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Estate Planning, Probate, Medical Malpractice, Personal Injury



25 Estate Planning Tips To Help You Avoid Legal Nuisances And Nightmares

FOR PEOPLE WITH CHILDREN WHO ARE GOING TO FIGHT WHEN THEY DIE

1. Do an estate plan and videotape yourself signing your Last Will & Testament while explaining your wishes to your children. They need to know you wrote the Will and why you wrote it. Remove the need to fight over the “will Mama did not write.”
2. Talk to your estate planning lawyer by yourself. Do not include the people you are leaving gifts in your Last Will & Testament in the conversations you have with your lawyer. Otherwise, someone you attempt to give a gift may be accused of undue influence.

FOR UNINVOLVED SPOUSES

3. Do not allow your spouse to have custody of the family lawyer, family banker, family accountant, etc. These professionals belong to you too. Otherwise, plans may be put in place or activities may be undertaken that do not include you. Visit these professionals with your spouse and be sure to seek independent counsel as well. (Not trying to sow seeds of distrust between husband and wife! Just make every effort to be informed from unbiased sources.)

Estate Planning
Seminar Series



FOR SINGLES/ NO ASSETS OR WITH ASSETS/ NO CHILDREN

4. Make sure you do an estate plan, especially if you prefer one parent over the other. Otherwise the parent you have not spoken to in 15 years could end up with your assets if you pass away.
5. Make sure you do a medical power of attorney and durable power of attorney. Otherwise an estranged or least preferred parent could have just as much input into your medical and business decisions if you are incapacitated.

FOR SINGLES/ WITH ASSETS/ WITH CHILDREN

6. Consider doing a prenuptial agreement when you meet the love of your life. Otherwise, your homestead property may belong to your spouse if you die, even if the spouse is not on the deed and even if your Will gives the property to someone else. Florida law gives the surviving spouse life estate ownership in homestead property and, in some instances, gives the surviving spouse the right to sell the homestead property.
7. Do not list minor children as beneficiaries on life insurance policies. If you die and the child is still a minor, the money may have to be placed in a legal guardianship which generally has a lot of court imposed restrictions and will cost thousands of dollars in attorneys fees to maintain. Leave insurance proceeds to minor children through a Trust.
8. Here's another reason not to list minor children as beneficiaries on life insurance policies. If you die prematurely, your ex-spouse, being the surviving parent, is likely to become the legal guardian over the insurance proceeds even if he or she has not demonstrated much financial savvy. Leave insurance proceeds to minor children through a Trust.



FOR PEOPLE MARRYING A DIVORCED PERSON

9. Remember to remove the ex-husband off of your life insurance as a beneficiary. Otherwise, your ex and his new wife may enjoy the life insurance proceeds while you turn over in your grave!
10. For woman marrying a divorced man, be sure the man takes his ex-wife's name off of his life insurance policy and makes you the beneficiary. You really wouldn't want to have to eat humble pie and beg the ex-wife to bury your husband.

FOR PEOPLE WITH AGING PARENTS

11. Talk to your parents to see if they have an estate plan and purchase life insurance for your parents if they do not have it. Consider purchasing a preneed burial policy for parents who are uninsurable.
12. Usually for a minimal amount, you can have your parents do a durable power of attorney for business and financial matters and a medical power of attorney while they are of sound mind. It will be too late to get this done once they develop dementia or Alzheimers disease. When it is too late, your only recourse may be a legal guardianship to handle their affairs and this will aggravating, labor intensive and will often cost thousands of dollars in attorneys fees and court cost.

FOR BUSINESS OWNERS

13. Write a business succession plan so that your business can make an orderly transition in the event of your death or retirement.
14. Decide to what extent and how your business will take care of your family in the event of your death.
15. If your business cannot afford to take care of your family or maintain itself if you die, have the business purchase adequate life insurance to cover the needs of the business and family in the event of your death. (Sometimes called key man insurance)

FOR PEOPLE WITH UNDEFINED RELATIONSHIPS AND LOOSELY DEFINED KINSHIPS

16. Get the right parents on your and your children's birth certificate if possible. After the death of a parent is no time to argue about paternity issues.
17. If you are separated from your spouse and do not want your spouse to exercise spousal rights in the event of your death, get a divorce. Otherwise, your separated spouse is as good as under the roof with you and may be first in line for your money or assets when you die. Nothing has more clout than the title "spouse"
18. If you are living with someone and would want the rights of a spouse in the event of their death, get married or at least do a proper Will. **THERE IS NO SUCH THING AS COMMON LAW MARRIAGE.** Don't be left in the cold, thinking that someone is going to regard you as a spouse although you are not married.
19. "Lika" is not your sister. When you list siblings on a legal document, do not include people who are "like a sister" or "like a brother." If you want to recognize and include certain people in your estate matters, do a proper estate plan and include them. Saying someone was like a sister or brother carries no weight without supporting valid estate planning documents.

GENERAL TIPS FOR ALL

20. Do not create conflicting documents. For instance, do not write a will that says Brenda gets the \$50,000 in the bank if you have signed a pay on death form at the bank saying Jimmy gets the \$50,000. The bank document will usually prevail even if the will was done more recently than the bank document.
21. A Last Will & Testament does not keep you from having to go to court. If you have a will, the probate court is the only entity that can administer and enforce the will. Your loved ones will have to go to court to process the Will. If you do not want a court procedure, you should consider doing a trust rather than a Will.



22. If you are appointed the executor in a Last Will & Testament, such appointment does not mean you can do whatever you want to do. You will still be required to act under court supervision and according to the law.
23. If someone gave you Power of Attorney, such power ceases to exist upon their death. So, when they die, you no longer have the authority to use the power of attorney to get things done.
24. If you are living in the home of a parent who dies, your living in the house and taking care of the parent does not mean you are in charge of the parent's estate or you are entitled to the house. You must be listed as the executor in the parent's will or the trustee in the trust to be in charge after the parent dies or you must be appointed by the court to be in charge. If you want the house, you must receive it from the probate court or from a trust if your parent did not deed it to you before they died. Simply living in the house before a parent dies does not give you a superior right to the house.
25. If you are listed as the executor in someone's will, this does not give you the right to be in charge of their affairs if they are still alive. If they are alive, you need a Power of Attorney to be in charge.