



WILLS - WHO NEEDS THEM?

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Daniel P. Fitzgerald, a partner in the Private Clients Group of our Greenwich office, was featured in an article by Julie Jason called "Wills - Who Needs Them?" in The Norman Transcripts on February 24, 2017.

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Wills - Who Needs Them?

by Julie Jason

Sometimes, it's a benefit to be in the minority: Only 42 percent of U.S. adults have wills, according to a recent survey conducted by Princeton Survey Research Associates International.

If you are not part of this select group, which encompasses only 20 percent of millennials but 81 percent of people age 72 and up, the state you live in will determine the distribution of your estate when you pass away. That result may not be desirable.

For example, in my home state (Connecticut), if you have no will, are married but have no children, your in-laws receive a large share of your deceased spouse's estate. You, the surviving spouse, receive the first \$100,000 plus 3/4 of your spouse's estate. Your in-laws receive the remainder.

So, if your spouse has an estate of \$500,000, you receive \$100,000 plus \$300,000 (3/4 of \$400,000). Your spouse's parents receive \$100,000.

How many married couples without children would write their wills to achieve the same result? I'm guessing not many.

Further, married or not, if you do have children, the probate court will determine your children's guardians. If you have a house, the court must appoint an administrator and hold a hearing before it can be sold.

Avoiding surprises is one very good reason to call a lawyer to do an estate plan, even if you are a 25- or 30-year-old just embarking on a career -- and even if your biggest asset is your personality.

A well-crafted estate plan will include lifetime documents that go into effect in the case of an incapacity -- you run into a tree when you go skiing, someone T-bones your car, or you trip over a misplaced object. Incapacity can be temporary or permanent at any age.

Planning for incapacity through health-care directives, powers of attorney and revocable living trusts is important no matter your age. If you are a high earner or have significant savings, or anticipate a sizable inheritance, estate tax and privacy considerations also need to be considered. Charitable interests and caring for siblings, parents or children who may not be able to care for themselves also are part of the estate-planning exercise, irrespective of age.

While everyone needs an estate plan, younger adults may benefit from an attorney who is closer in age to them than their parents, advises attorney Dan Fitzgerald of Cummings & Lockwood LLC, himself a millennial with 11

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years of practice under his belt.

Fitzgerald brings a fresh perspective, based on his experience with young adults who are due to inherit wealth or have been financially successful at a young age.

For example, he points out that millennials may have assets that previous generations did not have. "On top of the usual assets such as a home, cash, life insurance, retirement accounts, etc., millennials have assets that are less tangible, such as the value derived from Facebook or Instagram accounts or an investment in a crowdfunding campaign," explained Fitzgerald.

"These new modern digital assets, often governed by user agreements, need to be addressed in an estate plan to avoid unnecessary costs or disputes."

Another issue is marriage, which in previous generations was a trigger for estate planning. Now, young adults are staying single longer, perhaps living together, and delaying marriage -- only 22 percent of millennials are married, according to the Pew Research Center.

Single millennials need extra attention, explained Fitzgerald. They need to consider some nontraditional estate-planning agreements such as co-tenancy agreements for nonmarried individuals who are cohabitating.

And those documents need to account for the new definitions of marriage, such as same-sex marriage and domestic partnerships, for insurance purposes.

One final point: Many times, young adults don't realize they own assets that may push them into estate-tax territory. Add a life-insurance death benefit to the value of your house, and you may have an estate that is potentially free from estate taxes on the federal level, but taxable on the state level. With proper planning, the life-insurance death benefit can be removed from your taxable estate.

No matter if you consider yourself wealthy or poor, young or old, an estate plan can save real money and emotional grief, explained Fitzgerald.