Legal Issues in Death and Incapacity

A Financial Planning Workshop for Employees
About the Organization

The Society for Financial Awareness is a 501(c)(3) Non Profit Public Benefit Corporation. Our mission is to provide financial education across America, one community at a time. Founded in 1993, we have had the opportunity and privilege to work with various prominent companies and organizations across America. Our educational and informational financial outreach, and years of continued success, has provided us name recognition and a reputation of excellence.

We are comprised of professionals, throughout the nation, with varying specialties. These professionals, and the independent businesses they operate, provide valuable services to their communities. One of the ways they do that is through informational workshops and seminars that are presented to individuals, companies, and organizations. These events are designed to educate and help them both understand and address a variety of financial topics and concerns.
About the Presenter

Bernard V. Kearse, III, has over 25 years of legal experience, concentrating in the estate planning area. He is a member of Phi Beta Kappa, holds a Masters in Law degree in Estate Planning and is a former Supervisory Council member of the Real Property, Probate and Trust Law Section of the American Bar Association.

In 2006, Bernard was inducted as a Fellow of the American Bar Foundation. This honor is reserved for the top 1% of attorneys in the United States.
What’s the connection?
Picasso, John Denver and Sonny Bono all died without a Will.

Careful planning could have prevented a legal battle.
When Elvis Presley died in 1977, his estate was worth over $10 million.

Then it went through probate...
Because of a lack of careful planning, a whopping 73% of Elvis’ estate was wiped out!
Warren E. Burger, former Chief Justice of the Supreme Court, wrote his own Will but didn’t get it right... costing his Estate significant money.
The Moral of This Story Is:

Don’t use just any lawyer, use a specialist.
Estate Planning

• Accumulate
• Preserve/Protect
• Transfer
The Basics: What Every Individual Should Have

- Power of Attorney – Financial
- Power of Attorney – Health Care
- Will
The Basics: What Every Individual Should Consider

- Disability Insurance
- Life Insurance
- Long-Term Care Insurance
Being Prepared for Disability or Death

- Legal documents do make a difference

- “Die without a plan, and you leave your heirs a nightmare.” *

* AARP Bulletin, March 2004
Early Detection of Any Problem Is the Key to the Solution

“We cannot write a life policy for your husband, Mrs. Blaine, because he is already dead. In insurance terms, that is considered a preexisting condition.”

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Financial Power of Attorney

• Unexpected lifetime event
• Mental or physical incapacity for short or long duration
• Allows you to appoint a person you trust to handle your affairs
• Avoids intrusive and expensive Court involvement
• May appoint an alternative person in case the first is unable to act

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Power of Attorney - Health Care*

• Replaced the living will and old healthcare power of attorney
• Allows you to appoint a person you trust to make decisions regarding your health care where you are incapable of doing so
• Creates an environment where good decisions can be made with respect to your last illness
• Options available to make your wishes known
• May appoint an alternative person in case the first is unable to act

*Advanced Directives (HCPOA)
Basic Wills

Allows you to:

• Decide who receives your assets, rather than the Court
• Decide who will raise your children
• Select your Executor
• Waive the posting of bond on your assets
• Waive the inventorying of all your assets for the Probate Court
• May prevent your children from having complete control of their inheritance at age eighteen
Some Life Changes That Make Updating a Will Necessary

• Marriage, remarriage, or divorce
• Blended families
• Relocation
• Birth or adoption of children
• Substantial change in assets or net worth
• Beneficiaries with special needs
# Revisit Your Estate Plan Regularly

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A good rule of thumb-review your estate plan at least every 5 years or sooner with a significant life change.

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Potential Problem: Contract for Sale of Real Estate

- Death or incapacity while under contract can leave no one with authority to act
- “Durable Power of Attorney” and a Will can avoid this headache
- A must for any person who is in questionable health or advanced in age (or a daily commuter on I-285)
A Dynamic Program

- Prepare
- Strategize
- Revise

“My parents were so proud of what they had built together. What were they thinking? This could have been avoided if they had planned ahead!”
“Harry insisted on doing everything himself.”
Contact Us

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