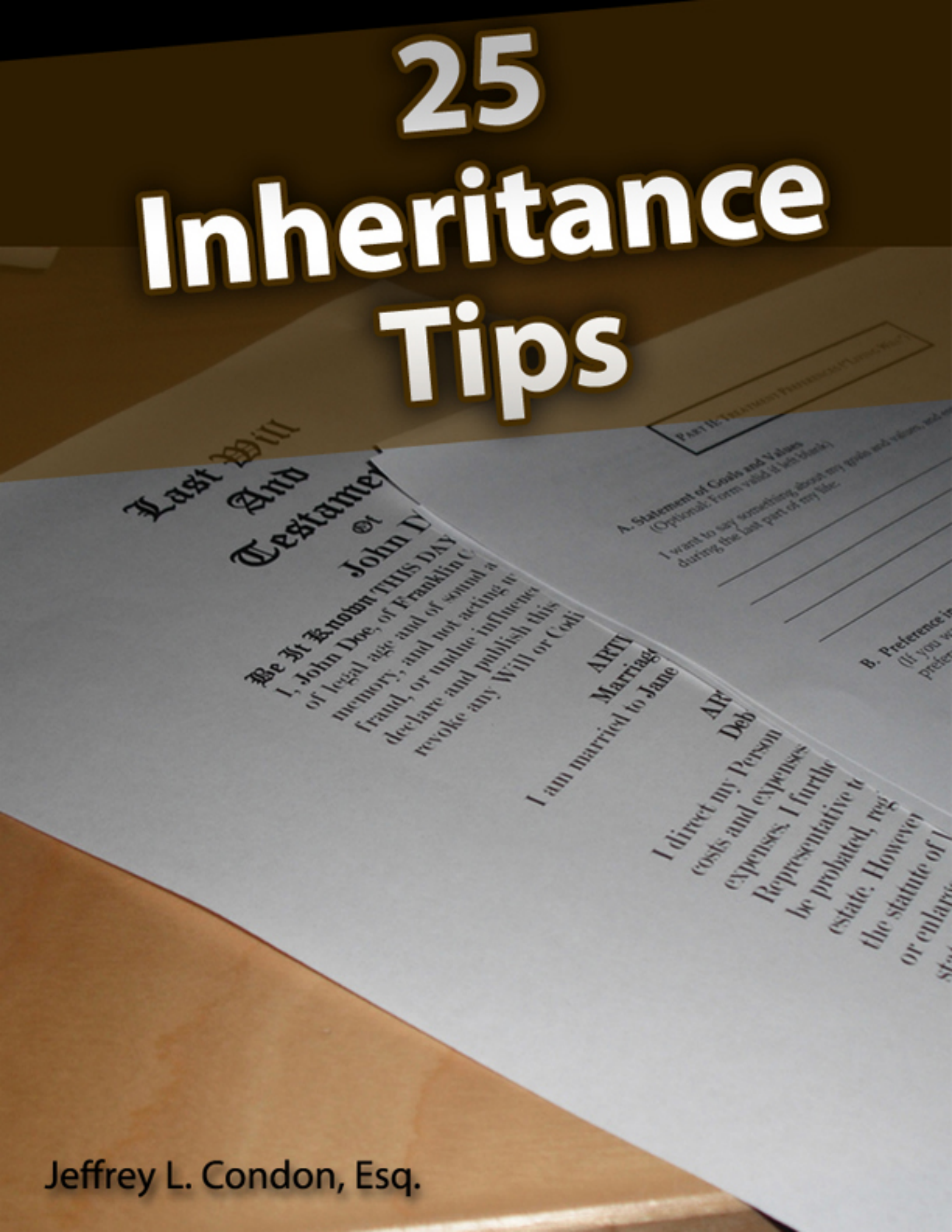
25 Inheritance Tips



Jeffrey L. Condon, Esq.

26 Inheritance Tips

by Jeffrey L. Condon

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Introduction

Dear Reader:

My name is **Jeffrey L. Condon** and I have been an Estate Planning Attorney for 35 years. These Inheritance Tips have been meticulously selected to illustrate family conflicts and financial risks that may occur when parents die and their children (or other heirs) divide the "family money". They also point out the numerous other problems that may arise in the "Inheritance Arena"…such as picking the wrong "After-Death Agent" and creating circumstances where the surviving spouse loses control of her money (to her own children, the "last caretaker" or to her newfound friends).

You may "see yourself" in these situations. And if not, there are many other scenarios in your Inheritance Arena that may cause upheaval in your family.

More in-depth analysis can be found in my nationwide awarded book "**Beyond the Grave**".

In "**Beyond the Grave**", Readers will find new essential advice on how to:

- NOT create inheritance problems in your family from Cautionary Tales of inheritance-planning "gone bad".
- Ensure that your inheritance plan will be carried out the way you want it to be…because it's entirely possible for your after-death agents to do it "their way";
- Understand the new "death tax" and why it may apply to you…even if you think it doesn't;
- Set up an inheritance plan that gives your kids a helping hand—not a free ride.
- Prevent common family bickering that arises when parents die;
- Protect your child's inheritance from an ex-spouse, financial immaturity, creditor, cult, addiction, bankruptcy, tax problem…and all other risks of loss;
- Compel your children to share their inheritance when they couldn't even share their toys;
- Divide the family home without dividing your family;
- Protect your surviving spouse from pushy kids, greedy caretakers, and charming cheats;
- Leave more to your family and less to Uncle Sam;
- Prevent a charity from using your donation to buy Cadillacs for its executives.

Beyond the Grave is an essential guide no family should be without. Readers will benefit from our timeless, time-tested advice, as well as receive updated tips on taxes, after-death agents, and more. It's a must-have…before it's too late.

To your success:

Jeffrey L. Condon

About the Author

Jeffrey L. Condon is an attorney who has practiced in the field of trusts and estates since 1987. He received his Bachelor of Arts in English Literature at UCLA (Class of 83) and his law degree from Whittier of College School of Law in 1987. He presently practices at the Law Offices of Condon & Condon in Santa Monica, California.

With his late father, Gerald M. Condon, Jeffrey is the co-author of Beyond The Grave: The Right Way and Wrong Way of Leaving Money to Your Children (and Others). Published in 1996 and revised in 2001, the Wall Street Journal has called Jeffrey's first book "the best estate planning book in America."

In 2008, Jeffrey authored **The Living Trust Advisor: Everything You Need to Know About Your Living Trust (John Wiley & Sons)**.

Jeffrey has been cited as a source for over 100 newspaper and magazine articles discussing inheritance planning, including **New York Times, Los Angeles Times, Washington Post, Wall Street Journal, Time, Kiplinger's and Business Week.** The topics in this area are so many and diverse, he has been quoted in periodicals ranging from **Fortune** to **DogWorld.**

Jeffrey has discussed various inheritance planning issues on over 70 radio call-in shows throughout the United States, and on numerous television programs **including "The Money Club" (C-NBC), "Primetime News" (CNN), "The 700 Club (CBN), "One on One with John McLaughlin (NBC) and "The Dr. Laura Show (CBS).**

Jeffrey has conducted over 300 talks and seminars on the living trust and family inheritance planning throughout the United States for numerous financial institutions, insurance companies, charities, civic groups, service clubs, real estate companies, trust companies, and conventions.

Outside the legal world, Jeffrey is an avid swimmer who swims 3000 meters a day and participates in long-distance ocean races during the summer. He also enjoys obsessing over food and dining, spending down time at home with his daughters and their friends, and attending his daughters' high school and college softball games (Santa Monica High School and Sonoma State University).

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INHERITANCE TIP # 1

When you give money to your child (for school, a car, a house, a wedding, whatever), you aren't keeping a "Gift Scorecard". You're simply giving help when it's needed. But... your OTHER children ARE keeping a Gift Scorecard. And when you die and you leave your children an equal inheritance, they WON'T consider it equal if the Gift Scorecard is substantially unequal. And then the resentment begins and builds that can create big-time conflict in your family. Yes... this stuff really happens!

SOLUTION:

Equalize the Gift Scorecard... but only if you care. If you think your children are lucky to get anything, then, do nothing. But if you DO care to keep peace in the family after you die, you can equalize the Gift Scorecard by:

A. Making equalizing gifts to your children during your life.

B. Equalizing the Gift Scorecard after your death with special provisions in your Will or Living Trust.

C. Give your child who received the short-end-of-the-stick a life insurance policy. When you die, he/she will get money from the insurance company in an amount equal to the "shortfall".

INHERITANCE TIP # 2

You have, say, 3 children. In your Living Trust, you appoint JUST ONE of them as your "after-death agent" to carry out your inheritance instructions after your death. Why? Maybe because you think too many cooks spoil the broth. Maybe because the "chosen one" has a college degree. Maybe because your other kids live far away. Whatever.

Good decision to appoint just one of your children as your after-death agent, right? WRONG! Your after-death agent has a lot of decision-making power. And your agent-child can exclude the others from participating in those decisions. And fanning the flames are thoughts of the non-agents that you didn't trust them or didn't think they were smart enough for the job.

SOLUTION:

Appoint all your children as your after-death agents. **UNLESS** there is a **REALLY** good reason to not name them all (addiction, estrangement, more than 5 children, etc...). In most cases, keeping peace in the family outweighs the efficiency of needing just one signature on the deed and other title-transferring documents.

Concerned that all your agent-children will not get along in the inheritance process? Don't be. Even the most recalcitrant agent-child realizes that if he/she gums up the works with battles and family baggage, it will take more time and more money to get his/her inheritance share.

This is merely ONE of the hundreds of peace-keeping and family-saving tips found in **BEYOND THE GRAVE**. I know you will find the information invaluable.

INHERITANCE TIP # 3

You and your spouse JOINTLY own your assets. House. Stocks. Bank accounts. Whatever. You expect that when you die, your half will go to your spouse... and then to your children when your spouse dies.

BUT...in SO many cases...that expectation doesn't hold up to reality.

Your spouse remarries... and your assets end up with his/her new spouse...or the new spouse's "first children".

Your spouse remarries and has additional children...who end up with your assets.
Your children pressure your spouse for an "early inheritance".

Your spouse becomes incapacitated... leaving your assets vulnerable to the "Last Caretaker" or "Final Friends" or scam artist.

Your spouse may not have the "know-how" to manage money and property and blows it all in bad management and investment decisions.

You didn't work a lifetime to acquire what you own just to "see" it end up wIth your wife's second husband's kids from HIS first marriage. You want it to stay in the family. To your spouse... then your kids... then your grandchildren.

SOLUTION:

First...recognize the problem of your surviving spouse potentially diverting your assets from your kids and grandkids. Recognizing the inheritance problem is 95 percent of it's solution. Second... in your Living Trust, leave your half of the assets to a "sub-trust" for your surviving spouse. He/she gets the income from your hall... and gets to "dip" into the principal for health, medical, support, maintenance...all of that. Then...when your spouse dies, all that is leftover will go to your children.

There are many more "surviving spouse inheritance issues" than can be discussed here. My goal is to highlight this problem so you can determine whether you need to address it in your Living Trust

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INHERITANCE TIP # 4

You can have the greatest inheritance plan in the world. You can spend thousands of dollars in legal fees making certain every "t" is crossed. BUT... if the person you appoint to carry out your plan...your "after-death agent"...disregards the "who gets what" part... then you have NO PLAN.

Believe it or not... this happens frequently.

You leave $20k to your "after-death agent" son to hold for your grandson until he turns 25. Your grandson hits 25 and approaches his dad for the money who says, "Where do you think we got the money for that vacation to Hawaii?"

You leave $10k to the **American Heart Association**. Your "after-death agent" daughter simply shrugs that off as she says, "That may have been Dad's wish, but that's not my wish".

Your drug-addicted daughter's inheritance share is held by your "after-death agent" son. Your son must use it for your daughter's care, rehab, rent and other necessities. Your daughter makes her brother's life miserable. Calls him a dozen times a day at home and work. Shows up at his home in screaming fits. Threatens to sue. Your son's reaction: "Who needs this?! Here's your share! I'm out!" Then your daughter has control of her share to feed her addiction.

SO many more examples of this theme abound. The success of your plan is **ENTIRELY DEPENDENT** on the ones you appoint to carry it out.

SOLUTION:

Now that you are aware of the problem, you can make an informed decision. Your children are your natural choice to be your after-death agents. But, there are no "inheritance police" looking over their shoulder to make sure they are being faithful to your wishes. Will they overturn your instructions and do it "their way"? Probably not. But if you find yourself pondering this question without such a quick response, perhaps you should, at least, consider what you believe to be a more trustworthy selection.

INHERITANCE TIP # 5

Often it's the least valuable part of the inheritance that creates the BIGGESTand LONGEST-LASTING family conflicts. These are the "raw deals" your children may experience when they divide your "Stuff". Your furniture...jewelry...art...collections...china hutch...antiques...big-screens...appliances. Whatever else that's in your home or safe deposit box.

I'll NEVER forget what one deceased client's daughter said to me: "Right after Mom's funeral, my brothers went into her house and took almost everything. INCLUDING the necklace she promised me! That was 10 years ago...and I still don't talk to them over that! "

This is a common refrain! I have seen more families ripped apart over the "Stuff" than almost any other inheritance issue.

SOLUTION:

Do NOT create a situation where the first one to your house after your funeral wins. Instead, do this:

First...in your Living Trust, say that your Stuff shall go to the persons specifically designated in a separate document called a "STUFF MEMO".

Second...in your Living Trust, say that the rest of your Stuff that is not listed in the "STUFF MEMO" will go to your children as they agree to divide it.

Third...take a piece of paper and write "STUFF MEMO" on the top. This document now becomes a part of your Living Trust's inheritance instructions

Fourth....write on the "STUFF MEMO" all of the particular items you want to go to specific people. If these are items that you know will create conflict between your children, the mere fact of saying who gets them in your "STUFF MEMO" will nip that conflict "in the bud".

Fifth...if you change your mind about a particular gift in the "STUFF MEMO", then simply cross it out and write in your new designation...or just rip it up and do a new "STUFF MEMO". No need to run to the attorney to amend your Living Trust! You do it yourself in the "STUFF MEMO".

Sound easy? It IS easy! Not every inheritance problem requires a complex and expensive solution. And believe me, your kids will thank you for making the tough "Stuff Decisions".

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INHERITANCE TIP # 6

I hear this type of question ALL the time from people with parents in their 60s on up:

"Dad and Mom haven't done any inheritance thing. No Will. No Living Trust. I don't want to run into probate and taxes just because they didn't do something. How do I get them to do something without coming across as a greedy bastard who can't wait for his parents to die?"

I used to believe that "cutting out probate and taxes" were magic words that would have folks jumping at the opportunity to do their inheritance plan. Not so much. Why? Because even though people DO care about the costs of probate and taxes after they die, they DON'T want to go out of their comfort zone to do something about it.

And what's out of their comfort zone? Finding a lawyer. Seeing a lawyer. Dealing with a lawyer. Paying a lawyer.

So... if you want to get your parents to "do something" without giving them the wrong impression, . you have to make it easier for them.

Here's how:

STEP ONE. Find a lawyer and hire him/her to do your Living Trust. It doesn't matter if you need one or not. That's not the point. The point is to be able to say to your parents the words that appear in Step Three, below.

STEP TWO. Show your parents a draft of your Living Trust. If you are within driving distance of your parents' home, go there and physically drop it in their laps. If not, send it to them.

STEP THREE: Say/Write these words to your parents: "We finally got around to doing our Trust. And WHAT a relief! When we're gone its going to make it so much easier for everyone. And you know what? If we have one, YOU should have one. Let me make an appointment for you to see my lawyer. He's terrific!"

Often it's the children that lead their parents. With these steps, you have blazed the trail for them.

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INHERITANCE TIP # 7

Your son is a successful doctor. Your daughter is a struggling middle-school teacher. You decide that because your daughter has a greater financial need, you leave her 75 percent of your assets and 25 percent to your son.

Good plan, right? WRONG! You think you're achieving economic justice between your children. BUT... from your successful son's viewpoint, you are PUNISHING HIS SUCCESS AND REWARDING HIS SISTER'S "FAILURE".

Put yourself in your son's shoes. He worked long and hard for years to attain his success. After bringing honor and joy to you... his parents...with his accomplishments, what do you do? You punish his success by leaving him less.

Your son will be hurt. Angry. Resentful. He can't vent to you because, well, you'll be dead. So he will transfer those feelings onto his sister... and it's likely he may not speak with her ever again.

These are the emotions that arise when your children perceive that you have not treated them fairly in the Inheritance Arena... and they do not diminish with time.

Doubt my words? Tell your successful child you are considering leaving him less because he doesn't need it as much as his sister. You'll get an earful. And even if he says "Okay", It's probably because he doesn't want to give you impression that he's a greedy guy. Also, generously agreeing NOW to inherit less is not quite the same as the harsh reality of inheriting less after you die.

SOLUTION:

DON'T PUNISH SUCCESS AND REWARD "FAILURE". Leave your money and property to your children equally...regardless of their economic circumstances or "That's fine" declarations.

If you don't care about maintaining family harmony after your death, then do it your way. Like one client to whom I said, "Your wealthy son is going to spit on your grave!" His response: "That's fine. Condon. I'll just be buried at sea!"

INHERITANCE TIP # 8

Like the majority of Americans, your home is your most valuable asset. When you say in your Living Trust that you want "everything" to go equally to your children, "everything"...for the most part...means your house.

How do your children share your house? Short answer: They'll sell it and divide the money.
To some folks...this is no big deal. It's only bricks and mortar, right? If it's sold... then it's sold.
BUT... maybe you WANT your house preserved so it continues to be the "center" of your family's universe for future generations. If so...then the prospect of your home being sold after your death is quite distressing to you.

So... is there a way to keep your house in your family after you die? Sure! Just provide in your Living Trust that after you die, your house shall NOT be distributed to your children. Instead, it will stay in your Living Trust and managed by your "after-death agent" in accordance with your instructions. And one of those instructions is that it won't be sold until after all your children are deceased.

Good plan, yes? Well...it DOES do what you want it to do... which is preserve your house for your children. BUT...what if your children DON'T want to be forced to keep it? Maybe one child is counting on selling the house and using his share to retire. Another may want her share to start a business. Or pay off big credit card debt. Or fund a dream vacation. Or apply towards their own kids' school loans. Or any other life enhancement.

The point is...the SOLUTION may be too much control beyond the grave. Your wish to preserve the home after your death MAY NOT be your children's wish. And unless an inheritance instruction is made to prevent loss or family conflict...it's just not a good idea to use your inheritance plan to force your feelings on your children. They will end up resenting you... resenting each other...and finding a way to disregard your wishes.

INHERITANCE TIP # 9

In yesterday's post, I said that your children will most likely sell your house... which is your most valuable asset...after your death and split the sale proceeds.

BUT... what if one of your children needs (or wants) to live in your home after your death?
Say you have two children. Your daughter owns her own home. But your son is another story. Unable to hold any job for more than 6 months, all he can afford is a small, dingy apartment.
So...you leave your house to your son.

In your mind, you're doing economic justice. Your son needs your home more than your daughter. And leaving him the home will give him that "leg up" in life that has eluded him. And you want to "die knowing" that he will always have a place to live.

BUT...what does your daughter think? From her perspective...you have **CUT HER OUT** of her inheritance share! She may love her brother, but she will resent him for it. For the rest of her life.
How do you satisfy one child's need for a home WHILE being fair to ALL your children?

SOLUTION:

Compromise. In your Living Trust, provide that your "homeless" child may live in your house rent-free after you die for a specified period of time. 1 year. 3 years. 5 years. Whatever. After that period expires, the house is to be sold and the proceeds divided equally among all your children.
This compromise benefits ALL your children. Your "homeless" child gets the opportunity to "get it together" without the additional burden of paying rent looming overhead for that period of time. And even though your "home" child has to wait out that time period to get her share of the sale proceeds, she benefits as well from additional appreciation of your home's value (hopefully) during that time.

When the home is sold, your "homeless" child can use his share to help turn his life around. Pay off debt. Maybe even make a down payment for a house.

If you like, you can also provide that your "homeless" child has the option to stay in your home after the rent-free period expires...BUT AS LONG AS he/she is paying fair market rent.

There are SO MANY other home-related inheritance matters. To list them in one INHERITANCE TIP would make this a seriously long one.

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INHERITANCE TIP # 10

"My son is married to a wonderful gal and they have two children. He tells me he if he dies before his wife, he will leave everything to her. INCLUDING what he inherits from me. I love my daughter-in-law... but how do I know she will leave it to my grandchildren when she dies?"
Short answer: YOU DON'T!

If you leave your son an outright inheritance, he has the power to choose who will ultimately receive the "family money". And if your son is the typical loving husband, he will probably leave it to his wife. So... your daughter-in-law will become the 100% owner of your money and property.
Your daughter-in-law may outlive your son for 20 years. A lot can happen in that time.
She remarries and it all goes to her new husband.

She immerses herself in a charity to which she leaves everything.

She becomes incapacitated and has lousy insurance. So...it all goes for medical expenses. Or worse... in her weakened state... she leaves it all to the "last caretaker" or "final friends".

She leaves it all to her OWN family. Her sisters. Her brothers. Her nieces and nephews.

She starts a business that constantly needs bailing out. Or she travels extensively and expensively. Or makes bad investment decisions. Whatever.

The point is... YOU DIDN'T WORK MOST OF YOUR LIFE TO ACQUIRE YOUR ASSETS JUST TO "SEE" IT ALL GO TO YOUR DAUGHTER-IN LAW'S SECOND HUSBAND'S KIDS FROM HIS FIRST MARRIAGE! You want it to stay in your bloodline. To your son... then to your grandchildren.

Won't happen? Let me put it this way. On a "Risk Scale" of zero to ten, what is the risk that your daughter-in-law will divert the "family money" from your grandchildren? If you believe the risk amounts only to a one or two... there is still a risk.

If you feel your daughter-in-law will do the right thing, that is your decision. BUT...if you consider even the SLIGHTEST risk of diversion unacceptable... you MUST plan to prevent that risk.

SOLUTION:

In your Living Trust, provide that your son's inheritance will stay in the "trust bucket" after your death. Your son will have full control and access to his inheritance while it's still in your "trust bucket". He gets income. He gets to dip into principal for any purpose. He can "wheel and deal" the assets any way he chooses. Then...when your son dies... his remaining inheritance goes to his kids... your grandchildren

To those who feel I'm being insensitive or doom-and-gloom...my job is to make you aware of the worst-case scenario. It's my business to tell you of potential risks you may not have otherwise considered. Only after you have been enlightened with all the possibilities can you make an informed decision.

INHERITANCE TIP # 11

You loaned $25,000 to your daughter 10 years ago for a house down payment. She signed a Note which represents her promise to pay you back with interest in monthly payments of $500 on the first of each month She made a few payments on time. Then a few late payments. Then nothing.
Did she ever bring up the loan in conversation? No. Did you ever push for repayment. No. Whether out of love or awkwardness... neither of you mention the loan again. It is conveniently "forgotten". BUT... can you guess who WON'T forget the loan? It's your son!

Your "forgotten" loan to your daughter will create a potentially volatile situation after you die. Why? Because that debt is an asset to be divided among ALL your children. When you say in your Living Trust that you leave "everything" to your son and daughter in equal shares...everything INCLUDES debts that anyone owes you.

So...say you die 20 years after the loan. Suddenly and without warning...your "DEBTOR-DAUGHTER" becomes a debtor to your "CREDITOR-SON". And like any creditor, he puts pressure on her to pay up. That's one-half of the principal PLUS interest on 20 years of non-payments. Compounded!

How will your debtor-daughter react? Will she cave in? Will she lash out... telling her creditor-brother that her debt "died" when you died? Or defend herself by claiming that the statute of limitations precludes him from enforcing the debt?

Whatever your debtor-daughter's response..my point is that if you die with a child owing you money, your debtor-child becomes a debtor to your other children. And their debtor-creditor relationship will OVERWHELM AND OVERTAKE their blood relationship.

SOLUTION:

Quite simply...**DON'T DIE WITH A CHILD OWING YOU MONEY!** Call the "forgotten" loan.

If now, you don't want to call the loan, then cancel the loan and give each of your other children a check equal to the canceled loan.

If you don't want (or can't afford) to cancel and equalize the loan during your lifetime, then use your Living Trust to cancel your debtor-child's debt and leave a like amount of accumulated principal and interest to each of your other children.
If you don't want to make ANY move to equalize the "forgotten" loan...then AT LEAST clear the air before you die. Communicate to ALL your children that you are not enforcing your debtor-child's debt... that you were simply trying to help that child when she needed it...that you can't afford or are not inclined to equalize with the others... and that's the end of it. Better they know now than let this matter fester and divide them after your death.

INHERITANCE TIP # 12

You are remarried. You have brought your second spouse to live in your home. Your second spouse tells you that if you die first, he/she wants... or expects...to live in your home for life.
BUT... you have children from your first marriage (whom I call the "first children") who are adults...who are out of your home...and who have no real connection with your second spouse. And you just know they expect to inherit your home right after you die.

Such a DILEMMA! Abiding by one desire for your home shuts the other out of your home.
SO... what do you do? Here are the choices.

SOLUTION 1:

In your Living Trust, provide that your second spouse can live in your home for a short period of time after you die. At the end of that time, your home is sold and your first children and second spouse split the proceeds. Thus... your second spouse will have some money (plus any assets she owns from his/her previous marriage) that will provide for her well-being... and your first children get some money without first having to wait for "that stranger" to die.

SOLUTION 2:

In your Living Trust, leave your home to your second spouse FOR LIFE...and everything else to your first children. Then when your second spouse dies or (for whatever reason) no longer lives in your home, it goes to your first children. Sure... your first children have to wait for "that stranger" to die before they can glom on to your home. But...immediately receiving SOME portion of their inheritance will go a long way to satisfying their inheritance expectations.

SOLUTION 3:

In your Living Trust, leave your home outright to your second spouse and everything else to your first children. This TERMINATES THE "ECONOMIC CONNECTION" between both sides. Now your first children get ALL of their inheritance immediately...and your second spouse gets your home WITHOUT the pressure that comes from knowing your first children can't wait for him/her to die. (If you don't have enough other assets to leave to your first children...give them an insurance policy. If you obtain the policy the right way, the insurance company will pay a nice tax-free lump sum to your first children that may equal the value of your home.

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INHERITANCE TIP # 14

When you are dead, your money and property are NO LONGER YOUR money and property. They are **YOUR CHILDREN'S** money and property... and they now become subject to the winds of their fates.

I ceased long ago being surprised at the number of problems your children have...or will have... that pose a risk of loss to their inheritance. Here's a few:

Divorce, Remarriage, Addiction, Bankruptcy, Income tax trouble, Creditors, Financial immaturity, Squandering, Mismanagement, Malpractice claims, Psychological illness, Incompetency, Eccentricity, Incapacity, Compulsory tithing to charity, Contribution to crazy cults, Shrewish/abusive spouses, Medical bills.

You did not work all your life so that all you have been blessed with ends up with your son's bankruptcy trustee...your daughter's ex-husband...your son's drug dealer... your daughter's judgment creditors. That would kill you...even though you are already dead.

No. You want to be certain that your lifetime of accumulations benefits your children...but in way so that they ultimately end up with your grandchildren.

SOLUTION:

DO NOT LEAVE YOUR CHILDREN THEIR INHERITANCE OUTRIGHT!

You have to incorporate protection in your **Living Trust** to shield their inheritance from their problems.

You don't care what happens to your assets after you die? Then let me put it this way: If there is something going on in your life that poses a risk of loss to your assets, you'd run out and do whatever you need to do to protect them from that risk. Doesn't it make sense, then, to take similar measures to protect those same assets once they are in the hands of your children?

And besides... your grandchildren are the lights of your life. You like your kids...but you LOVE your grandchildren! Sure... that's a sweeping generalization...but you take some pride that they will walk the earth for you long after you're in the earth. Your bloodline continues with them... and you would like your assets to continue with them as well.

The protection you build into your Living Trust is called the "PROTECTION TRUST". It builds a "castle wall" around your children's inheritance shares. It shields those assets against all types of "attacks". There are many versions of the PROTECTION TRUST... and the one which one you use depends on the type of attack you are anticipating and protecting against.

INHERITANCE TIP # 15

Your Living Trust is private. You have no legal obligation to tell your children about who gets what...or how much they should expect to inherit.

Still...**YOU SHOULD TELL THEM ABOUT IT ANYWAY!**

Now... if you are like most of my clients...your instinctive reaction will be one of these:
"Forget it! I like my privacy. End of subject!"

"If my kids know what they're going to inherit, they'll do nothing with their lives."
"My children will be very upset. I just don't want to hear it. Let 'em go crazy after I die when I won't be around."

"It would be too awkward because we've never sat down and talked about money before."
"It's none of their business."

Good reasons to keep the plan under lock and key? NOT IN MY BOOK!. Despite these often deeply-held beliefs to keep your Living Trust private... there are SEVERAL GOOD REASONS why you should STILL clue your children in as to what your Living Trust says and does. Here are a few:

1. Your children are ALREADY thinking about their inheritance. They aren't telling you this because they don't want to give you the false impression that they want you to die. It's normal for children to wonder about their inheritance. Take away the "Grand Mystery" by letting them get a hands-on feel for your Living Trust.

2. Your children may have a distorted view of your financial situation...and made their "plans" based on that distortion. You are doing your children a kindness by giving them a roughly accurate financial picture so they can adjust their expectations and plans accordingly.
3. If you've named your children as your Living Trust's "after-death agents" to carry out your inheritance instructions, they need to get their hands on it NOW to familiarize themselves with it. There are few events more stressful in your children's lives than your death. Imagine how that stress is exacerbated when shortly after your funeral they are first presented with several thick and lengthy documents written almost entirely in legalese... which they have to read, navigate and understand while the beneficiaries are breathing down their necks saying, "Where's mine"? Take away that stress and bewildered state by going over your Living Trust now.

4. If you know your inheritance instructions will create conflict between your children after your death, a lifetime review gives you the opportunity to handle, discuss and, perhaps, smooth it over. Yes...easier said than done. And who wants to enter THAT Lion's Den? STILL...by addressing that conflict now... it will not fester after your death to undermine your children's sibling relationships.

SOLUTION:

Conduct a **FAMILY INHERITANCE MEETING!** Does this sound touchy-feely? Or cinematic? Or just too "ideal" for the real world? Perhaps. . **BUT DO IT ANYWAY!**

THE FAMILY INHERITANCE MEETING is not something that takes place at your Labor Day backyard barbecue wIth your grandchildren running underfoot or in your living room after Thanksgiving dinner with the Cowboys in the background. It should take place in a somewhat formal setting that impresses on your children that it's Serious Time. Like at your lawyer's conference room.

With your lawyer present**. WITHOUT** your lawyer being on the clock. Yes...the **FAMILY INHERITANCE MEETING** is so important that it should be a standard part of any inheritance plan "package". Tell your lawyer I said so!

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INHERITANCE TIP # 16

"My son is a bum! The only job he has is waiting for me to die so he can inherit. So I want a plan that says he can inherit ONLY if he gets and keeps a steady job!"

For a lot of folks, their Living Trust is not just a way to transfer their wealth after they die. It's a tool to control their child's life from beyond the grave. To "motivate" them into achieving certain educational, occupational or professional goals.

This is the area of inheritance law that we lawyers call the **"CONDITIONAL INHERITANCE". OR**...as one client put it... it's the **"MY-WAY-OR-THE-HIGHWAY -PLAN."**

I am a firm believer in the Conditional Inheritance when it's designed to prevent the inheritance from being squandered due to problems in your child's life. Addiction. Financial immaturity. Disability. Divorce. Creditors. Whatever.

BUT...I am somewhat opposed to "rewards-based" inheritance conditions for a child whose only "addiction" is avoiding a conventional lifestyle...or whose only "disability" is not being desirous of attaining regular employment or higher education.

Why my opposition to the Conditional Inheritance?

First... put yourself in the shoes of your child. What message do you think he receives from you with your inheritance condition? He is inadequate. He never measured up. He is like a recalcitrant school-child. He is a disappointment to his parents. Do you really want these to be your last messages to your child?

Second...when you die, your child will likely be in his 50s or 60s...and his character and motivation will have long been established. Will your "my-way-or-highway" plan help to undo that mindset? Probably not. You can't teach an old dog new tricks... and no amount of money can coerce the old dog into compliance.

SO...on one end... there is your desire to use your Living Trust to motivate your child to live up to your standards. On my end...there is my instinctive reaction against inheritance controls that coerce your child into a life he does not want.

What to do?

SOLUTION:

Use an **INCENTIVE PLAN!** This isn't "my-way-or-highway". This plan gives your child SOME inheritance...and an **OPPORTUNITY** to get more if that is his desire.

There are too many types of **INCENTIVE PLANS** to mention here. But the two most common are:

1. **The DOLLAR-FOR-DOLLAR** plan. Your child receives some portion of the inheritance without any condition. The rest of it stays in your Living Trust to be held and managed by your "after-death agent" who is instructed to pay your child one dollar for every dollar your child proves that he's earned.

2. **The THAT'S-ALL-YOU-GET** plan. Your child receives a certain amount of the inheritance with no strings attached...and that's all he gets. Pretty abrupt, yes? So where is the "Incentive" in this INCENTIVE PLAN? Your child will wake up to the fact that if he wants more money... he will HAVE TO find a way to get more money...such as GETTING AND KEEPING A STEADY JOB!

These and other **INCENTIVE PLANS** are not used casually. It takes guts to not leave your child all of his inheritance share. And using them in your Living Trust may go against your grain. BUT...with these plans...you do not leave your child the sour legacy of a perpetual reminder that he failed to attain goals and values you aspired for him. Rather...the messages you send are productive and positive. That you accept your child's fate. That you still want to make his life a happy one. And that you still want to protect him by giving him a portion of his share AND the motivation to get more.

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INHERITANCE TIP # 17

Who do you consider to be your grandchildren?

A crazy question, yes? **BUT NOT FOR INHERITANCE PURPOSES!**

We live in a world of multiple hetero and same sex marriages... multiple hetero and same sex divorces...domestic partnerships...commitment ceremonies. We have wives, husbands, ex-spouses, lovers, significant others, partners, girlfriends, boyfriends and cohabitants.

All this sounds fine to me. Live and let live...as long as you don't smoke**. BUT WITH ALL THESE DIFFERENT TYPES OF RELATIONSHIPS THAT YOUR CHILDREN HAVE... YOU MAY NO LONGER KNOW WHO YOU CONSIDER TO BE A GRANDCHILD FOR INHERITANCE PURPOSES!**

This is a **SIGNIFICANT** issue because:

1. You may have provided (in your Living Trust) that a certain amount of cash will go to each grandchild who is living at the time of your death.

2. Your Living Trust says that if your child is not living at your death, your deceased child's children will "step into the inheritance shoes" of your deceased child.

3. You have created a "Protection Trust" for your child's inheritance. This means that when you die, your child's inheritance share will stay in your Living Trust and be used for your child's support, health, education and whatever for the rest of your child's life. And this "Protection Trust" ALSO says that when your child dies... anything leftover will go to your child's children.

SO...back to the question. Who are your child's children? Who are your grandchildren who are LIKELY to be **the ULTIMATE INHERITORS** of the money and property it took you a lifetime to accumulate?

For example...for inheritance purposes...do you consider the child of your unmarried daughter to be your grandchild?

How about the stepchild of your married son?

How about the adopted child of your married daughter?

How about the child born to your son and his wife "out of utero"?

How about the child of your daughter's same-sex spouse or partner?

How about the foster child of your unmarried son?

How about the child whose **ONLY BOND** with **YOUR CHILD** is a strong, emotional and parent-like attachment?

There are probably more examples of "grandchildren classification" than I am aware of. But we don't need a technical treatise on all possible stata of grandchildren to know that IF your family includes a grandchild in the non-traditional sense...**YOU HAVE A DECISION TO MAKE! IS THAT YOUR GRANDCHILD FOR INHERITANCE PURPOSES?**

There is no right or wrong answer. Unlike other issues in the Inheritance Arena...this is one area where I don't attempt to impose my personal beliefs. BUT...there is ONE CERTAINTY that you should consider when you face this issue. Which is this: WHATEVER NON-TRADITIONAL CLASSIFICATION YOUR CHILD'S CHILD HAPPENS TO BE...NOT INCLUDING HIM/HER AS A BENEFICIARY WILL RESULT IN THE ESTRANGEMENT BETWEEN YOU AND YOUR CHILD!

To your child...his/her child...whether natural-born, conceived in a test-tube, adopted from a Romanian orphanage or brought into the fold by a new spouse or partner...IS YOUR GRANDCHILD! Your child will expect you to exhibit and engage in all the behaviors that loving grandparents demonstrate to their grandchildren. Allowing him to call you "Grandpa" or "Grandma". Giving him holiday and birthday gifts. Taking him to the movies and the playground. Showing up to his Little League games and graduation ceremonies. You know...grandparent and grandchild relationship stuff.

And to your child...there is NO DIFFERENCE between how you treat his child during your life...and after your death. As you ponder aloud whether his young step-child should be included in your Living Trust's definition of "grandchild", your child will say to you, "What's the problem? Why do you need to ponder in the first
place? That's my child! That's YOUR grandchild! Just as sure as if he was natural-born to me!"

And if you don't comply...in your child's eyes...you are a narrow-minded traditionalist who can't see or accept how the world has changed. Thus soweth the seeds of family estrangement.

SOLUTION:

Be honest with yourself as to who you consider to be your grandchild for inheritance purposes. Don't be swayed by your child's deeply-felt opinion of what YOUR opinion should be. Your child's feeling is not YOUR feeling.

You want to die knowing that your money and property will follow the path that YOU want.

Search yourself and make a decision. I know that comes across as a bit ethereal. BUT... on this issue of who will be the ULTIMATE INHERITORS of your assets...your decision MUST NOT be based on what your child forces you to accept by the threat of estrangement.

INHERITANCE TIP # 18

"I don't have any real relationship with my daughter. We only speak a few times a year, if that. I really don't want to include her as a beneficiary in my Living Trust. Can I cut her out? "

Of course! There's no law that says you have to leave anything to your child.

BUT... if you ARE going to cut out your daughter, **YOU HAVE TO DO IT RIGHT!** Otherwise... you will leave a mess that your other children will have to clean up.

What mess? It's the LAWSUIT that you must assume your "Cut-Out Daughter" will bring after you die!

"Cut-Out Daughter's" lawsuit will make one or both of two claims. ONE...that you were mentally incapacitated at the time you signed your Living Trust to the extent that you didn't know you were cutting her out. TWO... that while you were in a mentally weakened state, your other children coerced you into cutting her out.

And because of these alleged circumstances... your Living Trust must be tossed...and "Cut-Out Daughter" gets her "rightful" share.

RIDICULOUS allegations, you say! When you signed that document, you were fine! You knew exactly what you were doing. And your other kids didn't even know that you had cut their sister out.

Well...in MANY lawsuits involving Living Trusts...the TRUTH IS IRRELEVANT! When your children are faced with the lawsuit to overturn your Living Trust... they will find it cheaper to settle the case than pay a lawyer for the defense. And your daughter and her lawyer know this. It's legalized extortion!

You have to help your other children out with this after-death mess. How?

SOLUTION:

PREPARE THE DEFENSE OF THE AFTER-DEATH LAWSUIT NOW! WHILE YOU'RE STILL ALIVE! WITH THESE FOUR STEPS:

FIRST... around the time you sign your Living Trust, visit your doctor and get examined. Then... have your doctor write a letter on his/her letterhead which says that you are capable and competent to the extent that you can handle your financial affairs and make your own financial decisions. Give this letter to your attorney.

SECOND...write a letter to "Cut-Out Daughter" in your own handwriting which explains why you are cutting her out . SHE WILL NOT BE SHOWN THIS LETTER. Do not send it to her. Give this letter to your attorney.

THIRD... have your lawyer make an audiotape of the "signing ceremony". On this tape, you confirm that you are cutting out your daughter. Your statements must be in a tenor and tone that convey your understanding of your action and the strength of your conviction. This tape stays with your attorney.

SO...when you die and "Cut-Out Daughter" announces that the lawsuit is coming, your lawyer will send these three items to your daughter's lawyer. AND THAT WILL BE THE END OF THE LAWSUIT.

Your **"Cut-Out Daughter"** will not be able to find any other lawyer to take the case. Not even on a contingency basis. No lawyer wants to walk into the mouth of a cannon.

INHERITANCE TIP # 19

"I just added my son's name on the title to my house. We now own it jointly. When I die, my son will automatically be the 100 percent owner of the entire house. No probate. No Living Trust. No lawyers. I beat the system! Winning!"

Well... you have a point. Yes, putting your son's name on title to your home is a very inexpensive way to transfer your home after your death. Yes, it avoids a probate court procedure. Yes, it avoids the cost of a Living Trust.

BUT... YOU HAVE TO BE ON "THIS SIDE" OF INSANITY TO PUT YOUR SON'S NAME ON TITLE TO YOUR HOME!

Your son OR his wife go into bankruptcy? There goes your house. It will be sold to pay off his creditors.

Your son OR his wife has IRS problems? The IRS could "lien" your house to pay off their back taxes.

Your son and his wife divorce? She will claim that she has "marital rights" to your house. She won't win, you say? Well... as my father used to say: Who knows what some crazy judge is going to do?

You want to sell or refinance your house? Guess who you'll have to run to sign the document? Your son AND his wife! Otherwise...no sale or refinance. And for whatever reason... maybe one or both of them just don't feel like signing.

Your son OR his wife cause an accident and does not have good insurance...or NO insurance? The accident victim will end up owing your home.

Your son OR his wife run into malpractice problems at work? Unless they have good malpractice insurance...your house will be exposed to the claims of their "judgment victims".
Your son OR his wife run into money troubles? They will have the power to sell your son's half of your home to a willing buyer. Then it gets worse...because THAT buyer has the power to go to court to force a sale of the entire house! **YES...AGAINST YOUR WILL!**

Your son OR his wife simply want to make a gift of your son's half of your home to the person of their choice? Like their child? Or your son's wife's sister? There is nothing to stop them. Then your house becomes subject to the problems in THOSE persons' lives.

You think these scenarios won't happen to you? Maybe you will be lucky enough to somehow dodge those bullets. But...some of us have lived long enough to know that bad things happen that were NEVER supposed to happen. And when they do happen... It's often sudden and without warning.

SOLUTION:

DON'T DO IT! DON'T PLACE TITLE TO YOUR HOME INTO CO-OWNERSHIP WITH YOUR SON JUST TO AVOID PAYING A LAWYER TO DO YOUR LIVING TRUST! IF YOUR SON OR HIS WIFE GET INTO PROBLEMS...THERE GOES YOUR HOME!

Do I sound like an alarmist? Good! I have seen too many folks who put their children on title to their homes... and then lost their homes because of their children's money problems.

If YOU have put your child on title to your house for the purpose of him becoming the 100 percent owner of your house on your death...go to a lawyer NOW and reverse it. Then establish a Living Trust. which maintains your ownership and control of your house during your life without exposing it to your child's risks of loss... and transfers it to your child after your death without any court process.

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INHERITANCE TIP # 20

Do you need protection from a "Grasping Child"?

What's a "Grasping Child"? It's an adult child who thinks this way: "Mom is 85 and just keeps on going. When she dies, I'll be too damn old to enjoy my inheritance!"

Your children will...most likely...wait patiently for their inheritance... no matter how old you get. BUT... if your child is intent on an early inheritance, he may be very persuasive in trying to get you to give him his inheritance now. WHILE YOU'RE STILL ALIVE!

How will your "Grasping Child" attempt to convince you? Here's how:

"My daughter says she will take care of me for the rest of my life if I give her my house now".

"My son says to give him my power-of-attorney so he can take care of all my financial affairs".

"My daughter says that giving him my home now will keep him out of probate court after I die".

"My son says that if I give him his inheritance now, she will save a lot of money in death taxes after I die".

"I'm on Medicaid. My daughter says that I should give her my home now so that Medicaid can't sell it after I die".

"My wife is dead and I can no longer take care of myself. My daughter has to provide for my daily needs. But she threatens to stop caring for me unless I sign over my home to her now".

"Whenever my son visits, he always seems to be looking around my house with dollar signs in his eyes...and keeps taking to me about when his "ship comes in".

Whatever tale your "Grasping Child" tells you...even if there may be a kernel of sense in it... you do NOT want to give up ownership and control of your assets if that loss will negatively impact your comfortable standard of living OR your emotional well-being.

In other words... don't give up assets that you can't afford or will miss.

Your "Grasping Child" promises to return the early inheritance back to you in case of an emergency? As we lawyers so professionally say: "Yeah. Right. Fat chance".

So... how do you resist this pressure that your "Grasping Child" tries to impose on you for an early inheritance? Whether that pressure is presented as an outright demand, a subtle suggestion or an "answer" to a problem?

SOLUTION:

Follow these three steps:

1. Set up your Living Trust.

2. Transfer title of your assets to your Living Trust. You still own your assets once they are in the trust "bucket".

3. Put in a special provision which says that any deed transferring your home...or any other substantial assets...to your "Grasping Child" requires the signature of not just you... but a third party whom I call the "Special Agent".

This "Special Agent" can be any person in whom you have complete faith and trust to watch your back. Family. Friend. Pastor. Rabbi. Accountant. Lawyer. The folks at your local bank's Trust Department. A person who is in the business of being a "fiduciary" for others.

Whomever you select as the "Special Agent"...he or she will be the one to prevent you from caving into the pressure imposed upon you by your "Grasping Child".

If a transfer of assets to your "Grasping Child" serves a valid tax or "anti-creditor" purpose..you have your "Special Agent" around to help you assess that. BUT...if that transfer only serves to lessen your "Grasping Child's" inheritance waiting time...then your "Special Agent" can protect you from making that unwise or emotional decision.

I hope these INHERITANCE TIPS are meaningful to you. Before we can resolve an inheritance problem... we FIRST have to RECOGNIZE that inheritance problem. And that's what these posts are all about.

INHERITANCE TIP # 21

You HAVE to protect your child's inheritance from your child's spouse!

If your inheriting child loves his spouse, he is going to do what loving spouses do. AND THAT IS. ..put his inherited assets in his name and his spouse's JOINT names.

Then what happens? Love today is a divorce tomorrow. If they divorce, your former in-law walks away with half of your child's inheritance.

If they stay married and your child dies first... your in-law gets it all.

In those cases, will your in-law leave it to your grandchildren? Maybe. But then again... your assets could end up wIth your former daughter-in-law's second husband's kids from HIS first marriage!

SO... what do you do? You have to leave your child's inheritance to him in a way that gives your child full use and control of his inheritance while giving him the ability to say "No" to his spouse. This method is called "The Transparent Trust".

SOLUTION:

DON'T leave your child an **OUTRIGHT INHERITANCE! LEAVE IT TO YOUR CHILD IN A "TRANSPARENT TRUST"!**

The "Transparent Trust" is a special instruction in your Living Trust. It says that when you die, your assets will not go outright to your child. Instead...they will go to your child's "Transparent Trust".

Your child gets all the income from the TT.

Your child gets to "dip" into the principal of the TT for ANY purpose. Food. Trips. Education. Travel. Entertainment. Anything.

Your child is the Trustee of the TT. He gets to wheel-&-deal with its assets in any manner he wants. He can sell. Exchange. Mortgage. Manage. Throw them in the street. Whatever.

When your child dies, any assets remaining in the TT will go to anyone your child selects. But if no selection is made, it will go to his children (your grandchildren).

Pretty liberal instructions, yes? Yes! Leaving your assets to your child's TT is just like leaving your assets directly to your child. It's like not having a trust at all. Hence the term...TRANSPARENT Trust.

So...what good is it? It's not good. It's GREAT! Here's why:

1. The TT becomes a separate Living Trust for your child's inherited assets. Now your child doesn't have to run to...and pay...a lawyer to set up an Inherited Separate Property Living Trust.

2. The TT serves as a constant reminder of your wish to keep the family assets in the family...and not commingled in the joint names of your child and his spouse.

3. The TT provides your child wIth an excuse to say "No" to a spouse who insists that the inheritance be placed I'm their joint names. ("Gee, honey. I would love to put my inherited house in our joint names. But my parents left it to me in trust for the grandchildren!")

4. If your home is in your child's TT...and your child sells or refinanced that home...the title company will NOT require the signature of your child's spouse before issuing a title insurance policy.

5. The TT avoids a probate procedure when your child dies and the assets in the TT pass to your grandchildren.

YOU have to be the one that sets up this arrangement. Your child WON'T do this. Why? Because setting up this plan sends a message to his spouse that he doesn't love her and/or trust her. So what if that's not true? That's STILL the message!

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INHERITANCE TIP # 22

If you don't bother to set up your Inheritance Plan, **THE LAW WILL DO IT FOR YOU!**

And the law does NOT know what you have in mind!

Every Inheritance Lawyer has his/her favorite tale which brings this point home. Here's mine:

About 20 years ago, my dad appeared on the "700 Club" where he discussed some inheritance basics with Pat Robertson. When my dad returned to his Santa Monica office, he received a call from an old high school surfing buddy who called himself the "Captain". I asked, "Why the 'Captain'?". He replied, "I think it has to do with his dad owning a fishing boat in the old Santa Monica Harbor."

The Captain said, "Jerry, been a long time. I just saw you on Pat Robertson's show. I got a house and about 250k in cash and stocks. No wife. No kids. Been livin' with this wonderful gal for 20 years.Surfing everyday. Still living the beach life."

The Captain said he had two brothers living "somewhere back East" whom he had not even talked to for many years.

My dad warned the Captain that if he didn't have some type of plan that named his gal as a beneficiary, she would not receive one penny of his assets. The Captain responded, "Let's talk it over at the beach, Jerry. Let's go surfing together. It will be like old times."

So a week later... they were perched on surfboards at Malibu's Surfrider Beach. Just like the old days. During a lull between sets, the Captain said, "Jerry, I hope to die on a day that's rainy and cloudy. I wouldn't want to miss out on a sunny day when the surf's up."

Other than that comment... there was no talk about death, dying or inheritance planning. Who wants to talk about business at the beach?

Well...about a year later...the Captain did die on a bright, sunny day. Sudden heart attack. There was a surfer's burial. His ashes scattered at sea while surrounded by his surfing buddies in a small flotilla of surfboards.

About a week later, the Captain's girlfriend visited my dad, asking about his Will. She had scoured the house looking for it. Found nothing. She came to my dad assuming he had done the Captain's inheritance plan and left it with him for safekeeping.

But...my dad hadn't done any plan for the Captain. Even though my dad had nagged the Captain on and off during the year after their day at the beach, the Captain never got serious about doing one. It was always talk of "We'll get around to it."

With no Will or Living Trust, the law of California stepped in to dictate who got what of the Captain's assets. This was the Captain's closest blood relatives...the Captain's brothers.

My dad hired a private investigator to find them and called them up. Not only was that the first time they learned of their brother's death... they told my dad that they assumed he had died many years before.

That was it. Near-strangers who had not seen or heard from their brother in over 50 years received all of the Captain's assets. They were the LAST persons the Captain would have wanted to receive his lifetime of accumulations.

His girlfriend...who had cared for the Captain and lovingly put up with him for 25 years... got nothing.

SOLUTION:

DO SOMETHING! A piece of scratch paper could have prevented this disaster. In most states, a handwritten statement of "testamentary wishes" on any paper can be sufficient to constitute a valid Will.

No witnesses needed. No notary needed. No lawyers needed. Just you...a pen...and the WHOLE THING written in YOUR HANDWRITING.

Sure... it won't have any of the "legal stuff" that we throw in there in there to make it "really legal." But...as long as it says who gets what...and as long as it's written entirely in your handwriting...you have a valid "Inheritance Plan Band-Aid". It will tide you over until...or if...you get serious about doing a full-fledged Inheritance Plan.

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INHERITANCE TIP # 23

You HAVE to protect your child's inheritance from his glaring creditor problems!

When you die and your child inherits your money and property, it becomes YOUR CHILD'S money and property. Then it becomes subject to the financial risks in his life that have become that readily apparent to you, such as:

- A lawsuit arising out of your child's profession.
- A loss of your child's job or business which leaves creditors lining up to get paid.
- A liability to the IRS for income tax obligations.
- A heavy reliance on credit cards.
- A lifetime of financially bad and immature decisions.
- A bankruptcy.

In all of these cases... the result is that the money and property that took you a lifetime to acquire WILL LIKELY END UP with your child's creditors... and NOT your child or grandchildren.

So...if you have a real concern that your child's glaring financial problems will pose a significant risk of loss to his inheritance...what do you do?

You **DON'T** leave your child's inheritance to him outright. If you do... your child's creditors will latch on to them to satisfy your child's debts. **INSTEAD...YOU LEAVE YOUR CHILD'S INHERITANCE TO HIM IN AN "IRREVOCABLE PROTECTION TRUST!"**

SOLUTION:

The IRREVOCABLE PROTECTION TRUST (IPT) works like this:

1. Set up a Living Trust and transfer your assets to your Living Trust. (You still own and control your assets when they are in your Living Trust. You are your Living Trust...and your Living Trust is you.)

2. Provide in your Living Trust that when you die, your assets STAY in your Living Trust.

3. Provide in your Living Trust that a third party "agent" will "take over" the management and control of your assets.

4. Provide in your Living Trust that the agent may use your assets for your child's health, education and support.

5. Provide in your Living Trust that your child has no power or authority to revoke the IPT... and has no power or authority to demand that the agent make any payments or distributions to him.

6. Provide in your Living Trust that your assets will pass from the IPT to whomever you decide. Your child's children. Your other children. A charity. Whomever.

Sounds restrictive, yes? It IS restrictive! The agent has the absolute power to make distributions...or NOT make distributions to your child. How will your child like them apples? Not at all!
BUT... the whole point is to prevent your child's creditors from getting their mitts on your child's inheritance. When you give the agent the power to distribute your child's inheritance... your child is not NOT considered the owner of those assets while they sit in the IPT. And your child's creditors CANNOT go after funds that your child does not own.

When your child's creditor problems go away (if they do), the agent is free to distribute the assets out of the IPT to your child directly.

The success of this plan greatly depends on whom you select as the agent of the IPT. More on that in future INHERITANCE TIPS.

INHERITANCE TIP # 24

"I have a Living Trust but I still don't know what the heck it is. And I don't want to bother my attorney for another review. And I'm sick of trying to read this thing."

I hear this all the time. Yes...ALL THE TIME!

You have a Living Trust (LT) but you have no real or meaningful understanding of what it is or how it works beyond the basic function of transferring your assets to your children after your death without probate. You just signed where your attorney told you to sign, threw it in your car and have not thought about it since.

Focus on this explanation and you will know what your LT is for the rest of your life.

You own your assets. Your house. Cash. Stocks. Pedigree dogs and cats. Whatever. Take those assets and put them in a bucket.

You still own the assets while they are in the bucket. You get the income from those assets. You get to "dip" intro the bucket and take out whatever you want for any purpose. Mortgage payments. Food. Travel. Cars. Pianos. Giving away to strangers. Whatever.

You still manage the assets in the bucket. You can "wheel-and-deal" all day long with them. Sell them. Buy more assets. Invest in anything you want. Exchange them for other assets. Repair them. Mortgage them. Throw them in the street. Whatever you want to do.

This bucket comes with written instructions that are long, boring and usually written in indecipherable legalese. The "meat-and-potato" parts of these instructions say this:

1. You own the assets in the bucket.

2. You are the manager of the assets in the bucket.

3. You can do whatever you want with the assets in the bucket.

Here comes the hot-and-juicy part.

The instructions say that if you become ill to the point that you can no longer manage the assets in the bucket, someone else can manage them for you.

This "someone" has to manage them for YOUR BENEFIT ONLY during your illness. YOUR health. YOUR care. YOUR day-to-day expenses. You are STILL the owner of the assets in the bucket... even though the "someone" manages them for you while you are incapacitated.

The instructions also say that when you die, a "someone" takes control of the assets in the bucket to do three things. Protect them. Preserve them. And ultimately distribute them to the persons you want them to go to.

And who are those persons? The ones you list in the instructions that come with the bucket! This "after-death someone" literally reads the "who-gets-what" part of the instructions and transfers them to those persons... and in the manner... you put down in those instructions.

So...that's what the LT is! It's a bucket that you throw your assets into. And that bucket comes with "during-your-life" and "after-your-death" instructions about the ownership, control, management and distribution of those assets.

There! Now you know what your LT does and how it works. Simple concept, yes?

Then why is your LT so lengthy and so complex? Because that's what we lawyers do. We throw in the entire "legal kitchen sink" to ensure that you own and manage your bucket assets during your life...and that "someone" can do his/her job with the your bucket assets after your death.

Do you need a LT? My general answer is;: If you have real estate of ANY value...you should have a LT. But that's for you and your lawyer to decide. Just don't be talked into buying a LT if you don't need one.

INHERITANCE TIP # 25

When you own your home with your spouse as "joint tenants with right of survivorship"... you expect to own the whole house if your spouse dies before you. Yes... that's the whole point of joint tenancy. The spouse who survives is the winner! The spouse who survives owns the entire house. But...maybe not! **ANY JOINT TENANT CAN TERMINATE THE JOINT TENANCY!**

Right now, your spouse can secretly sign a document which "severs" the joint tenancy. What does this mean? It means **YOUR SPOUSE IS NOW FREE TO LEAVE HIS/HER HALF TO ANYONE HE/SHE WANTS! WITHOUT YOUR KNOWLEDGE OR CONSENT!**

This can create some cinematic-like scenarios. Say you get married again. Shortly after your wedding, you and your new spouse sell your separate houses and combine the funds into one new house to get a fresh start. You and your second spouse take title to your fresh-start home as "joint tenants with right of survivorship". If your second spouse dies first, you will own the entire home. Now you can live there for the rest of your life without interference or disruption. Sounds good, right?

So...your second spouse dies first... and you get a call from a lawyer who says, "I represent the new owner of half of your home. The new half-owner wants to sell you her half. If you don't buy her half, we will get a court order to force you to join with her to put your home on the market."

What happened? Your second spouse SECRETLY SEVERED the joint tenancy... and then SECRETLY MADE an Inheritance Plan that left his half to someone else! Who is that someone else? Your second spouse's kids. Or your second spouse's mistress/companion. Or your second spouse's siblings. Whomever.

What now? Now you either have to buy that someone else's half of YOUR home...or be forced to sell the whole house. Where will you live if you are forced to sell? What can half the net sale proceeds buy you these days? Will you end up living with one of your kids? Or in one of those awful nursing homes that was exposed on "60 Minutes"?

Such a far cry from the social and financially independent life you envisioned for yourself.

SOLUTION:

DON'T COUNT ON JOINT TENANCY TO PROTECT YOUR HOME! Instead, you and your spouse should establish a Living Trust and put title to your home in that Living Trust. Your Living Trust will provide that if your spouse dies first, you will have the right to live in your home for the rest of your life. Without disruption. Without having to pay anyone for the right to "use" your spouse's half.

If your spouse desires to move his/her half of your home out of the Living Trust... it can't be done without your knowledge and consent.

INHERITANCE TIP # 26

Make sure your husband-and-wife Living Trust DOES NOT have this "killer" clause: "Either Co-Trustee may execute all documents on behalf of the Trust".

Why is this a "killer" clause? Because it allows your spouse to sell or refinance your **house WITHOUT YOUR KNOWLEDGE OR CONSENT!**

Spouses almost always have both names on title to their home, stocks and other assets. With BOTH names on those assets, BOTH spouses must sign any documents to "transact" those assets. To sell. To refinance. To spend. To invest. To spend. Whatever.

When the spouses transfer their assets to their husband-and-wife Living Trust, the spouses hold those assets as "Co-Trustees". STILL...BOTH spouses are STILL considered to jointly own and control those assets...even while they're in their husband-and-wife Living Trust.

And the assumption is that BOTH spouses' signatures are STILL required to "transact" those assets...even while they're in their husband-and-wife Living Trust.

BUT...IF THE HUSBAND-AND-WIFE LIVING TRUST HAS THAT "KILLER" CLAUSE WHICH ALLOWS JUST ONE SPOUSE TO "BIND THE TRUST ESTATE"...THEN JUST ONE SPOUSE'S SIGNATURE IS REQUIRED TO TRANSACT WITH THE ASSETS IN THAT LIVING TRUST!

You DON'T want that "killer" clause! You don't want to wake up one morning and discover that your spouse has UNILATERALLY and WITHOUT NOTICE sold your house. Or your brokerage assets. Or any of your other significant assets.

Does this really happen? Oh yes! And not only that... the spouse who sells without his spouse's consent usually TAKES all the sale proceeds without his spouse's consent. That's called "stealing".

SOLUTION:

Get that "killer" clause out of your Living Trust! You'll find it in the "boilerplate" provisions in the section called "Trustees Powers".

If you don't see it there...GOOD! But...if you do see it there...**GO TO YOUR LAWYER TO AMEND YOUR LIVING TRUST TO GET IT OUTTA THERE!**

Sorry if I'm coming across as such an alarmist. But that one seemingly typical and innocuous sentence can have devastating consequences on your half of the husband-and-wife assets that are in your husband-and-wife **Living Trust.**

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Access **"Beyond the Grave"** revised edition 2014: https://condonandcondon.net/r/thebook