

The Legal Eagle Update

1. from the desk of

Attorney Robert C. Adamski

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Burandt, Adamski & Grossman LLP

Our fourth decade of service to our community

1714 Cape Coral Parkway East

Cape Coral, Florida 33904

Phone: 239-542-4733

Fax: 239-542-9203

Email: RCAdamski@hotmail.com

Website: www.RCAdamski.com

Visit www.ProtectYourEstate.Net to learn more about estate protection and take a quiz to learn your risk of losing the inheritance you intend to give or expect to receive.

Some unwanted consequences of the second marriage

A second marriage is a second chance at life for many people. Unfortunately, second marriages can create awful legal entanglements and battles at the death of a spouse. This is especially true when the deceased spouse leaves children from a previous marriage. Here are a few examples which proper planning could have avoided.

Imagine that Sam, who was married to Mary for ten years, dies without a will. Sam owned the home he and Mary lived in and left \$500,000.00 in other assets, all in his name alone. Sam also owned two automobiles he drove regularly. Mary has her

own estate of \$500,000.00. Before Sam's death he and Mary did not seriously discuss their estate plan. Both thought they had an "understanding" but the "understanding" of each was different. What is Mary entitled to inherit from her deceased husband, and what will Sam's children receive?

Mary is entitled to a life estate in the home, meaning she can live in or rent out the house for her life. At her death Sam's children inherit the house. Mary is also entitled to one-half of Sam's \$500,000.00 assets, his two vehicles and the furnishings in the home. Sam's children understood they would inherit their father's assets at his death, but they were disappointed.

Let's assume Sam did make a will after he married Mary which gave all to his children. What happens? Unless Sam and Mary had a marital agreement where Mary gave up her rights to Sam's estate, Mary again receives a life estate in the home and she can elect to take thirty percent of the other assets, as well as a family allowance.

Next, let's assume Sam made a will before he contemplated marriage to Mary and never made a new will. His will gives all to his children. In this case Mary is again entitled to a life estate in the home, plus fifty percent of the other assets, the vehicles, family allowance and the furnishings.

Do you think Sam, Mary or Sam's children contemplated the legal consequences of Sam's failure to plan? Do you think they contemplated spending thousands of dollars in legal fees, or spending their time sorting out a legal mess which could have been avoided? I seriously doubt it.

These situations are common. The unintended consequences of failing to plan is much more expensive than the effort needed to plan for the inevitable changes which come in all our lives. The lesson here is that planning is important and should not be delayed

Book Expo 2009 a great success

Book Expo, the largest book show in North America held on May 29, 30 and 31 at the Javits Center in New York City was a huge success. I had a wonderful book signing. While there I met many well known as well as up and coming authors including these whose books I recommend:

***Savvy Networking* by Andrea R. Neirenberg.**

Emeril at the grill by Emeril Lagasse

American Heros in the fight against radical Islam by Oliver North

Highest Duty by Capt. Shesley "Sully" Sullenberger

Just when I thought I dropped my last egg by Kathy Lee Gifford

The Spies of Warsaw by Alan Furst

The Middle Fork by Rick Glaze

To listen to Bob Adamski being interviewed at Book Expo go to:

<http://www.bookexpocast.com/authors-studio/2009/06/10/inheritance-hijackers/>

Visit www.ProtectYourEstate.Net to learn more about INHERITANCE HIJACKERS: Who Wants to Steal Your Estate and How to Protect It.

Take an eye opening quiz at www.ProtectYourEstate.Net to learn your risk of losing the inheritance you intend to give or expect to receive.

Special Survey

Please answer this question to help us better serve our clients.

What is your most burning question about inheritance or estate law?

Email your question to *Ask Bob* at AttyRCA@ProtectYourEstate.Net

Ask Bob

Dear Bob, I have a will made by my lawyer in my home state before moving to Florida. Should I make a new will? Thank you, Martha in Fort Myers.

Dear Martha, Wills made in a state other than your home state, especially if the will has aged, can cause problems when they are needed. This is true of other estate planning documents such as trusts, powers of attorney, living wills and

others.

Before being admitted to probate in any state a will must meet the strict requirements of that particular state. Whether a will is valid varies from state to state. Even if a will is valid it may be necessary to find a witness to admit the will to probate. If the will is more than a few years old the witnesses may not be available. This costs time and money.

The provisions of the will may be correct in your former state, but now are outdated or simply wrong under Florida law. The result may be different than you intended.

If there is a will contest many of the witnesses are in a northern state. Again, the costs and complications increase dramatically.

You should do a careful review of your documents and update them regularly.

Six questions to ask your lawyer before it's too late.

- 1. Does my will or trust distribute my assets as I think it does? As family situations and the laws change our wills and trusts should be reviewed and amended as may be necessary.**
- 2. What if the person who I gave power of attorney to does not follow my wishes? A power of attorney is a powerful instrument and is dangerous in the wrong hands. Creating checks and balances to avoid placing temptation in the wrong hands is important to your family's future.**
- 3. Is my living will up to date? A living will tells the world you do not wish your life to be extended by extraordinary means. Be sure copies have been distributed to your doctors and family members.**
- 4. Who makes health care decisions for me when I cannot make them for myself? Everyone should appoint what is known as a "health care surrogate" to make these important decisions.**
- 5. Are my beneficiaries protected if the administrator of my probate estate or trust fails to do their job properly? The law provides some protection, but the beneficiaries must file a law suit to enforce their rights. It is better to build checks and balances into your estate planning documents. An example is the Beneficiaries'**

Bill of Rights which are a part of all will and trusts prepared at our office.

6. Are my plans for my funeral enforceable? Your plans should be set out in writing. If you wish to be cremated you should state your wishes in your will or in a separate witnessed and notarized document.

For more information on Attorney Adamski and inheritance law go to www.RCAdamski.com where there is a wealth of information.

The hiring of a lawyer should not be based on advertising alone. Contact our firm for written information on our lawyers and firm.