

CLF Newsletter

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MILTON APPEARS IN SUPER LAWYERS

Milton was named as a Louisiana Super Lawyer for 2010 and 2011 in the area of Estate Planning & Probate. Because the list is limited to only five percent of the lawyers in Louisiana, it is quite an honor.

LAST WILL AND TESTAMENT

A Last Will and Testament or Will is usually thought of as an instrument used to state who is to receive assets after a persons death. However, a Will is also used to name a legal representative in charge of the deceased persons estate who is called an executor (or a female is called an executrix) . Furthermore, it is also possible to designate the executor as in "Independent Executor" which means that once the appointment of an executor is confirmed by the Court, the executor can proceed to settle the estate without the filings and legal notices normally required to obtain a court order to sell a car, house, etc. A Will can also create a testamentary trust for minors, spendthrifts, incompetents, those receiving government benefits, etc.

THE ECONOMICS OF POWERS OF ATTORNEY

Would you rather spend \$150 or \$5000 for the same result? In our office, a power of attorney takes about half an hour and costs \$150. On the other hand, an Interdiction suit can cost upwards of \$5000 and takes at least three months under the best of circumstances. There are usually continuing expenses because a curator often needs court authority to act for an interdict. Urge your family and friends to execute powers of attorney to avoid the financial and emotional toll of an interdiction suit in the event of their incapacity. A power of attorney is an effective, efficient way to plan for incapacity.

DON'T LOCK UP YOUR IMPORTANT PAPERS

Here's a practical tip--if you keep your papers in a fire-proof box at home, leave it open or leave the key in it with a note on the outside that reads "No valuables--papers only." If a thief breaks into your home and finds a locked box, he will take it hoping it is filled with gold, diamonds, and cash. If he can take a peek and sees nothing he can sell, he will likely leave it. A break-in is unsettling enough without having to reconstruct your files.

THE JOB OF AN EXECUTOR IS EASIER, AND A SUCCESSION GOES MORE SMOOTHLY IF THE EXECUTOR HAS EASY ACCESS TO INFORMATION.

Our Personal Filing System Explained

The final part of our estate planning meeting with our clients is to instruct them on a filing system. This subject is admittedly mundane, but nonetheless important. When we handle a succession, we need the decedent's asset and other financial information such as copies of acts of sale of real estate, stock certificates or statements for book entry shares, brokerage account statements, bank statements, receipts for certificates of deposit, car titles or registration, etc.

If the surviving spouse is the executor, he or she usually, but not always, knows where to find this type of information. If a child has been tending to the decedent's affairs for the last few years, he will likely know where to find this information. When a death is unexpected, or if the executor is a person who has not been involved in a decedent's affairs for any length of time, the executor often has difficulty locating the information necessary to complete the succession.

Some of this information is available through other sources; for instance, we can obtain acts of sale of real estate from the conveyance records at the Clerk of Courts office, or banks can provide duplicate bank statements. However, most of this information must be provided to us by the executor.

When we start asking for this information, we get the feeling that some clients believe that we are clairvoyant. Others believe that we can Google the name of the decedent or enter his social security number into some sort of central database and all of this information will magically appear. Perhaps if we were the CIA, we could do this; alas, we do not have this capability.

The greatest gift a testator can give to his heirs and to his executor is not a bequest in his Will, but a map of where to locate all pertinent information. The succession goes more smoothly and is much less trouble for the executor. Necessity is the mother of invention, and it was necessity that spurred us to develop the personal filing system that we teach to our estate planning clients. We explain the system below and have included a sample index on the reverse side of this newsletter.

The first step is to gather all of your information, and put each piece

into a separate file folder. Second, physically divide the file folders into six or eight categories, such as Real Estate, Stocks/Bonds/Investments, Bank Information, Insurance, Miscellaneous, and Income Tax Returns. Some folks will have only five to six categories, while others may have twelve to fifteen or more, depending on the kinds of assets they hold and the kinds of information they keep and how they decide to categorize that information. Third, number the file folders by giving each main category a number of 100, 200, 300, etc., and number each folder within a category as 101, 102, 103, etc. Fourth, and most importantly, make a list of the file folders and the contents of each file as an index. This index becomes the map for your executor. Lastly, place the file folders behind the index in numerical order in a file cabinet or file box (we like the fire- and water-resistant type). Voila--a file system!

The reason for using a numerical index rather than an alphabetical one is twofold: 1) we all know the sequence of numbers much better than we know the sequence of the alphabet and 2) most of us cannot remember the names we picked for the file folders. For instance, the information on a vehicle might be under Car, Titles, Vehicle, Motor Vehicle, Auto, Honda, etc.

The reason for using a modified Chart of Accounts system is that it allows 100 files in each category. Adding information into a category just requires using the next number. All income tax files are numbered 601 and filed to the front each year to avoid digging in the back of the filing cabinet for the most recent information.

Even if income tax returns are in some remote location, it is necessary to put them on the index with a note about where they are located. Likewise, if items are in a safe deposit box or a safe at the office or home, place them on the index and note their location.

Implementing a file system like this is easy and requires no special tools. All you need is an empty afternoon, a pencil, sheet of paper, file folders, and a file box. A filing system is not only a great gift to your executor but also to yourself.

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- 500 MISCELLANEOUS
 - 501 Birth Certificates, Marriage License, Baptism Certificates
 - 502 Copy of Estate Planning Documents (Will, Power of Attorney, Living Will, etc.)
**Originals in safe deposit box #44 at Bayou Bank on Park Ave.
 - 503 Passports
 - 504 Social Security Information
 - 505 Credit Cards
 - 506 Car and Trailer Titles
 - 507 Boat Registration
 - 508 Safe Deposit Box
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