

Price & Farrington's Estate and Tax Planning FastFacts

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Estate, Tax, Business and Wealth Planning for Advisors and Clients

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The Ethical Will: Putting Your Values on Paper

If you — or your clients — aren't familiar with this month's topic, you're not alone. Most people are familiar with traditional wills, living wills and other legal instruments, but haven't heard about ethical wills. Listen up: the ethical will just might be the most powerful feature of your estate plan, and here's the added bonus: your lawyer doesn't draft it; *you* do.

Here's a description of an ethical will — which is not a legal document — by Dr. Barry Baines, a Minneapolis physician and author of "Ethical Wills: Putting Your Values on Paper": *"An ethical will reflects the voice of the heart,"* Baines says. *"It's a bequeathing of values rather than valuables. They offer a way to share your values, blessings, life's lessons, hopes and dreams for the future, love and forgiveness with your family, friends and community."* Put another way, it's a way of passing down through the generations what really matters most

to you.

When we estate planning attorneys tell our clients that they might want to consider drafting such a document — whether or not we get significantly involved in the process — it can transform our relationship with the client because it goes to the very heart of who the client is in a very real way.

Writing an ethical will is a way of acknowledging that one's legacy is more than the stuff you've amassed. It's probably the only place in routine estate planning where the client's personality, sense of meaning and purpose, and goals can show up. Part personal history, they are often explications of personal dreams, beliefs and convictions. Whenever we tell clients about ethical wills and suggest that they might want to write one, it usually delights and surprises them. The exercise (which unlike regular old physical exercise can really be fun!) makes them realize they still have something to offer and can leave an important part of themselves after they're gone.

Ethical wills, which we sometimes call a "family philosophy", have actually figured prominently in bringing estranged siblings together after their parents' deaths. We've sometimes seen a situation where after mom and dad are gone, the fabric of the family comes unraveled. The glue is suddenly gone. It's not uncommon for fights to ensue.

Reading a parent's family philosophy can dramatically change the status quo. Kids who think first and foremost about money, with their hands out, will see the letters their parents have written. This can be very dramatic. Brothers and sisters are suddenly holding hands. Such is the power of an ethical will to bring to the fore what really matters to both the deceased and their



Glenn D. Price and Charles P. Farrington.

beneficiaries. For most people, including many of our clients, it's important to remain in the world — to be part of their loved ones' futures.

In our practice, an ethical will often takes the form of instructions or guidelines our clients leave behind for the guardians who will be raising their children or the trustees who will be dis-

*A legacy of values —
If you would like to see examples of ethical wills that have been drawn up by real-life clients, contact us. The ethical will is the flesh which covers and gives form and definition to the skeleton — the structure — of the legal document drawn up by the attorney. P&F*

tributing assets to their children over the years. Whatever the document is called — "Instructions to Our Trustee", "Guidelines For Our Guardian and Trustee" or "Our Philosophy For Our Loved Ones" — the result is a loving template left behind for the benefit of the heirs and their stewards.

We've found that when a beneficiary knows and appreciates the insights and suggestions his or her benefactor has

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Ethical Will Word Search

J	Y	R	O	T	A	C	E	R	P
W	N	E	V	K	J	Q	G	S	H
A	H	M	B	A	B	S	A	N	I
H	J	D	W	J	L	Q	N	V	L
Y	A	V	T	Q	A	U	W	F	O
E	T	H	I	C	A	L	E	P	S
J	J	R	Y	B	N	D	X	S	O
S	M	M	K	H	C	L	G	I	P
O	K	O	S	K	Q	T	Y	Z	H
E	K	O	Y	C	A	G	E	L	Y

Locate the following words:
Ethical, Philosophy, Values,
Legacy, Precatory

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laid out for the guidance of the trustee or guardian, it eliminates struggles or disagreements that might otherwise have emerged during the ongoing administration of the estate plan.

Ethical wills have been in use at least since biblical times. They are thought to have been used originally by Jews who, not being allowed to own land, found a way to bequeath what they did have: their family histories, religious traditions, spiritual practices and so on. By medieval times, versions of ethical wills were also being used by Christians and Muslims.

In spite of an ethical will's non-legal nature, it's important that the attorney make sure there is no inadvertent conflict with the client's legal documents. Generally the ethical will doesn't bring up legal issues. Where it does address, for example, the types of discretionary distributions a trustee might consider making to a beneficiary and under what circumstances, the words are considered "precatory", i.e., requesting, recommending, wishing or suggesting, not commanding or directing. A client's mandatory directives must always be

drafted into the legal instrument to be binding. This is why we always recommend a thoughtful dialogue between the attorney and client during the estate planning design process.

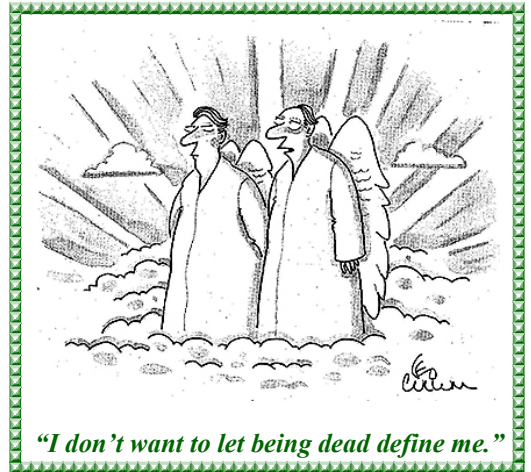
There is a great opportunity in letting clients know that there is more to life than the legal issues. Ethical wills help clients engage in a profoundly significant process by writing down what really matters to them, and help give them a feeling that they're doing something eminently worthwhile. For estate planning that provides the greatest benefit, clients are not looking merely for scribes; they want relationships with their lawyers.

Sidebar

Traditional notions of estate planning are evolving into a deeper appreciation of what's truly important to individuals. The relevant question for estate planners and their clients is no longer just taxes, finances and probate avoidance. Clients assume we're experts in those areas. The critical area of distinction is the human element: how can we touch the lives of our clients with creative planning techniques designed to take those tax and financial savings and use them as vehicles for passing a true legacy — something more than money and property?

Recent studies reveal Americans are now starting to readjust their value statements (See Ethical Wills, above) way from the monetary towards notions of responsibility and personal legacy. Interestingly, those surveyed identified two persons who exemplify the character traits of a good estate planning attorney: Rev. Billy Graham and Oprah Winfrey (a unique combination, but I think you can see the point).

Our clients want to be seen as people, not just as sources of an inheritance. The distribution plan should help enhance the lives of the clients' beneficiaries. It should motivate and inspire. For many, the label "Estate Plan" should be replaced with: "My Vision Statement For My Family, Church and Local Community" ("...Oh, and by the way, here's a load



of money to carry out this plan.") This kind of planning is seated on the belief that wealth goes beyond just material possessions. It involves our heritage (ancestors, traditions, heirlooms), our family (beliefs, values, connections) and our community (work, friendships and affiliations).

We know that simply transferring great wealth doesn't guarantee true wealth or family harmony in the next generation. In fact, research has established that 70% of wealth transitions fail. Where important elements — the truly important ones — are missing from the estate plan, this staggering failure rate will likely continue. ■

We wish you good planning. Remember: People don't plan to fail; they fail to plan. Don't hesitate to let us know how we may help.

GDP



Good Stuff

Experience: A comb life gives you after you lose your hair.

If you would like to know the value of money, go try to borrow some.

We never talked in our family. We communicated by putting Ann Landers articles on the fridge.

His insomnia was so bad he couldn't sleep even during office hours.

Freedom is the right to be wrong, not the right to do wrong.

Opportunities always look bigger going than coming.

The best way to make your dreams come true is to wake up.

Once the game is over, the king and the pawn go back in the same box.

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