



ESTATE PLANNING MATTERS

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FAMILY MATTERS

Are you someone's child, sibling, nephew, niece, cousin, uncle, aunt, spouse, parent, grandparent or even great-grandparent? [Note: Chances are quite good that you are.] If so, then you are part of a family and, likely, your family matters a great deal to you.

In this article, we review some fundamental estate planning matters



every family member needs to address through proper estate planning. In fact, the failure to address these legal matters can inconvenience, if not harm, your loved ones. Accordingly, feel free to share this article with your near and dear ones. You and they will be glad you did.

Personal Responsibility

Car crashes, Alzheimer's and strokes. Injuries and illnesses can strike anyone, leaving them legally incapacitated. And, once you are legally incapacitated, you can no longer manage your own personal, health care or financial affairs. Nevertheless, important decisions

affecting you must be made, despite your lack of legal capacity, often on a day-to-day basis. For example, your incapacity would not excuse you from paying your bills or your taxes.

Do you have any members of your family *whom you would want* to manage your personal, health care and financial affairs should you become incapacitated? Do you have any members of your family *whom you would not want* to manage your affairs under any circumstances? Either way, if you are an adult (i.e., at least age 18 in most states) and have not made proper estate plans to appoint the incapacity decision-makers of your

INSIDE

If you are a member of a family, then our front-page article is a must-read. We review some fundamental legal matters you need to address before it is too late, from appointing your decision-makers to protecting any inheritance you may leave.

On page three we consider the critical choices everyone must make when selecting guardians and financial fiduciaries for their minor children. We offer helpful and practical pointers for evaluating and selecting potential candidates.

own selection, then a court will be required to appoint someone for you.

Unfortunately, the court may appoint the wrong person as your decision-maker and the court will expose your personal, health care and financial circumstances to the public record. This will invade your privacy, as well as generate significant court costs and legal fees along the way. In short, an ounce of prevention truly is worth a pound of cure.

Parental Responsibility

Are you the parent of minor children? If so, then they are

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your most valuable treasure. What arrangements have you made for their care should something happen to you and their other parent? As with your personal, health care and financial decisions, would you rather select the back-ups yourself, or let a court make the selection without your input.

Bottom line: Only through proper estate planning can you appoint the guardians (i.e., back-up parents) for your minor children.



Boomer Responsibility

If you were born between 1946 and 1965, then you are a *Baby Boomer*. Have you asked your parents or grandparents whether they have made proper estate plans for themselves should they become incapacitated? Whom have they appointed to make their personal, health care and financial decisions? Where are these legal instruments and other important personal and financial records kept?

If long-term care becomes necessary, have they insured this risk with some form of long-term

care insurance and, if so, with which insurance carrier?

Inheritance Responsibility

Wealth built through a lifetime of toil and thrift can disappear in one roll of the dice, a divorce property settlement, a lawsuit judgment or a bankruptcy decree... unless legal plans are made to protect and preserve it in advance.

No one appreciates the value of a dollar more than the person who earned and paid taxes on it. An inherited dollar just spends differently once it has

been inherited. Even if that same inherited dollar is not squandered, it may attract and invite problems.

Qualified legal counsel can help you make the proper plans to protect any inheritance you may leave both *from and for* your heirs.

That said, a perfect inheritance plan has been defined as *spending your children's inheritance and having your last check bounce to the funeral home*. Nonetheless, it can be difficult to work that timing out perfectly, so making proper legal plans may still be the "perfect" choice.



Ask Yourself ...

These Questions Regarding "Family Matters."

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|------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|-----|----|----------|
| 1. I have made proper estate plans to appoint the persons I know and trust to make my personal, health care and financial decisions should I ever become incapacitated. | Yes | No | Not Sure |
| 2. I have made proper estate plans to appoint the persons I know and trust to carry out my wishes upon my death. | Yes | No | Not Sure |
| 3. I have made proper estate plans to appoint the persons I know and trust to rear my minor children to adulthood with my shared core beliefs and values. | Yes | No | Not Sure |
| 4. I have made proper estate plans to appoint the persons and/or institutions I know and trust to oversee any inheritance I may leave to my heirs, without subjecting such inheritance to the squandering, divorces, lawsuits or bankruptcies of my heirs. | Yes | No | Not Sure |
| 5. I have discussed all of the matters contained in questions one through four above with my family members, so that they will be prepared and will not be surprised by my estate plans. | Yes | No | Not Sure |

CRITICAL CHOICES

There are two critical choices commonly faced by parents of minor children. First, who will take care of their minor children, if orphaned, and, second, who will manage the inheritance?

Guardian Guidance

If you are separated or divorced, the surviving biological parent of your minor children will continue to be their legal guardian, absent a court-proven case of unfitness. Nonetheless, parents of minor children will want to make prudent choices regarding guardianship should those children become orphaned.

While every family situation is different, here are some general pointers for your consideration when selecting guardians for your minor children:

- Select guardians who share your faith, values and life priorities; and already have an established positive relationship with your minor children;
- Consider, when selecting a married family member, appointing the family member only, in case your family member predeceases or they divorce;
- Make sure your legal plans provide for the compensation of the guardians, or at least that your children's inheritance is available to cover all legitimate expenses incurred on their behalf; and
- Obtain the permission of the selected guardians before appointing them in your legal instruments.

Fiduciary Fulfillment

Simply put, a fiduciary is a person or an institution legally responsible for the financial affairs of another. They are held to the highest standards of care and loyalty in this role. Who will manage any inheritance left upon your death?

Practically speaking, you have three options. [If you fail to make your choices known through legal planning, the selection will be left to a judge.]

Option #1: Appoint trusted family members or friends. Upside: They likely know the strengths and weaknesses of your heirs, plus they may not charge much, if anything, to oversee the inheritance. Downside: They may be busy with and distracted by their own financial responsibilities ... and not be able to say "no" to irresponsible heirs.

Option #2: Appoint a professional fiduciary, such as an institution (e.g., a corporate personal representative/trustee). The upside and downside are the reverse of Option #1.

Option #3: Combine Options #1 and #2 for the best of both worlds. In other words, the family appointee who knows the strengths and weaknesses of your heirs will not jeopardize their relationships with your children, nor will they get



bogged down with investments, accounting and tax details. Instead, the professional fiduciary shoulders (and is compensated for) the day-to-day management of the inheritance for your heirs. Plus, they can play the *heavy*, if needed.

Summary

Few decisions in life are more important than the appointment of guardians and fiduciaries.

A Poem for Family Research: Dear Ancestor

Your tombstone stands among the rest;
neglected and alone
The name and date are chiseled out
on polished, marbled stone
It reaches out to all who care
It is too late to mourn
You did not know that I exist
You died and I was born.
Yet each of us are cells of you
in flesh, in blood, in bone.
Our blood contracts and beats a pulse
entirely not our own.
Dear Ancestor, the place you filled
one hundred years ago
Spreads out among the ones you left
who would have loved you so.
I wonder if you lived and loved,
I wonder if you knew
That someday I would find this spot,
and come to visit you.

Author-Unknown

“Science is
organized
knowledge.
Wisdom is
organized life.”

— Immanuel
Kant

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