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THE E.P. EXPRESS

FOS's Estate Planning Newsletter

An ounce of prevention. . . .

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LIFE CHANGES. SO DO ESTATE PLANS.

By William R. Soderstrom

My wife Lorna and I have not made many changes to our estate plan, which we had prepared initially when our first of three children were born. Our lives have been pretty straightforward (I am not going to say boring), so there were no major life events which required they be revisited. However, we have had one continuing issue.

Our plan provided, as do many, that if my wife and I both died, our estate would be essentially divided into three parts, and each child would receive 1/3 of their share at ages 25, 30 and 35. The thinking was that this would prevent all of the inheritance from being dissipated from early bad decisions, a divorce or just bad luck.

However, when our oldest became 24, we started rethinking this. Nate is a good and responsible child, and would finish law school the next year.

Lorna and I are both lawyers, and recalled how difficult it was adjusting to the adult world after law school. We began worrying that Nate, if he had some money from an inheritance, might not put up with the difficulties of that transition period; and putting up with those difficulties and overcoming them we thought was something that would help set him up for his adult life. The trust always allowed payments if a child really needed the money. So, we modified our trust so each child

Continued on page 3

FOS WELCOMES BAILEY LARSEN

Fox, O'Neill & Shannon, S.C. welcomes attorney and CPA Bailey Larsen as an associate with the firm.

Bailey is providing legal services primarily within FOS's taxation, estate planning and business groups.

Bailey received her law degree from Marquette University Law School, and has worked with a "Big Four" accounting firm in the private wealth tax compliance and consulting areas.

In addition to her professional activities, Bailey, whose husband has served in the military, is a National Guard Family Readiness Group volunteer.

AGING AND ESTATE PLANNING

You've made it to the "mature" years—the 60s, 70s and beyond.

The kids are grown, some with their own families. The big bills are paid. The bigger assets have been accumulated. Social security and Medicare loom large. Partial or full retirement is being planned, if not already enjoyed.

All that's left is to stay (or get) healthy and enjoy the coming years, right? Wrong. There's estate planning to do!

The peri/post-retirement years are particularly important for estate planning.

Those without estate plans should, of course, work with their FOS estate planning attorney to create plans, to protect their asset dispositions and their families.

Those with existing estate plans, however, are not off the hook. Existing plans should be reviewed, including the following areas:

1. **Should you change your personal representative or trustee(s)?**

The personal representative and trustee are crucial appointments,

Continued on page 2

PRINCE—A GENIUS AT MUSIC, NOT ESTATE PLANNING

A brilliant musician and unrivaled performer.

An estate planning failure.

When Prince died at 57, his assets, including his music catalogue, intellectual property, and Paisley Park recording studio, were estimated to exceed $300 million.

But Prince, who powerfully controlled his music machine while alive, gave up that control when he died without a will, trust or other estate planning document.

Prince had no living spouse, children or parents. His complex estate will be divided among his siblings.

None, however, were involved in the music industry. How will they manage Prince's intellectual property, NPG record label, royalties and unfinished song components?

And what, exactly, will they own?

Will each sibling receive a fraction of each finished and unfinished song, each distribution contract, each piece of real estate?

That could lead to an asset management disaster.

Or will each sibling receive an equal share of separate assets?

If so, how will the court determine who gets Paisley Park, who gets which Prince songs, and who gets which music contracts?

Any piecemeal division could threaten Prince's overall music empire's operations.

Maybe Prince didn't want his siblings (or all of them) to receive his assets.

Or maybe he wanted his fellow musicians to have his Paisley Park recording studio; or to share his good fortune with his manager.

We will never know, however, because Prince never created an estate plan.

Continued on page 3

Aging and Estate Planning Continued from page 1

because they administer the assets under a will and a trust, respectively.

Especially for documents executed many years ago, the person first appointed may have died; become ill or incapacitated; no longer want to serve; or be a currently inappropriate choice, for personal or business reasons.

Or another trusted or otherwise appropriate person (a child now well into adulthood, a new trusted financial advisor) may now exist who is willing and whom you would prefer to so act.

2. **Should a disposition's timing be changed?**

Estate planning documents, especially trusts, frequently pay bequests to some beneficiaries in trust or over several years.

It is common, for example, for bequests to children to be held in trust and distributed in three installments—one third when the child reaches 30, one third at 35, and the final third at 40.

Over the years, however, it may become apparent that one adult child is fiscally responsible and can be trusted to receive his or her share outright, without waiting.

It may become equally apparent that a different adult child is such a spendthrift that his or her bequest should never be paid outright, but should always be subject to the trustee's reasonable approval.

3. **Should a substantive disposition be changed?**

Your original documents may have left money to a person you no longer like, a charity which is no longer a priority, or a church or synagogue with which you are no longer affiliated.

Or you may have made a large bequest to a person who is now disabled. That bequest may exceed social security disability's income limitations, jeopardizing the person's receipt of future benefits.

4. **Is your financial power of attorney up to date?**

The person you appointed in your original power of

Continued on page 3

NO BETTER TIME THAN NOW

Some people, hearing "estate planning," may think of death, not life.

True, a will or trust direct your assets' distribution at death.

But estate planning is about more than wills and trusts.

Lawyers do their job when they draft your documents. Some tasks, though, still fall on you.

One is to work to get your family on the same page while you're alive and capable.

No, you don't have to read your will out loud.

But you might want to explain to your middle son why he will receive his bequest over time, not all at once.

Or explain to your daughter why your eldest son is your health care/financial agent.

Tensions resulting from worry or grief's effect on unexplained or unresolved issues can rip a family apart, precisely when its members need each other the most.

You can help prevent such strife by explaining "unexpected" decisions before they happen.

So have a family dinner. Have the "kids" bring the wine and the dogs (but not the grandkids).

And start the conversation. Your family will be the better and the stronger for it.

Prince - A Genius Continued from page 2

Had he done so, his wishes could have been realized, and he could have saved his estate hundreds of thousands in taxes.

So watch *Purple Rain*. Listen to *Little Red Corvette*. YouTube Prince's SNL's 40th after-party.

But first, be your own Prince. Create or review your estate plan.

Source: http://money.cnn.com/2016/04/26/news/companies/prince-no-will/

Picture: https://www.flickr.com/photos/podcinema/26513027311/

Aging and Estate Planning Continued from page 2

attorney may have moved out of state, making it difficult if not impossible for him or her to help with your financial affairs if you become incapacitated.

Or you might now want to give this authority to your financially capable grown children.

5. **Have your health care views changed?**

When you originally created your health care power of attorney, you might have included no specific requirements regarding medical decisions, preferring to allow your authorized "attorney" to make them for you under the circumstances then presented.

Over the years, however, you may have decided that you do or do not want a feeding tube, or you do or do not want to be resuscitated in a medical emergency.

Or, similar to your financial power of attorney, you may now want your adult children, not your original designee, to act as your medical "attorney."

* * * *

Life changes. So might estate plans. Contact your FOS estate planning attorney to make sure your documents meet your current desires. Then show those young'uns how to really have fun!

Estate Planning Continued from page 1

would receive their shares at 30, 35 and 40.

And then-well, you guessed it. As Nate approached 30, we had the same thoughts, and modified the Trust to provide for payments now at ages 35, 40, and 45.

I am sure some of you think we just wanted to torture our children (payback for teenage years!) and continue these changes forever, but we are now comfortable that our soon-to-be 35 year old would not let an inheritance interfere with his career, so we will stay with what we have.

Everyone's views are different. The beauty of estate planning is that everyone can have a plan that provides precisely how they see the world at any moment.

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IN THIS ISSUE

KEEP THE POWER IN YOUR POWER OF ATTORNEY

A general durable power of attorney ("POA") is an essential part of an effective estate plan.

A properly drafted POA appoints a trusted and financially knowledgeable person--the "attorney"--to handle the signer's finances if he or she is unable to do so.

A POA "attorney" will likely have transactions, on behalf of the POA's principal, with banks, other financial institutions, utilities and credit card companies.

But what if a bank, as one example, doesn't like your POA's "look," or only accepts its own POA form? And what if the POA's principal is no longer capable of signing a "new" POA?

Can the bank undo the principal's careful planning on a whim? Not necessarily.

A Wisconsin POA is generally effective when the principal signs it. That signature is presumed to be genuine, if the principal acknowledges the POA in writing, before a notary, on the POA itself.

With such acknowledgement, a person such as a bank representative *cannot* refuse to accept the POA *solely* because the bank "requires" an additional or different POA form.

True, a bank can legally ask the principal to sign a different form. But if the answer is "no," the bank must accept the acknowledged POA, unless it has good faith issues with the POA beyond its formatting.

For example, a bank can lawfully refuse to accept a POA if the bank has other reasons, aside from its form preference, to question the POA.

The bank may question the POA's underlying validity, the principal's competence at signing, or its provisions' meaning.

FOS's estate planning attorneys' POAs are widely accepted by financial and other institutions.

If appropriate, your FOS attorney can contact a financial institution, even before a POA is signed, to confirm its acceptance. And if your POA is rejected, your attorney can help resolve the problem.