



Editor: Diane Slomowitz

ESTATE PLANS ARE FOR SINGLE MOTHERS, TOO

THE IMPORTANCE OF TRUSTEES



By Lila Wittig-Graser, FOS Legal Assistant

One critical decision I faced in creating my estate plan was choosing a trustee to manage the assets designated for the benefit of my children. As a divorcee, I was fearful the father of my children might try to control those assets, or someone without financial experience would administer them.

Therefore, I was extremely cautious in choosing a trustee. I wanted someone who understood me and my finances, and who knew how I raised my children and managed my assets. The person I chose is one I trust completely, one who I know can and will do everything possible to carry out my last wishes just as I desire.

Call FOS and have an estate plan created for you. This will allow you the peace of mind you deserve. You'll be glad you did. I know I am.

As Lila Wittig-Graser's article confirms, it is not always easy to choose the trustee under a trust to be administered after your death.

It shouldn't be. A trustee is charged with managing and distributing your assets, as directed in your trust, often for several years.

He or she owes fiduciary duties to the trust beneficiaries, the violation of which may subject him to civil or even criminal sanctions.

Many people's first thought is to name as trustee (aside from a spouse) a valued family friend. "After all," the rationale goes, "my friend knows and loves me and my family."

Friendship alone, however, should not determine who is or is not a trustee of your trust.

A trust's administration, and the distribution of a deceased's assets according to his trust, require organization, attention to detail and more than a rudimentary knowledge of finances.

Many trusts, for example, hold part or all of a child's share until he or she reaches a certain age. In the interim, the trustee may pay amounts to or for such child for the child's health, education and welfare.

A trustee in this situation must be able to differentiate between beneficiary requests which are and are not allowable

The single parent family is a fact of life today. I should know, I am one of them.

I often wondered, with much trepidation, about my assets going to my children if I died prematurely. Who would manage their money and later get their funds to them? How would their future be funded?

I wonder no more. With the help of FOS's attorneys, I have in place an estate plan specific to my needs and desires, and more importantly the future needs of my children, should the unexpected happen to me.

RETIREMENT ACCOUNT BENEFICIARY DESIGNATIONS: CRITICAL ESTATE PLANNING TOOLS

A generation ago, a family's most valuable asset was its home.

Placing that property in the names of both spouses, with rights of survivorship, usually protected its disposition at one spouse's death.

A home, of course, is still a significant asset. For more and more people, however, retirement accounts, including IRAs, 401(k)s and (for those lucky few) pension and profit sharing plans, hold the bulk of their assets.

According to the Investment Company Institute®, total U.S. retirement assets were \$24.2 trillion as of September 30, 2014. \$7.3 trillion were in IRAs alone. http://www.ici.org/research/stats/retirement/ret_14_q3.

This fact underscores the importance of ensuring that all retirement accounts

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BE ONE OF THE BETTER HALF—CREATE AN ESTATE PLAN TODAY!

Over 2,500,000 people die in the United States each year, according to the Center for Disease Control and Prevention.

More than half die without wills or other estate planning documents, according to Lexis/Nexis. That’s well over one million people a year. Without a will or other estate plan, their assets must be disbursed according to the intestacy laws.

Under the intestacy laws generally, all assets go to a decedent’s spouse; if no spouse, to children (even at 18!! —see accompanying Robin Williams article); if no children, to siblings, and on and on. This allocation is rigid and automatic.

The intestacy laws ignore a distribution’s tax consequences. Equally, if not more importantly, they ignore the decedent’s wishes.

Intestacy laws, for example, may dismiss the step-children of the decedent’s second marriage. They won’t care if the decedent promised his niece money for college. They’ll pay no mind to the decedent’s unfulfilled intent to leave money to his favorite museum.

An estate plan’s protection extends far beyond its creator. Surviving family members, friends, colleagues and charities all suffer when a person dies without a will or other estate plan.

So, protect yourself and your family. Turn your wishes into action. Contact your FOS estate planning attorney to help you create a workable and enforceable estate plan.

Retirement Accounts, from page 1

have proper and regularly updated written beneficiary designations.

When the owner of a retirement account dies, the account’s assets pass outside of that person’s will.

Like insurance proceeds and other non-probate assets, they are paid to the beneficiaries designated in writing by the account’s owner.

So, the same amount of care should go into determining who will receive assets under a will as who will receive retirement assets.

Prevent a potential economic tragedy. Review and update your estate plan, including your beneficiary designations, with your FOS attorney.

E.P. ATTORNEYS TOP RATED

FOS shareholders **Allan Young** and **Gregory Ricci** were named 2014 Top Rated Lawyers in taxation by American Lawyer Media (ALM) and Martindale-Hubbell™.

These awards are given to attorneys with the highest peer ratings for legal ability and ethical standards in various legal specialties.

Al and Greg are part of FOS’s estate planning team.

DON’T GET IT HALF RIGHT



Despite his tragic death, Robin Williams’ comedic and dramatic gifts will live on through DVDs, streaming devices, televisions and movie houses.

Williams may have unwittingly left us all an additional gift – a reminder to make sure our estate plans are correct and implemented in all respects.

According to reports* issued shortly after his death, Williams’ estate plan properly included two trusts. One was his real estate holdings. The other was to equally treat and protect Williams’ three children from his two marriages and, through an amendment,** to provide for Williams’ third wife.

Williams injected his typical humor into the process, naming his real estate trust “Domus Dulcis Domus Holding Trust,” which means “Home Sweet Home” in Latin.

Unlike wills, trusts are not usually filed with the court, so that their asset lists and dispositional schemes remain private. In this, Williams got this part of his estate plan right.

According to recent reports**, however, Williams got another part of his plan wrong. That apparent mistake may have embroiled Williams’ children in a lawsuit against his (third) wife, including as to the disposition of Williams’ professional and personal memorabilia and other personal property.

Williams’ children claim that the trust awards them not only Williams’ professional memorabilia, but his life-long collections of movie posters, action

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“NO CONTEST” CLAUSES: TURNING “MR. NO” INTO “MR. YES.”

Trustees, from page 1

Every family’s got one. Mr. No. That brother or uncle or nephew who relishes picking a fight.

Harvard accepted your daughter? The school’s too chi-chi. Buy a new investment property? Wrong neighborhood. Your son’s a doctor? CPAs make more money.

You hold your tongue. Family is family. But then comes the big Easter dinner. You hold it together. Until you serve the potatoes, from your mother’s recipe.

Mr. No waves a spudly fork and says you got the recipe wrong. “No more” you think to yourself. “That XXXX challenges everything I do. He’ll even challenge my will!”

For marital harmony, you can’t disinherit Mr. No. So you keep him in your will, but add a “no contest clause”—if Mr. No challenges the will, he gets nothing.

Can you legally do that? Yes, within reason.

Wisconsin law generally allows a will or trust to prescribe a penalty for contesting the document, or bringing related challenges to it—unless the court determines that the challenger has probable cause to do so. The law applies only to interested persons—here, beneficiaries like Mr. No.

If probable cause exists that a will was signed under duress or undue influence, a beneficiary challenging it on that basis won’t jeopardize his bequest (and should be thanked by the other beneficiaries).

But if Mr. No, with no basis, attacks your will because he wants a bigger bequest or doesn’t like your personal representative, a no-contest clause may be enforced. Mr. No might then forfeit his bequest.

A probable cause determination, of course, won’t occur until after you die. And a “no contest” clause may cause rancor among your surviving family members.

Still, a “no contest” clause is one of many tools in an estate planning arsenal. Contact your FOS attorney to discuss the appropriate strategies for your estate plan.

Don’t Get It Half Right, from page 2

figures and graphic novels. Williams’ widow contends that the trust awards the latter collections, and other items, to her.

This dispute might have been avoided, had the trust itemized who was to receive specific memorabilia, collections and other property. Now a judge, not Williams, will have the final say. And both sides will suffer hard feelings and incur unnecessary legal fees.

Don’t get it “almost right” like Williams. Contact your FOS attorney to create or review your estate plan.

*Source: <http://www.forbes.com/sites/trilandheirs/2014/08/12/whats-next-for-robin-williams-family-and-estate>.

**Source: http://www.nytimes.com/2015/02/03/movies/robin-williamss-widow-and-children-tangle-over-estate.html?_r=0

*Photo source: <http://www.bing.com/images/search?>

under the trust. He or she must also be competent to maintain and oversee, often for several years, the substantial sums in the trust itself.

Moreover, although trustees commonly work with estate attorneys, a trustee must be able to:

- Establish/maintain trust bank accounts
- Collect, liquidate (if appropriate), and keep records of all trust assets
- Invest trust assets
- Transfer assets to beneficiaries when and as directed by the trust
- Respond to inquiries/objections regarding the trust
- Notify beneficiaries of trust activities
- Prepare regular trust accountings
- Meet tax and other deadlines
- Make tax and related filings and, if appropriate, appear in court

It may be that your best friend would be an appropriate trustee.

Not because he or she is your friend, but because he or she can, with the trust’s attorney’s help, ethically and competently perform the duties which the trust requires.

If so, appoint him or her. If not, find a qualified person or entity for the job. Banks often are trustees for larger trusts.

Your FOS attorney can evaluate potential trustee candidates with you.



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SPRING CLEANING? TIME TO REVIEW YOUR ESTATE PLAN

We've all had that self-satisfied feeling that comes with executing estate planning documents.

We sign, and then we go on with life. We marry, have children, divorce, marry again, and have more children. We make money, lose money, and make money again.

Our parents die. Our children marry. We become grandparents. We quit work and/or sell our business, and retire.

In the commotion of life, we

forget one crucial task—to periodically review and update our estate plan, including our wills, trusts, and retirement and financial account designations.

This mistake can jeopardize dispositional plans and families' financial futures.

What life changes have you experienced in the last five years, three years, or even 12 months?

You may have created a living trust to hold your home and other assets until their distribution after your death.

Have you implemented your plan and transferred those assets to your trust?

You may have divorced. Have you replaced your ex-spouse in your plan documents? If not, your ex-spouse may benefit at your children's expense.

Your named guardian, personal representative or trustee may have died. Have you designated a replacement?

You may have had your first child. Do your plan documents provide for children? Or your adult son may mis-

handle his finances. Should you push back the age of his inheritance payment?

You may have sold your business, or a previously illiquid asset, for a substantial, liquid profit. Does your plan provide sufficient tax, creditor and other protections for these sums?

Prevent problems before they arise. Update your estate plan with your FOS attorney.

It will be time well spent. You may even save your family's financial future.