevant resources on drafting systems as well. First, Joe Hodges writes a technology column that is regularly featured in Commerce Clearing House's *The Journal of Practical Estate Planning*, in which he has often discussed drafting systems and other applicable topics. Second, Daniel B. Evans (<http://evans-legal.com/dan>) has authored two relevant American Bar Association (ABA) books, *Wills, Trusts, and Technology: An Estate Lawyer's Guide to Automation* (2d ed. 2004) and *How to Build and Manage an Estates Practice* (1999), as well as technology columns for *Probate & Property*. These books and other excellent materials can be found via the ABA's Section of Real Property, Probate, and Trust Law (RPPT) web site at [www.abanet.org/rppt](http://www.abanet.org/rppt) (under

"Publications">"Books"). Third, the ABA RPPT's free Estate Planner's and Administrator's Discussion List (<http://mail.abanet.org/archives/abaptl.html>) includes postings on drafting systems and other technological topics relevant to estate planning attorneys. Fourth, every January since 1998, the technology reports from the Heckerling Institute on Estate Planning ([www.law.miami.edu/heckerling](http://www.law.miami.edu/heckerling)), which typically contain reviews of drafting systems, have been posted on the Estate Planner's and Administrator's Discussion List (above), as well as (since 2000) on the RPPT web site at [www.abanet.org/rppt/meetings\\_cle/heckerling](http://www.abanet.org/rppt/meetings_cle/heckerling).

### Drafting Software: Engines to Create Your Own Drafting System

**WinDraft/EP Expert.** WinDraft/EP Expert™ ([www.lawtech.com/windraft/epexpert](http://www.lawtech.com/windraft/epexpert)) uses an underlying drafting engine, WinDraft™, to produce documents through EP Expert. The user can construct his or her own document

assembly system with his or her own forms. This program also operates with DOCS Open or iManage document management software.

WinDraft/EP Expert boasts several unique features. First, it displays an outline checklist to help the user respond to all applicable questions quickly and then produce an entire set of estate planning documents for an individual client or a married couple. WinDraft/EP Expert can then automatically save each document in DOCS Open or iManage and fill out each profile with names and descriptions. Second, a particularly useful feature is the "drag-and-drop" interface, which permits the user to enter contact information only once for each spouse, any children, and all fiduciaries. The user can then drag-and-drop each person entered into various roles for the client's documents, for example, associating a person with a fiduciary role, such as trustee or personal representative, or designating a person as a beneficiary. Third, WinDraft/EP Expert also

Extras	Own or Lease	Cost
Optional maintenance agreement of \$75/month for half hour of support per month and word processor conversion assistance (if necessary).	Buy	\$495 for WinDraft five-user license and \$4,500 for EP Expert five-user license. Half-price discount for 2004+ Heckerling Institute attendees; no renewal necessary.
Getting started guide and training videos on website.	Lease	First year fee of \$995 for one-user license (\$100 per additional workstation); then \$300/year to keep running.
Substantive legal support, peer discussion list, educational opportunities, "Knowledge Base," and extensive library.	Buy	First year fee of \$7,900 (\$3,900 drafting system acquisition fee plus required \$390/month fee for one year of support, discounted if paid together). Support beyond first year is \$390/month.
<i>Strangi</i> analysis tool, newsletter, and set of 14 Practitioner Concept Memos.	Buy	\$2,995 for one-user license or \$3,595 for network license (one workstation); \$295 per additional workstation; annual renewals required to receive updates beyond first year.
Includes escrow agreement and limited partnership documents. State-specific forms.	Buy	\$795 for one-user license; renewals unknown.
TrustDocs binders with pre-punched tab inserts and paper available.	Lease	One-time initial fee of \$995 for one-user license; then \$245/month to keep running.
Automated transmittal letters for all documents tied to and summarizing provisions in document.	Lease	Subscription of \$95/month to keep running.
Access to discussion list. Intake checklists. Additional products and practice tools available.	Lease	First year fee of \$3,990 for three-user license; then \$2,495/year to keep running.
Forms manual available separately.	Buy	\$695 for one-user license; renewals unknown.

easily handles pronouns, commas, and other common grammatical issues. Fourth, WinDraft/EP Expert is the only drafting system of which the authors are aware that can currently write to (and read) databases compliant with Open DataBase Connectivity (ODBC), which includes nearly all major databases. This feature allows the user to store estate planning documents in a digital "vault" and search across the documents for those with a particular provision. Consequently, when a change in the law occurs, clients who would be affected by the change can be notified easily.

A number of large firms use WinDraft/EP Expert to produce custom forms based on the firm's own language. Smaller firms can implement WinDraft/EP Expert as well. Although the pricing and level of complexity in implementing the system might deter some small firms from pursuing this drafting system, WinDraft/EP Expert has already written and tested over 3,000 programming variables and can-

tankerous "if" statements. Therefore, even most small firms can be "up and running" in ten to thirty days, as opposed to months or years, when attempting to implement their own customized drafting program. WinDraft costs \$495 for a five-user license, and EP Expert, the estate planning module, costs \$4,500 for a five-user license. For attendees of the 2004 (and subsequent) Heckerling Institute on Estate Planning, however, WinDraft/EP Expert is being offered at half-price (\$2,500), according to company representative Dan Marcum (dan@lawtech.com).

### Drafting Software: "What-You-See-Is-What-You-Get" Systems

**Lawgic.** Lawgic™ (www.lawgic.com) functions as a "what-you-see-is-what-you-get" drafting system. Lawgic was revived in 2003 and is now operated by chief executive officer Bruce Grewell, who has a legal background. Mr. Grewell has arranged to update all of Lawgic's drafting system products, which currently include California, Florida, and Georgia.

The international law firm of Holland & Knight, LLP (www.hklaw.com), has updated, and will be updating in the future, most of the Lawgic Wills & Trusts products, including those for Florida and Georgia, which the firm originally authored. Well-known co-authors John Arthur Jones, Edward F. Koren, Richard L. Stockton, and Bruce Stone have used their well-drafted, "plain English" provisions to provide updated, state-specific systems for California, Florida, and Georgia. Lawgic offers

wills, including "ultra-simple," simple, disclaimer, pour-over, and "stand-alone" versions (as well as codicils); disability planning documents, including durable powers of attorney, health care surrogates, and living wills; and a number of trusts, such as revocable inter vivos trusts (including amendments and restatements), irrevocable life insurance trusts (ILITs), generation-skipping transfer (GST) trusts, trusts for minors, Florida intangible tax trusts (Florida Wills & Trusts program only), qualified personal residence trusts (QPRTs), grantor-retained annuity trusts (GRATs), and "intentionally-defective" irrevocable trusts (IDITs or IDGTs), as well as ancillary documents and client letters. Lawgic is one of the only drafting systems that produces state-specific documents with state-specific legal commentary on various issues that arise from one state to another.

Lawgic representatives have indicated the release of new Wills & Trusts products for estate planning attorneys in Illinois, Maryland, Massachusetts, New York, Oregon, Virginia, and Washington in the near future. Notably, Carlyn S. McCaffrey, an estate planning attorney at the international law firm of Weil, Gotshal & Manges LLP (www.weil.com) and a past president of the American College of Trust and Estate Counsel (ACTEC), has agreed to oversee Lawgic's New York Wills & Trusts program. Lawgic representatives are discussing the addition of other notable practitioners as the company releases Wills & Trusts products for other states.

For beginning users, Lawgic provides a "Getting Started Guide" within each program and via its web site at www.lawgic.com/new/pdfs/GettingStartedGuide.pdf. A "how-to" question-and-answer dialog is also available at the beginning of each program on question number one ("Select an Activity") and can be printed in its entirety (all questions and answers appear in one word processing document) using the Java-based Lawgic engine. Lawgic's web site offers some excellent "Product Training Videos" in the "Support" portion of the site

(under "Training"), including "Lawgic Product Training," "Lawgic Template Training for Estate Planning Products," and "How to Edit Your Lawgic Documents Using Word." Lawgic is priced at \$995 for a single-user license (\$100 per additional workstation) and requires annual updates of \$300 per year to continue the subscription and use of the Lawgic drafting system.

**WealthCounsel.** The WealthCounsel ([www.wealthcounsel.com](http://www.wealthcounsel.com)) drafting system, WealthDocs™, now in its sixth version, functions as a "what-you-see-is-what-you-get" program and includes various "practice systems" (or modules) that integrate with the HotDocs® document assembly platform. WealthDocs was developed by practitioners in Arkansas, California, Colorado, the District of Columbia, Missouri, Oregon, Texas, and Washington. WealthDocs includes more "practice systems" than most other drafting systems: the "Living Trust Practice System," which includes ancillary documents such as pour-over wills, powers of attorney, and property

**Drafting systems range from document assembly programs that are built on the user's own language to programs that produce documents using language authored by others.**

agreements; the "Family Limited Partnership [(FLP)] Practice System," with ancillary documents and implementation checklists; the "Irrevocable Trust Practice System," which includes ILITs, IDITs (or IDGTs), gifting trusts, and ancillary documents; the "Charitable Practice System," including charitable remainder trusts (CRTs), charitable lead trusts (CLTs), and even private foundations; the "Split-Interest Practice System," which includes QPRTs, GRATs, and grantor-retained

unitrusts (GRUTs), and grantor-retained income trusts (GRITs); and the "Will Practice System." A WealthDocs membership also includes an extensive discussion list with 1,800 participants (also free to nonmembers), continuing education, and an impressive knowledge base.

The price for all of this is higher compared to some of the other drafting systems, but pricing is only one factor to consider (as noted above). The WealthDocs drafting system costs \$3,900 and purchasing a full year of support is required. An annual subscription for legal support, drafting assistance, and product updates from WealthCounsel is \$4,680 (\$390 per month for 12 months). WealthCounsel also offers a discounted price of \$7,900 for the WealthDocs drafting system and the first year of legal support if paid in full.

For the past two years (2003 and 2004), WealthCounsel has sponsored a post-program "debriefing" session at the Heckerling Institute to discuss topics, techniques, and changes in the law that were presented each year at the Institute. According to distinguished practitioner and WealthDocs co-author Lew Dymond, WealthCounsel again implemented timely updates to its practice systems based on selected ideas and techniques gleaned from these "debriefing" sessions.

WealthDocs costs more than other drafting systems, but the user receives additional features such as these post-program sessions and timely updates.

**Wealth Transfer Planning.** Wealth Transfer Planning was created by Jonathan G. Blattmachr, a prominent New York estate planning attorney at the international law firm of Milbank, Tweed, Hadley & McCloy LLP ([www.milbank.com](http://www.milbank.com)) and a well-known author. Mr. Blattmachr revived his Wealth Transfer Planning drafting system in the summer of 2003. Wealth Transfer Planning ([www.ilsdocs.com](http://www.ilsdocs.com)), a "what-you-see-is-what-you-get" drafting system, is now co-authored by Mr. Blattmachr and Michael L. Graham, an estate planning attorney in Dallas, Texas.

The authors have reviewed the lat-

est version of this program and are impressed by (1) its numerous modules, which are similar in breadth of scope to WealthDocs' "practice systems," (2) its polished language, and (3) its built-in legal knowledge dialogues, which guide the user through the decision-making process in drafting a document. Specifically, Wealth Transfer Planning offers wills, including simple (one-page), simple, and comprehensive versions (with codicils as well); numerous trusts, such as a wholly charitable trust (for use with a public or private charitable organization), a split-purchase trust, revocable trusts, QPRTs, an inter vivos ("lifetime") qualified terminable interest property (QTIP) trust, joint revocable trusts (simple and comprehensive), ILITs, GRATs, CRTs, CLTs, and a minor's (Code § 2503(c)) trust; disability planning documents (similar to Lawgic (above)); property agreements, such as a spousal agreement, a separate property agreement, and a marital partition agreement; and business agreements, including an FLP agreement (with amendments) and an assignment of a limited partnership interest, as well as ancillary documents and letters to clients.

Wealth Transfer Planning now includes solutions to the *Strangi* problems inherent in some FLP scenarios, which are covered in a question-and-answer dialog within the program when creating an FLP and are highlighted on the Wealth Transfer Planning web site. Although Wealth Transfer Planning still operates based on its SmartWords engine, the resulting documents can be saved in other word processing formats. According to representatives of Wealth Transfer Planning, a soon-to-be-released update will include Health Insurance Portability and Accountability Act (HIPAA) provisions, new options in dispositive documents for conduit trust language to deal with retirement benefits, expanded fiduciary powers, more automated letters to clients and other professionals warning them about the *Strangi* problems (mentioned above), and even revised charitable remainder trusts to address the recent changes to Code § 643 and its

definition of "trust income."

Unique to Wealth Transfer Planning, Messrs. Blattmachr and Graham have included extremely helpful "Practitioner Concept Memos" that explain estate planning techniques and even "walk" the estate planning attorney through the drafting process for a particular document, pointing out factors that should be considered in counseling a client whether to use the particular technique. These memoranda can be used to provide documentation of the reasoning behind the client's (and the attorney's) implementation of an estate planning technique. A new memorandum on grantor trusts will be included with the next update of Wealth Transfer Planning. Wealth Transfer Planning costs \$2,995 for a single-user license.

**Essential Estate Planning Document System (EEPDS).** Essential Estate Planning Document Systems ([http://tax.cchgroup.com/Store/Products/Product%20Detail.htm?cs\\_id=CCE-CCH-2565\(CCE\)&cs\\_catalog=TADS](http://tax.cchgroup.com/Store/Products/Product%20Detail.htm?cs_id=CCE-CCH-2565(CCE)&cs_catalog=TADS)), which recently became part of the Commerce Clearing House (CCH) Tax and Accounting business unit (<http://tax.cchgroup.com/Aspen/default>), is authored by Moorestown, New Jersey, estate planning attorney Thomas Begley Jr. The EEPDS drafting system represents yet another program that operates on the HotDocs platform. But as a unique "bonus" with EEPDS, HotDocs (run-time) version 5.1 comes bundled with the drafting system so that HotDocs does not have to be purchased separately.

The EEPDS drafting system offers wills, including simple and comprehensive versions (with codicils as well); a number of trusts, such as revocable trusts (individual and joint versions), ILITs, third-party special needs trusts (SNTs), and a minor's (Code § 2503(c)) trust; disability planning documents (similar to Wealth Transfer Planning and Lawgic (above)); some additional documents, including an escrow agreement and a limited partnership agreement; and ancillary documents, letters to clients (with engagement letters, similar to Lawgic (above)), and letters for such things as funding trusts and

changing beneficiaries. Two recent additions to EEPDS include a divisible disclaimer QTIP option as an alternative to a disclaimer trust and a contingent QTIP option for funding standard QTIPs or SNTs.

The authors appreciate EEPDS's ability to set up an additional library of user-defined provisions that can be incorporated into the user's documents. In addition, EEPDS offers a variety of state-specific forms, including several statutory forms, which have been authored by contributors in 21 different jurisdictions. Recurring information can also be input, such as basic firm and jurisdictional information, the client's intake information, the initial consultation letter, and a checklist for monitoring the progress of the estate planning process.

One unique feature of EEPDS is the series of "decision trees" that are included, for both the drafting system's main documents and the state-specific forms. These "decision trees" are essentially questionnaire forms that can be printed and completed during the client interview process so they can be used by the drafting attorney or his or her staff when the actual documents are assembled. One drawback to these questionnaire forms is that they are not directly integrated into the drafting system in a way that allows them to be completed on the screen and thereby provide all information needed to assemble the client's documents.

The EEPDS drafting system costs \$795 for a single-user license. Updating and renewal pricing is unknown, particularly in light of the recent developments within WoltersKluwer, the parent company of CCH and Aspen Publishers.

**TrustDocs.** Mr. Brian Albee and EstateDoc Systems ([www.estimatedocsystems.com](http://www.estimatedocsystems.com)) recently introduced TrustDocs™ at the 2004 Heckerling Institute on Estate Planning. The TrustDocs drafting system is endorsed by Steven J. Oshins, a well-known, widely published estate planning attorney in Las Vegas, Nevada. TrustDocs operates on the HotDocs platform (requiring HotDocs version 6.1 or higher, as is true with

WealthDocs) to produce revocable trusts, pour-over wills, and disability planning documents. Navigation within TrustDocs is very efficient, using "buttons" to move through each menu-driven level of the data input phase. Error messages alert the user if a question has not been answered.

TrustDocs requires a one-time initial fee of \$995 for a single firm license (with a 45-day trial period). The subscription plans are priced at \$245 monthly, \$698 quarterly (5% discount), \$1,323 semi-annually (10% discount), or \$2,499 annually (15% discount). TrustDocs also offers binders with pre-punched tab inserts and paper for the documents.

**ProDoc.** ProDoc® ([www.prodoc.com](http://www.prodoc.com)) offers Texas and Florida estate planning attorney Ronald L. Lipman's will and trust forms for its ProDoc Systems (Florida or Texas modules), probate and guardianship forms, and probate management and accounting software as a part of its "Estate Planning Library," which is advertised at a subscription price of \$95 per month. Other practice systems are available. The newest feature of ProDoc is the "Small Office Suite," which is essentially a case management program (somewhat similar to Amicus Attorney® ([www.amicusattorney.com](http://www.amicusattorney.com)) or PC Law ([www.pclaw.com](http://www.pclaw.com))) that affords contact management, calendaring, and time billing capabilities.

**Authoritative.Net.** Jeff Pickard, creator of zCalc, is in the process of providing a "one-stop shop" for estate planning attorneys. His new service, authoritative.net ([www.authoritative.net](http://www.authoritative.net)), which is still "in the works" (as of March 2004), will not only allow access to the "zCalc Suite," including the "zCalc Toolbox and Presentations," but will also feature the following components: (1) a "Document Systems" module, including an estate planning drafting system, authored by Stanley D. Neeleman (a law professor at the J. Reuben Clark Law School at Brigham Young University and formerly a partner at Holme, Roberts & Owen in Denver, Colorado), and a business entity formation drafting system; (2) a "File Cabinet" module, which will serve as a

document storage system; and (3) a "File Backup" module, which will offer an electronic "vault" for safe, secure storage of electronic data. More information is and will be available via the authoritative.net web site ([www.authoritative.net](http://www.authoritative.net)). The estate planning drafting system, which has not been released officially (as of March 2004), is allegedly being built on a "next-generation" document automation platform called "Oban," but the authors currently do not know much about this platform or how it compares to HotDocs.

**Cowles Legal Systems.** Trust Plus<sup>®</sup> by the Cowles Legal Systems ([www.cowleslegal.com](http://www.cowleslegal.com)) is another drafting system based on its own proprietary engine. The user can produce basic and more advanced revocable trusts, wills, and disability planning documents with Trust Plus. Trust Plus includes a most helpful trust funding system, which automates various letters and instructions needed in the trust funding phase. The Cowles Legal Systems web site also offers useful resources, including a forms exchange library (supplied with user forms), substantive information, and various marketing materials. Trust Plus costs \$3,990 for the first year, which includes a three-user license, and \$2,495 for each successive year.

**Drafting Wills and Trust Agreements.** For many years, Thomson/West<sup>™</sup> (<http://west.thomson.com/product/13513114/product.asp>) has supported the Drafting Wills and Trust Agreements (DWTA) drafting system, which was originally authored by Robert P. Wilkins and is now co-authored and edited by Michael L.M. Jordan. Unlike other drafting systems, such as WealthDocs, EEPDS, and TrustDocs, which are based on the HotDocs engine, the DWTA drafting system is still based on CAPS (Capsoft). The authors recently learned, however, that DWTA will soon be migrating to GhostFill ([www.ghostfill.com](http://www.ghostfill.com)), the same engine that powers the Amicus Assembly document assembly component of the popular Amicus Attorney ([www.amicusattorney.com](http://www.amicusattorney.com)) case management system from Gavel & Gown Software, Inc. The

provisions and language used by DWTA are somewhat cumbersome and not as "client-friendly" as other drafting systems. On the other hand, the user can modify any clause within DWTA on a permanent or case-by-case basis, making DWTA extremely flexible. In addition, DWTA is the only drafting system of which the authors are aware that allows the use of a private unitrust or a "net income" payout provision on a trust-by-trust basis. The DWTA system is affordable, priced at \$695 for its current version 13, and has outlasted many other drafting systems that have come and gone over the past 13 years. The printed forms (<http://west.thomson.com/product/13513203/product.asp>), which consist of a four-volume set (the third edition), can be purchased separately for \$385.

### Resources That Complement Drafting Software

Whether you create your own drafting system or choose a "what-you-see-is-what-you-get" system, consider the following drafting resources that the authors have reviewed. Each of these treatises is published by a noted estate planning practitioner or scholar, each of whom is a member of ACTEC, and includes legal analysis, commentary, and "plain English" forms in electronic format. Many other drafting resources are available, including the ABA's useful *Bridging the Gap: Drafting for Tax and Administration Issues* book, but few resources offer (1) the same caliber of analysis and commentary coupled with (2) comprehensive electronic forms (usually on CD-ROM) as the following treatises. These treatises are even more attractive for those who want to create their own drafting system by synthesizing the sample forms of others (already in usable electronic format) with their own language and provisions.

**Tax Planning for Family Wealth Transfers.** Thomson/West<sup>™</sup>, which now owns Research Institute of America (RIA) and its subsidiary Warren, Gorham & Lamont (WG&L), publishes *Tax Planning for Family Wealth Transfers: Analysis with Forms* (

WTPLF&SITE=taxresearch), written by nationally known author, speaker, and retired attorney Howard M. Zaritsky. *Tax Planning for Family Wealth Transfers*, now in its fourth edition (2002 & Supp. 2004), offers extensive analysis on the array of techniques used to minimize a family's tax burden, as well as nearly 100 forms (in WordPerfect format). An explanatory client letter accompanies each form and specifies the purpose for the document, its key provisions, and its suitability. *Tax Planning for Family Wealth Transfers* costs \$360 for a one-year, Internet-based subscription via the RIA website, and is also available in print.

**Drafting the Estate Plan.** Published in December 2003 by Aspen Publishers, Inc., a WoltersKluwer company (and now a part of CCH's Tax and Accounting Unit), *Drafting the Estate Plan* (<http://tax.cchgroup.com/Aspen/default>) includes two volumes co-authored by David A. Handler and Deborah V. Dunn, partners at the international law firm of Kirkland & Ellis LLP ([www.kirkland.com](http://www.kirkland.com)). The first volume systematically explains the federal transfer tax system and each component strategy to be considered in the estate planning process. *Drafting the Estate Plan* takes a practical approach to estate planning by comprehensively explaining the applicable law and techniques and then pointing out why and when to use the strategies discussed. The second volume includes 55 user-friendly, annotated forms that are included without annotations on compact disc (in Word format). The summary and a detailed table of contents for *Drafting the Estate Plan* can be viewed via the Kirkland & Ellis website at [www.kirkland.com/client/pubs/books/EstatePlan.pdf](http://www.kirkland.com/client/pubs/books/EstatePlan.pdf). *Drafting the Estate Plan* costs \$295 in print (with its CD-ROM) and will be available electronically via CCH's Internet subscription services.

**Anderson's Estate Planning Forms and Clauses.** *Anderson's Estate Planning Forms and Clauses* (<http://bookstore.lexis.com/bookstore/product/45083.html>), in its second edition (2000 & Supp. 2003), is edited by prominent Vanderbilt University School of Law

professor Jeffrey A. Schoenblum, who is well-known for his publications on international and multijurisdictional estate planning. Like the other treatises described above, *Anderson's Estate Planning Forms and Clauses* represents a comprehensive collection of estate planning documents and provisions. This treatise was created from contributions by well-known practitioners such as Dennis I. Belcher, Jerold I. Horn, Frederick R. Keydel, Louis A. Mezzullo, and Sanford J. Schlesinger. *Anderson's Estate Planning Forms and Clauses* costs \$144 in print (with accompanying CD-ROM) and is also available electronically via a LexisNexis® Internet subscription.

### **Word Processors for Drafting Software**

To conclude this discussion and overview of drafting systems and document assembly programs, this overview must also consider the word processors that handle the resulting documents. The two primary word processors used by law firms, Microsoft® Word™ and Corel™ WordPerfect™, have competed for the affinity of those law firms for many years. Until Word 2002 (the Word version bundled with the Office™ XP™ suite of programs), users within the legal arena complained about various features of Word that lacked the functionality of WordPerfect. One of the

chief complaints of WordPerfect admirers was Word's inability to "reveal codes," which generally allows the user to see the "behind-the-scenes" formatting codes of a WordPerfect document.

Word 2002 substantially represents a positive response to the legal profession's concerns. Word 2002 allows the user to "Reveal Formatting" under the "Format" button of the menu bar. It even includes a "WordPerfect Help" section under the "Help" button of the menu bar. These and other specific responses are described in an excellent resource, *Microsoft Word 2002 for Law Firms* by the Payne Consulting Group, Inc., which includes a CD-ROM with additional tools.

To apply these developments to several specific drafting systems, Word 2002 benefits Lawgic users in that Lawgic functions natively in Word (although Lawgic is completely compatible with WordPerfect). Word 2002 seems to "iron out" any Lawgic formatting issues that occurred when using Lawgic with prior Word versions. Word is absolutely required for WealthDocs and TrustDocs users because both drafting systems only function with Microsoft's word processing program. Most other drafting systems are also based on Microsoft standards or at least optimized to work with Microsoft products, and probably work more efficiently with Word 2002

as well. For example, TrustDocs requires Word 2000, but it seems to work better with Word 2002.

On the other hand, Corel's newest version of WordPerfect, version 11, looks impressive. According to the "Reviewer's Guide for WordPerfect Office 11," the latest suite of WordPerfect programs "bridges the gap between cost and flexibility" ([www.corel.com/futuretense\\_cs/ccurl/wp11\\_rev\\_guide.pdf](http://www.corel.com/futuretense_cs/ccurl/wp11_rev_guide.pdf)). This latest version is certainly worth a review, particularly because Corel has made available a 178-megabyte downloadable trial edition of WordPerfect Office 11 ([www.corel.com/servlet/Satellite?pagename=Corel/Downloads/Details&id=1047021847619](http://www.corel.com/servlet/Satellite?pagename=Corel/Downloads/Details&id=1047021847619)). At approximately \$150, WordPerfect is still generally more affordable than Word.

### **Conclusion**

The authors hope this article will aid the estate planning attorney in his or her estate planning practice by providing a helpful overview of drafting systems from which to choose. As the reader can see, estate planning attorneys have many choices in 2004. Based on the information contained in this article, as well as the other relevant resources mentioned, the authors hope that the estate planning attorney will be able to make an informed decision that addresses his or her unique drafting needs. ■