

ESTATE PLANNING & ASSET PROTECTION



VOLUME 4 ISSUE 10

OCTOBER 2013: TRICK OR TREAT EDITION

ESTATE PLANNING HORROR STORIES

This Halloween, learn the techniques to avoid your own estate planning horror story!

TRICK OR TRUST

Don't get tricked into probate – incorporate a Living Trust into your plan to avoid the ghosts and goblins of the Estate-Planning world!

COSTUMES THAT COVER YOUR ASSETS

Explore the variety of estate planning costumes that are styled particularly to fit your assets!



WFP

WEALTH FAMILY PROTECTION
Attorneys at Law

WHEN LEGACY MATTERS

At Wild Felice & Partners, we implement estate planning and wealth transfer techniques such as the use of Florida Revocable Trusts and Irrevocable Trusts, Family Limited Partnerships, Limited Liability Companies and other advanced estate planning tools to help our clients avoid probate and limit or eliminate estate tax burdens on family members. We realize that each client is unique and every plan is tailored accordingly to every individual need. Our firm aims to shed the tax attorney paradigm and focus instead on the dynamic relationships between our clients and their loved ones. WFP Law realizes that estate planning is truly for the loved ones that we leave behind

It's a Wild world. Are you protected?



*Protecting What You Value Most Through
Estate Planning and Asset Protection*

PROVIDING SOLUTIONS THAT SECURE AND ENHANCE YOUR WEALTH AND YOUR LEGACY

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods, and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

WFP Law is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.

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Estate Planning Horror Stories

In the spirit of Halloween, and all that is frightening, let us take a look at some of infamous celebrity horror stories that have resulted from a lack of proper estate planning.

What better way to start this topic off than with a story of **Jerry Garcia**, leader of the band the **Grateful Dead**. Although Garcia had a Last Will & Testament in place, it's provisions were ambiguous, leading to a series of challenges that were probably not resolved according to his intent. Furthermore, Garcia had named his third wife as both an executor of his estate and as a beneficiary, yet she was to look out for the interest of his second wife, and four of his children that he had with other women. This resulted in the second ex-wife suing the estate, and ultimately receiving only \$1.5 million of the \$5 million Garcia promised her. It is important to clearly express your intent in all of your estate planning documents. Furthermore, you do not want to name an executor of your estate who has any conflicting interest with other beneficiaries.

While the **Elvis Presley** costumes are running rampant during this Halloween season, let them be a reminder that a Last Will & Testament is not sufficient in itself for a complete estate plan. The King of Rock n' Roll left a \$10 million estate to his heirs, who ended up only receiving about 10% of it. The fees associated with probate alone cost his estate nearly \$2 million. If Presley would have set up a pour-over will, that filtered all of his assets into a trust, he would have been able to avoid probate.

Every American should have an estate plan in place but the need for comprehensive estate planning is even greater when you have children.

We are all familiar with the story of **Anna Nicole Smith**, the stunning hot-mess that married 89-year-old businessman, J. Howard Marshall. Marshall had executed his will just days before marrying Anna Nicole, and passed away the following year. The provisions of the will named only one beneficiary, and it wasn't Anna Nicole. She challenged the will, but after a series of appeals, never received a dime (just this year, the court awarded sanctions to Smith's daughter). When Anna Nicole died from an overdose (six months after her first son died and second child was born), she left behind a will that excluded her newborn daughter & left everything to her deceased son. Furthermore, the will stated that it would not include after born children. There are quite a few take-aways from this love-story: (1) if you do not want your spouse/child/etc. to be a beneficiary, you should specifically exclude them in your will (rather than merely failing to make any provisions for them); (2) if you have children from a previous marriage, you need to be very cautious in drafting an estate plan to ensure that they will be provided for; (3) if you experience any changes in your family relationships, you need to review and potentially change your estate plan immediately.

This Halloween, remember these techniques to avoid your own estate planning horror story!

Trick or Trust: Avoid The Blood-Sucking Probate Process

When you open your door to the series of miniature monster's and princesses' exclaiming "trick-or-treat," you can protect yourself from the "tricks" of the dark hallows eve night with the swift toss of a Twix or Snickers Bar. Thus, evading the wrath of the ghosts and goblins on Halloween night is nothing to sweat when you're equipped with the right tools (Twizzlers, M&M's & Bubble-Gum). The same rings true in the similarly scary world of asset protection and wealth management, as you can avoid the evil little tricks of the probate monsters by incorporating the appropriate documents into your Estate Plan.

Probate is the validation of a will, and administration of the assets in the decedent's estate. This can be an incredibly long and expensive process, yet many are "tricked" into it due to the failure to evade it through proper estate planning. Similar to the Vampires that will be roaming the streets on Halloween night, Probate has away of sucking the wealth out of an estate. The best way to avoid this "trick" is to choose the following estate planning "treat:"

Pour-Over Will & Trust Treat: Control & Protect Your Assets

A will coupled with a trust effectively bypasses probate. The pour-over will takes all of the property that passes through the will, and funnels it into the trust. Said property is then distributed to the trust beneficiaries pursuant to the terms of the trust. A pour-over will functions to ensure that all of the decedent's property is transferred to trust. Think of the pour-over will as a safety net that catches all of the assets that were not properly transferred into trust. All the contents of the net are then poured into the trust, ensuring that all of the property is ultimately distributed through the living trust. This effectively removes all of the property from the Last Will & Testament, thereby leaving nothing to be administered through probate. Who is tricking whom now?

Don't get Tricked into Probate – incorporate a Living Trust into your plan to avoid the Ghosts & Goblins of the Estate-Planning World!



Costumes That Cover Your Assets

This Halloween Season, Explore The Variety of Estate Planning Costumes that Are Styled Particularly to Fit Your Assets!

It's that time of year where the shelves are stocked with a *Wild* variety of costumes – everything from monsters and zombies, to an assortment of forest creatures and Disney princesses. The only question now: which one fits just right? Similarly, to put together a proper estate plan, you must beg the same question. In determining what estate planning strategies fit your needs, consider the following "costumes:"

The Digital Robot: Whether you are going for Star Wars' C-3PO or a more modern Transformer, your entire outfit is all about protecting your digital assets. These digital assets include bank accounts, email accounts, digital documents, pictures, items saved on your cellular phone, blogs, Facebook, Instagram, etc. While many may advise you to simply incorporate your digital asset wishes into your will, doing so can be problematic when it comes to privacy. When a will is admitted to probate, its contents become public record. Thus, any private digital asset information you place in your will is exposed to the public through probate. As an alternative, said information can be placed in a separate document that is referenced in the will; or better yet, placed into a trust. This way, your social media identity remains private, and you can receive all of the same benefits mentioned above. Furthermore, don't forget to consider the privacy policies and terms regarding deceased users that are agreed to upon creation of many social media sites. Make sure you have an attorney assisting you in ensuring your digital assets are protected.

The Sick Witch – Have you ever wondered why the Witch is always green? Clearly, she's sick – which is why she needs to incorporate health related documents into her estate plan! As much as we want to fight it, there is a Sick-Witch in everyone's future – which is why we all need the following documents in our estate plans: (1) **Durable Power of Attorney** - this allows you to designate and authorize someone to legally act on your behalf, in the event that you become incapacitated. The instrument will specifically state the powers that you are giving the person that you nominate to act on your behalf. Furthermore, this person must make decisions that are in your best interest, not their own. Take careful consideration in determining who you want stepping into your shoes. (2) **Combination Living Will & Designation of Healthcare Surrogate** - this outlines important healthcare decisions in advance, and appoints a healthcare surrogate to make healthcare decisions for you when you become unable to do so yourself. Be certain to name someone, otherwise, a proxy may be designated in which you would never chose yourself. You want to choose whose hands your life is in, right?

The Wise Wizard – This Wizard knows that the best magic is that of a Trust. For many, especially young Wizards who have yet to build up their assets, an Irrevocable Life Insurance Trust ("ILIT") can be very beneficial. For the Wise-Wizard-Parents, you can ensure that you are providing for your children, by having your life insurance policy go into a trust, which incorporates your intent regarding when and how your children receive the money. Furthermore, many people don't realize that the proceeds of life insurance are included in the gross estate of the "owner" upon death (possibly using up a lot of your transfer tax exemption). Using an ILIT removes the "incidents of ownership" over the proceeds, and therefore your estate does not have to pay estate taxes on it. Additionally, when it is set up for the benefit of your spouse, then passes to children; when your spouse dies, the proceeds will not be included in his/her gross estate either. You can also set up the ILIT to a Dynasty Trust or Generation Skipping Trust, for the continued benefit of future generations. The Wise Wizard can use an ILIT for the following benefits: (1) avoid estate tax of proceeds; (2) shelter property from creditors at death; (3) provide income and support for beneficiaries; & (4) meet the liquidity needs of the Grantor's estate.

The Zombie Parents – the Zombie Parents are the one's that just have to keep going, even when they are dead. The Zombie Parents already have a Last Will & Testament, Trust, and health related documents in place. However, that is not enough for the walking dead, because they have little monster's to be looking out for, which is why the following documents are also incorporated into their estate plans: (1) **Guardianship** - if there is no other parent involved, it is important to consider and appoint a primary guardian - the individual who will have custody of your minor children. This way, the court will not appoint a guardian for you, and you can be certain that your child's interests are protected. (2) **The 529 Plan** - a 529 plan allows you (or really, anyone) to contribute to an account to save for your child's college education, and it is not subject to federal taxation. There is no age limit for when the plan can be used, and it can roll over to another family member. The Zombie Parent can have control, and appoint a guardian/trustee to manage it upon death (a zombie "death").

The Go-To-Goblin: This is the big scary monster costume that you can always fall back on. It is composed of the following documents: (1) **Living Trust** – as discussed previously, a living trust is a great way to avoid probate & protect your assets; (2) **Assignment of Property** - this is exactly that, assigning your property to your trust. This includes both real & personal property. A trust does not do anything for you if there is no property in it; (3) **Last Will & Testament** - this is your traditional will that is used upon death to distribute property to beneficiaries, specify last wishes, and name guardians for minor children; (4) **Durable Power of Attorney**; & (5) **Combination Living Will & Designation of Healthcare Surrogate** (discussed in the Sick Witch costume above).

It's a Wild world. Are you protected?



WELCOME TO THE WORLD, STONE FOX WILD



IN THE NEXT ISSUE: GIVING THANKS

IS YOUR ESTATE PLAN A TURKEY?

Have your plan reviewed and updated every 3 to 5 years to assure that it remains legally current and true to your goals.

YOU ARE WHAT YOU EAT: PASS THE VEGETABLES

Temporary or permanent incapacity can happen to any of us. Supplemental documents need to be in place prior to any capacity issues.

THE TRANSFER OF YOUR ASSETS: AS EASY AS PUMPKIN PIE

Using a Revocable Trust and other advanced planning techniques will assure your family an easy transition of assets upon your death.

Well, it looks like it's my turn to update my own estate plan. With my second child being born on October 14, I will be restating my Living Trust and redrafting my Pour-over Will to assure that my children are equally taken care of and that the Guardians are named for both, in case something happens to myself and my wife. Any time there is a birth, death, marriage or divorce in your family, it is important to update your estate plan.

Incidentally, THANK YOU to everyone who called, emailed, texted and Facebooked with wonderful wishes and congratulatory remarks. Your kind words really mean a lot to me.

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