



WHERE THERE'S A WILL

The dysfunctional dynamics surrounding estate battles

By Carla Iacovetti 09/29/2011

“Happiness is having a large, loving, caring, close-knit family in another city.” — **George Burns (1896-1996)**

One would think that a death in a family should draw its members close together, but this is not always the case.

Oftentimes, astounding things happen when someone dies. In fact, many family members will spend more money on legal fees to fight each other than the money that they hope to receive from their deceased family member's estate.

Mark T. spent most of his childhood in Boise, Idaho, until his father was transferred to Ventura. He is one of three kids, and the only one still living in Ventura County. Both of his sisters live out of state, and they had not seen their father for many years. One of them didn't even show up at his funeral, but she did show up for the reading of the will.

“You see, Daddy had a sizable estate,” Mark said. It was after the will was read that all hell broke loose. “It became a five-year battle that basically sucked any hopeful

inheritance away with legal fees, and now the three of us siblings do not speak.”

In a New York Times article author Fred Brock recalls a pitiful state of affairs. “Two clients — brothers — who fought in his office over a Howdy Doody lunch box in their father’s estate. One brother said, ‘That lunch box has the smell of my childhood on it, and I’m not giving it to my brother.’” While fighting over a lunch box seems completely absurd, the craziness that often accompanies property battles can be shocking and intensely overwhelming.

Bea’s immigrant grandfather was a self-made millionaire who had a good life. In 1936 he founded a restaurant in downtown Los Angeles that became a city landmark, and it opened up the door for enormous financial success. Her grandparents had three children, and were very happy. After Bea’s grandmother passed away at 73, he re-married Ruby two years later. Ruby was 10 years younger; she had no children or money. “He treated her like a queen and when my grandfather died at 94, Ruby inherited millions, along with a home in Palm Springs free and clear,” Bea said. “Basically, none of his children or grandchildren received anything!”

SOME PEOPLE WILL STOP AT NOTHING ...

“Ruby was 84 when my grandfather died, and very lonely,” Bea said. “Five years later, she became the victim of a scam. She was still living at her home in Palm Springs, and hired a caregiver (Janet) to assist her in her home.” Ruby did not know that this woman was just waiting to prey on her. George, a man in his late 50s, and Janet’s partner in crime, posed as a gardener and began flirting with Ruby. In no time, she let her

regular gardener go, and George took over — in fact, within a few months George and Ruby got married.

Not long after the wedding, George began helping himself to her sizable bank accounts. He blew through the money quickly, buying property and a large ranch in Palm Desert. George had control of all of her accounts and assets, with the exception of the house they lived in. For security purposes, Bea’s father was kept on the title deed of her house, and this ended up becoming a nasty battle in court after her death. Shortly after the wedding, George began to neglect Ruby and physically and emotionally abuse her, and then she was diagnosed with cancer. Once she became ill, George moved to his ranch and completely ignored her until she died.

“After Ruby’s death, George and Janet moved on to their next victim and no one ever got any money,” Bea said. Should only one person in the family be in charge of a trust?

Early in 2001, Phil’s father was getting too old to handle his business affairs, so he handed everything over to his second-oldest son. Phil’s father and stepmother were to be taken care of out of the trust that was set up; once his brother got hold of the paperwork, however, he had access to everything. (Phil, who asked his real name not be used, is a longtime Ventura County resident.)

“In 1972 my father took \$100,000 and put it into a savings account for all five of us kids,” Phil said. “By now, this should have matured into millions and should come into effect after my stepmother dies, but because my father gave my brother sole

power to handle all of his money and investments, we're powerless, and we have no idea whether we have been kept in his will or removed."

When one person in the family is made sole executor, there are no checks and balances, and it becomes easy to abuse the situation.

"Dad owned 27 homes and sold them before the real estate market began to fizzle out. So – where's all the money?" Phil asked.

Attorney Ted Muegenburg of Meta Law Inc. claims, "Every life needs a good plan." In the many years Muegenburg has served Ventura County as a trust and estate counselor, he has seen firsthand about every kind of family dynamic erupt after a relative passes away. Greed seems to be the culprit that invades the nicest of



families. "Believe it or not," Muegenburg said, "a lot of dissension comes from a jealous in-law or a sibling with unresolved resentments that suddenly surface when a parent dies."

GOALS ARE SIMPLE, BUT GETTING THERE SEEMS TO BE COMPLICATED

Muegenburg believes that every family has some level of dysfunction, and the dysfunction will be disclosed when someone dies and family members seek out an estate attorney. "Even though the goals are simple, complications arise because no one seems to have the same plan. Greed is not seen in any stronger form than when someone dies."

Many times a parent will appoint a child as trustee, but the appointed person has no clue what this entails, and it comes down to whom you can trust to carry out a parent's intention without bias or interference. "The wisest decision is to appoint a corporate trustee because he or she is professional, neutral, unrelated and uninvolved with the family," Muegenburg said.

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-- **Ventura County attorney
Ted Muegenburg of META law inc.**

In his co-authored book *The Family Fight, Planning to Avoid It*, Les Kotzer said, "People should worry more about saving their families than saving taxes." Kotzer is a will and estate lawyer and has been featured as a commentator with various news outlets. He is dedicated to educating families about planning for the future, so that when a parent passes away, the children left behind are not at war.

Assumptions of any kind can be dangerous. No parent wants their children to battle over their inheritance, but when a parent does not properly plan for the future (and that is to include their death), they are assuming the kids will agreeably work things out, and that is not always the case.

"One of those assumptions is that children will exercise good will and settle things amicably," Kotzer said. "Another assumption is that everything will be fine if each child receives an equal share in an estate ... they should never make one sibling dependent on the good will of another sibling."

"Without a good plan, and basic documents in place, people really get into a spot. The worst thing is that when there are no documents, then they have to go to court, where everything is exposed and in public view," said Muegenburg. People can get crazy when money is involved.

Muegenburg recalls one of the craziest scenarios that he personally observed. All the children lived out of the area, and when their mother passed away, while the funeral was in session, the husband and one of the kids snuck away, rented a U-Haul truck and

went back to the house and stripped it clean.

One Ventura family watched the estate and all the assets completely disappear after the death of a very wealthy aunt who was living in upstate New York. While Aunt Christina had no children, she was very close with all of her nieces and nephews, and promised to "take good care of them."

"It is curious why a woman who had millions would not have planned things better. In fact, she didn't have a plan," said Christina's niece Marianna. "When dementia suddenly crept in and affected her mind, one of the 'trust-worthy' nephews got her to make him sole executor, and one by one every asset began to disappear."

Not only were Christina's wishes never executed, the niece and nephew in New York discovered a pot of gold, while their rival cousins here in California got absolutely nothing, and there was not anything that could be done.

Naturally, the more money that is involved, the bigger the fight, and celebrity deaths are guaranteed moneymakers for lawyers. In a recent article by John Goff in *Investment News*, he cites some of the biggest estate battles in America. While John Wayne has been dead since 1979, his estate is still valued at anywhere between \$10 million to \$15 million.

"Given the stakes, it's hardly surprising that the actor's children, grandchildren and assorted relatives are still duking it out over the star's estate 30 years after he died," Goff said. Michael Jackson's sudden death in 2009 has opened up a can of worms, and

according to Goff, “It’s an ugly, high-profile estate battle that could keep lawyers employed for years.” Elizabeth Taylor and Farrah Fawcett can also be added to the list.

WHO CAN YOU TRUST TO CARRY OUT INTENTIONS?

So often parent appoint one of the children to act as a trustee, but they do not know what they are doing. Muegenberg said, “Many people spend their lifetime working hard, raising their kids, and making a comfortable life for themselves, but what about preparing for death? It’s going to happen. Ignoring it is not going to make it go away. Please remember that probate attorneys are counseling roles, not an adversarial role; they’re here to help.”

When a family member dies, there are numerous legal taxation matters that should be addressed, and if there is property involved, probate proceedings will need to commence. The process can be overwhelming, and particularly complicated if the loved one didn’t handle the situation ahead of death. “The difference between a plan and no plan or a plan and an old plan is like good writing; it needs to be well-crafted and drawn up,” Muengenberg said.

In the state of California, dying without a will can create costly, complicated, onerous circumstances for the surviving family members. When there is no will, the court steps in to distribute the estate according to California’s laws. With a will, or living trust, the decedent decides how the estate will be distributed after he or she is gone.

A Los Angeles Times feature article about estate planning called “Time to Prepare Your Will,” it states, “If you’re rich, the best

estate planning advice would be to die quickly. If you’re not, the best advice is to either review or rewrite your estate planning documents to make sure your heirs aren’t left high and dry if you die.” Part of the motivation for this comment stems from the fact that Uncle Sam can walk off with up to 45 percent of bequeathed assets.

SURPRISE, SURPRISE!

Quite often, parents will not even discuss their worth with their children before they die. A recent U.S. Trust study posted in the Wall Street Journal studies shows, “52 percent of parents with assets of \$3 million or more said they haven’t told their children just how wealthy they are, and another 15 percent haven’t even told them that they’re well off.” Most parents seem to think they have all the time in the world. This topic gets put on the back burner and is frequently ignored, and the reasons are many.

No matter what your net worth, it’s important to have a basic estate plan in place. Preparing for the future helps to ensure that your financial wishes will be met after you die. The bottom line – everybody needs a will, and trusts are not merely for the wealthy. Discussing your plans with your heirs can also help to avert disputes, sudden surprises or misunderstandings. “If there’s no will and no trust, then everyone starts complaining and uncertainty is undeniable. If there’s a trust in place, the trustee takes over and everything rolls along,” Muengenberg said.

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