

An Educational Series
of short articles
Concerning Proper
Estate Planning



Written by
Steven Fine
Founder of
Estate Plan For Wisconsin
Steven@EstatePlanForWi.Com
608.225.7314

An Educational series of short articles

Concerning proper Estate Planning

Lesson 1 - Estate Planning - It's a Head thing and Heart thing

Lesson 2 - You only have three options

Lesson 3 - Why I Choose to Not Get a Will

Lesson 4 - Living Probate

Lesson 5 - Option Two a Revocable Living Trust

Lesson 6 - Lifetime Services – a Necessary Part of any Plan

Lesson 7 - So What Happens Now

The following articles were developed as a series of emails. They are brought together here for ease of reading and learning the topic in a single sitting.

The information is gathered from personal experience and conversations with hundreds of couples and individuals about their experiences and the decisions they made.

Trained as a consultant and educator, I have shared this important information with people of all ages and all economic situations. What we all have in common is that life does not go on forever and no one knows when theirs will end. Leaving a plan rather than a mess is a mature and responsible move and the one simple thing everyone can do to assure their legacy is a positive one.

Lesson One

It's a Head thing & a Heart thing

Let's work our way down, starting from the brain, the logic center that deals with figures and facts.

Facts – we are all going to die. Along the way some of us may be injured or ill. Many of us will live well into our 80s and 90s, but need care for daily activities. While today you are mobile, active and extremely competent, believing that you will always be is naive and dangerous. A little planning can make it less confusing and less costly. Accept the reality, make a plan and enjoy life knowing your loved ones won't be left shouldering your financial and legal burden.



Figures – it costs money to die. Aside from the cost of the funeral, which can fall within a wide price range based upon many choices, there are legal obligations a deceased person's family must meet. Paperwork, forms, filings are all needed to finalize a person's estate. This is no easy task and often an attorney is retained to assist the family through the process.

During our lifetime we actively work at growing our wealth and saving our dollars. We buy forever stamps, prepaid legal services and home insurance. While most of my communication is via email I still like knowing I have a hedge against the potential cost increase of mailing a letter. The chances of a home fire that completely destroys my home are less than two percent and yet I know with 100% certainty that one day I will die. If there is something I could do today that will reduce or eliminate the future cost of an inevitable event it certainly seems to be the financially prudent thing to do.

From the Heart:

While I have heard a number of people say they don't care and their family can sort things out after they are gone, very few actually mean it. From an unselfish view point, making plans is a gift we give to those we love. It allows them to be emotionally involved in care giving and grief without the disturbance of dealing with legal and financial matters. Properly done it provides a 'helper' to guide them through what needs to be done without the burden of cost and time expenditures. Someone to lean on and hold their hand at a time when both are so necessary.



Selfishly, making a plan assures your legacy. How will you be remembered? In my own life, memories of some relatives are clouded by 'the mess they left for us to deal with'. Are family members no longer on speaking terms because there was conflict around settling an estate or "Mom left us with a plan in place, and it made things so simple."

In Summary – Since we are all going to die and leave behind work that must be done by others it makes both economic sense and emotional sense to prepare for this inevitable event by putting a plan in place that will provide both the structure and the help that will be needed.

Lesson Two

You only have three options

Why make it a big deal?

When life gives you many options – then you truly have some things to consider.

It is probably for this reason that we see more people standing at the ice cream freezers longer than at any other aisle in the store – so many delicious choices!!

But when it comes to end of life planning – there are only a couple of options.

And that is what Estate Planning is all about. Often confused with Financial Planning, which is the process of “growing” your estate, Estate Planning is about the “distribution” of your estate when you are no longer here.

And make no mistake about it – we all have an Estate, big or small, we all have 'stuff'. The first mistake people make when it comes to estate planning is thinking they don't have enough to cause a fight.

Estate Planning, properly done, will also include Living Benefits. This refers to the plans you make to protect yourself and your loved ones if illness or accident makes it difficult to care for yourself.

So what are the three options that each of us has?

Number one – do nothing. The term for this in dying 'Intestate'. If a person dies intestate, the state in which they live will provide a standard Will for them, which is often not representative of what the person would want for themselves or their family.

Number two – a basic plan. This would include a Will, Powers of Attorney, and a Living Will. While a complete review of your personal situation by a qualified Estate Planning Attorney is the best way to determine if this is the right option for you, a basic plan works well for someone who is willing to accept the cost of time and money and frustration that can accompany the probate process. The fact that the probate process happens in the courts and becomes a part of public records is also a major factor why some people would prefer a method other than a basic plan.

Number three – a comprehensive plan. This option would often include a Revocable Living Trust, Powers of Attorney, a Living Will as well as other well designed methods for the trouble free distribution of assets. Historically considered something for people with large estates, a trust has become a popular choice for people that want their loved ones to avoid the probate process and the emotional and financial burdens it can create. Done properly, a comprehensive plan can be less expensive than a basic plan.

In summary – if doing nothing leads to the state providing a will – then we actually have only two choices – a Will or a Trust. We will learn more about these two options in future articles.

So if you and I and everyone in America have only two choices, not three or four or more, it seems that the responsible thing to do would be to decide which is right for us, and get it done.

Better yet – use the **Once & Done** method to assure your planning remains right for you throughout your lifetime.

Lesson Three

Why I Choose to Not Get a Will

When my mother died unexpectedly at age 54 we learned she had taken some steps in preparation for what all of us will inevitably face at some point- we are all going to die. In an easy to find location we found the Will she had written through her attorney friend. A few days after her funeral my siblings and I found ourselves in his office. Since we lived out of state, mom had asked him to be her executor so there was little for us to do. "Go home and I'll keep you informed along the way" we were told. Why he couldn't come to the house to tell us this instead of all of us going to him, so soon after burying our mother is a dynamic I will never understand nor find acceptable.

Eighteen months later the estate was settled. Nine percent of my mother's estate was the final invoice. Mom was one of the most organized people I have ever met so all the information was easily accessible. Why so much time and why so much money?

Surveys have shown that going through the process of Probate – which is what all Wills must do – takes time and money. Certainly there are stories that don't fit into these statistics, some cost more, some less. It is estimated that the cost of probate can land between three and 8% of the value of a person's estate. (In real numbers – 5% of a \$300,000 estate is equal to \$15,000) Probate takes a minimum of six months, with an average time of 18 months to finalize the process and settle a Will.

Then of course there is the public nature of probate. Since this is a court room event, it becomes a public record. Wills and all the court records involved become public, available to anyone who wants to view them. Whether you go directly to the court house or use a computer, all the details of a person's estate, their heirs, assets and more is revealed.

My mother did not have a large estate, which is why the large price tag was more intrusive. The attorney was her friend, not ours. Fortunately my siblings and I got along and we found nothing to disagree about. In many families these disagreements, however trivial they may seem, lead to disagreements and possible contesting of the Will. A large number of Wills are contested, some over inconsequential matters, some over significant matters. Both add time and cost to the Probate process.

The whole experience taught me a valuable lesson – No one should have to go through Probate!

Every state has what is called a Threshold estate value. In Wisconsin that amount is \$50,000. A person having less than the threshold can go through administrative probate which is less costly and takes less time. Maybe a person in this situation can be served well with a Will. Only a qualified estate planning attorney should help make that decision.



Probate is not something you will go through, unless you are handling this for another person who is deceased, and it is not the position of honor one might assume. It is your estate, whether large or small, that will go through probate. Someone you love will be hand in hand with an attorney and the courts walking your estate through the probate process - If you choose a will as your final planning document.

Lesson Four

Living Probate – Better Safe than Sorry

The story of Terry Schivo brings home the need we all have to prepare for the unexpected. Terry was 27 years old when she collapsed in her apartment, beginning a 15 year struggle between the courts, family, the state of Florida, the federal government and the Roman Catholic Church. It filled the news and became the subject of more than a few books.

Terry failed to prepare. Why should she have? At the young age of 27 no one wants to address the subjects of illness or accidents or death. At the young age of 27 we are still invincible.

But let's say, just for the point of discussion – what would happen if you were faced with a similar situation. Young, vibrant, healthy, and then an accident occurs. Maybe it happened while sailing, or bike riding, maybe another driver ran a red light, or a parasite from the water you drank on a camping trip. We all know someone.

The medical community in an effort to avoid litigation and lawsuits requires that the proper paperwork be signed and filed. Who are they legally allowed to consult with regarding medical decisions for you or your loved one? Have you legally given that person permission to speak to the doctors on your behalf? Legally, in writing, witnessed and notarized.

Without these documents the courts are left to make the determination of who will act in the best interest of the person and is that person competent to do so. This takes time and money. Once the court grants this permission periodic reviews are normally required to assure that all is being handled properly. Are accurate accounting records being kept for each dollar spent in caring for the person? It is not uncommon for a person to have to return to court on an annual basis, attorney on hand with audited

accounting records, petitioning the court to allow you to be the guardian of your spouse for another year.

Financial conservatorship and medical guardianship, are both assigned by the courts for a person who did not previously make these decisions in a legally binding manner. Both of these can easily be avoided, along with the time, cost and frustrations, by simply acquiring Durable Powers of Attorney.

Taking care of this matter is NBD – No Big Deal. Getting injured without these documents is a Big Deal and makes an already bad situation worse. Worse for the person being cared for and far worse for those who have to petition the court to do what they would want to do naturally, but now must do so under the supervision of the courts.

Durable Powers of Attorney are a gift we give ourselves and those we love. It is not only for old people and cannot be gotten after the incident. As soon as a person reaches the age of maturity, it is no longer legally assumed who is the guardian. That's why my 23 year old daughter has durable powers of attorney, signed and notarized.

Three or four signatures and Terry Schivo's situation would have been a private family affair instead of a national sensation. We are not invincible. We live in a world where the fault may not be our own, but the consequences can be long lasting.

Lesson Five

Option Two – A Revocable Living Trust

In a previous lesson we learned that there are only two documents that are recognized by the courts when a person dies. Either you have a will which you had written or one given to you by the state in which you live, or you have set up a Trust.

There are a variety of flavors of Trusts. Which is best for your situation will be determined by your estate planning attorney. The discussion here is about a Revocable Living Trust, the type I have for my family. Revocable means it can be changed during your lifetime, so you maintain complete control over your estate and your situation.

Nothing has changed since I set up our trust. I still pay my bills and do my taxes the exact same way I always have. The only difference is that now I do these tasks as manager or 'trustee' of my trust. I do this because my trust is actually the owner of all of my possessions. My home and car are owned by my trust, as are my bank accounts and brokerage accounts. By allowing my trust to own everything, at my death my family will avoid the probate process, simply because I have died and I don't own anything.

Seems almost too simple, but for the 200 plus years that trusts have been used in this country, the underlying process is just that uncomplicated. A qualified estate planning attorney drafts the trust document. All assets are moved ("Funded") into the ownership of the trust. The trustee of the trust (that's you) takes care of business just like you always have. At death, the county is informed of your death and the fact that you own nothing, all is owned by your trust. Your family then settles your trust, led by the person you have put in charge, your 'successor trustee', whose job it is to follow the instructions you have put into your trust.

Avoiding probate is the major benefit, saving families the 3 to 8% in costs and the 18 months usually needed to settle a Will. The added benefits of a trust make it a perfect vehicle for blended families, families with special needs children, non-traditional couples and those that want to control the payout of the inheritance over a period of time. Since the assets in a trust do not need to be distributed immediately it can serve to hold onto property and other assets until the heirs are in a good position to receive them.

A trust is also a very private affair. Since it is settled by the family, there is no need for courts, judges or the state to get involved. It avoids the public records provision required for court proceedings.

The intention here is not to over simplify what is required around having a trust as your final document, but to not over complicate the process either.

Done properly an individual or couple is walked through the steps in a systematic and thoughtful way. It is important that each step be taken to fully and properly 'fund' the trust. Any assets held by the trust are protected from probate. Assets left out of the trust may be subject to probate, defeating the whole purpose of setting up the trust in the first place.

The last ten years have shown an increase in the number of people choosing a Trust as their estate planning document. Financial and legal experts have been heard lauding the benefits of a trust over a will. It takes a qualified estate planning attorney who has taken the course work and devoted their practice to this special area of the law to properly assist in the planning and drafting of a trust that is right for you and your loved ones. Lifetime services then assure that your intentions are cared out as you planned.

Lesson Six

Lifetime Services – a Necessary Part of a Plan

A trust is not a perfect solution. What it does if properly implemented is a great solution to most concerns and questions. But properly implemented is the key phrase.

It has been pointed out by attorneys and other experts that there are three problems with a Trust. First, it needs to be executed properly which means 'funded'. The ownership of assets needs to be changed into the name of the trust. This is often left up to the trust owner, who is unfamiliar with the process and very often does not complete the process. The attorney who drafted the trust can help, but as I have been told, "at my hourly rate, the client could not afford to have me help them".

Secondly, life happens. Changes are made. Things are bought and sold and accounts move around. A periodic review of the trust and assets is important to assure all is properly recorded in the ownership of the trust. If something is out of the trust it is subject to probate, defeating the original purpose. Lastly is the help that is needed at death. Settling a trust can be time consuming and costly if the only option is to enlist the services of an attorney.

In answer to these concerns a few companies have arisen whose purpose it is to service a trust. These Trust Service Companies provide lifetime services to their customers, assuring that their estate plan is more than just a document in a drawer.

Working with independent, state licensed, qualified estate planning attorneys, these companies are able to package together both the legal services of the attorney with non-legal services to provide a complete plan. These non-legal services include the delivery of the trust, notarization and witness signatures, funding assistance, periodic reviews and end of life settlement.

This approach to estate planning is a Once and Done program. Knowing that I will receive a phone call each year to set up our review is incredibly comforting. I no longer have to concern myself with whether my family will have the help they will need, and the fees have already been paid. I did it once and now I am done.

During these reviews, which are more appropriately called 'continuing education sessions' my wife and I are able to ask questions and clarify what and why we set up the trust. A review is made of anything we may have done through the year that could affect the trust, and appropriate changes are made.

My wife and I, as well as my children, have a phone number to call to ask questions and get assistance if either of us should die or fall ill. My estate is not large, but it is just as important as another and my family will be treated with care and compassion. Rather than leaving them to figure it out on their own, a plan has been put into place, prefunded, and assured.

From my head and my heart, it is good knowing that all has been provided for in a proper plan.

Lesson Seven

So What Happens Now?

Over the last dozen pages you have had 6 very important lessons opening your eyes to some of the concerns and options that all of us have. First – a summary

There will come a time when our life here on earth will end. Planning for it is a gift to both yourself and those you leave behind.

Dying with a Will, or doing nothing, both end up in the unknowns of probate. Will your probate be simple, quick and not too costly or will it be costly in time, money and emotions? No one can truthfully predict the answer, nor do we know when that time will come.

A trust is a simple method being used by more and more of your neighbors so that their assets and families are protected from the probate process.

The few problems with having a trust are solved by using a lifetime service package from a reputable and experienced service company. Do it Once and you're Done.

I congratulate you and thank you for sticking with me this far in reading this material. You probably have many questions and that is your next step. Send me an email with the subject line "I'm ready to talk" and I will respond to schedule a phone meeting.

If the idea of setting up a Trust for you and your family is the right decision, then here is what to expect.

- 1) We will arrange to gather some basic information about you and your family. We can do this by phone or in person.
- 2) In a few days you will be contacted by our customer service department.
- 3) A consultation with an Independent Attorney will be arranged
- 4) When your documents are completed you will be contacted to schedule a delivery meeting. This is a two hour meeting at which everything is notarized and the Funding process begun.
- 5) Then you will have Periodic Reviews for the rest of your life.
- 6) And End of life settlement assistance.

Do it Once and you're Done
Thinking and wondering
Your Legacy is Assured

With no obligation on your part, only a chance to satisfy your curiosity and get your questions answered – contact me by phone or email and let's find a time to talk.

A very Sincere
Thank you
From myself
And those you will be leaving behind