



Plan Today to Secure your Tomorrow



Preventing Family Conflict And Disputes Over Your Estate Plan

No matter how well you know your loved ones, it's impossible to predict how they'll behave when you die or if you become incapacitated. No one wants to believe that their relatives would end up fighting one another in court over inheritance issues, but we see it all the time.

Family dynamics are complicated and prone to conflict even during the best of times. But when tragedy strikes, even minor tensions and disagreements can explode into bitter conflict. And when access to money is on the line, the potential for discord is exponentially increased.

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Hot Honey Salmon

- 1-2 pounds salmon
- 2 tablespoons honey
- 1/4 cup stone ground mustard
- 3-4 cloves of garlic, minced
- juice of 1 lemon
- 1/2 teaspoon kosher salt
- 1/2 teaspoon red pepper flakes (optional)
- 1/2 teaspoon paprika (optional, for color)

1. Preheat the oven to 400 degrees. Mix the sauce ingredients in a small dish.

2. Line a baking sheet with foil. Place salmon skin side down. Brush or spoon the sauce over the salmon, getting it really well coated on top.

3. Bake for 8-10 minutes depending on desired doneness and the thickness of your salmon filets, and broil for just a few minutes at the end to get it extra browned and pretty on top.

4. Top each piece with more red pepper flakes. Serve with little lemon wedges, plus a green salad and maybe (for surely) a hunk of hot, crusty, buttered bread. Dreamy.

Recipe: www.pinchofyum.com

You can dramatically reduce the chances for conflict by working with an experienced lawyer, who understands and can anticipate these dynamics. Indeed, preventing family conflict is one of the primary reasons to work with us, as your Personal Family Lawyer®, rather than relying on do-it-yourself estate planning documents. Even the best documents will be unable to anticipate and navigate such complex matters— but we can.

Though it's impossible to predict how your loved ones will react to your estate plan, the following issues are among the most common catalysts for conflict.

Poor Fiduciary Selection

Many disputes occur when a person you've chosen to handle your affairs fails to properly carry out his or her responsibilities. Whether it's as your power-of-attorney agent, executor, or trustee, these roles can entail a variety of duties, some of which can last for years.

The individual you select, known as a fiduciary, is legally required to execute those duties and act in the best interests of your beneficiaries. The failure to do either of those things is referred to as a breach of fiduciary duty. The breach can be the result of the person's deliberate action, or it could be something they do unintentionally by mistake. Either way, a breach can cause serious conflict between your loved ones.

Common breaches include failing to provide required accounting and tax information to beneficiaries, improperly using estate or trust assets for the fiduciary's personal benefit, making improper distributions, and failing to pay taxes, debts, and expenses. If a suspected breach occurs, beneficiaries can sue to have the fiduciary removed, recover any damages they incurred, and even recover punitive damages if the breach was committed out of malice or fraud.

Solution: Given the immense responsibilities involved, you must be extremely careful when selecting fiduciaries, and make sure everyone in your family knows why you chose the person you did, and that the person you choose knows how to do the job well. Only choose the most honest, trustworthy, and diligent individuals, and be careful not to select anyone who might have conflicts of interest with beneficiaries.

Furthermore, it's crucial that your estate plan contains clear terms spelling out a fiduciary's responsibilities and duties, so the individual understands exactly what's expected of him or her. And should things go awry, you can add terms to your plan that

allow beneficiaries to remove and replace a fiduciary without going to court.

As your Personal Family Lawyer®, we can assist you with selecting the most qualified fiduciaries, drafting the most precise terms in all of your planning documents, and ensuring that your family understands your choices.

Contesting The Validity Of Wills and Trusts

The validity of your will and/or trust can be contested in court for a few different reasons. If such a contest is successful, the court declares your will or trust invalid, which effectively means the document(s) never existed in the first place. This would likely be disastrous for everyone involved.

However, just because someone disagrees with what they received in your plan doesn't mean they can contest it. Whether or not the individual agrees with the terms of your plan is irrelevant. Rather, they must prove that your plan is invalid based on one or more of the following legal grounds:

- The document was improperly executed (signed, witnessed, or notarized) as required by state law.
- You did not have the mental capacity at the time you created the document to understand what you were doing.
- Someone unduly influenced or coerced you into creating or changing the document.
- The document was procured by fraud.

Additionally, only individuals with "legal standing" can contest your will or trust. Those with the potential for legal standing generally fall into two categories: 1) family members who would inherit—or inherit more—under state law if you never created the document, and 2) beneficiaries named or given a larger bequest in a previous version of the document.

Solution: There are times when family members might contest your will or trust over legitimate concerns, such as if they believe you were tricked or coerced into changing your plan by an unscrupulous caregiver. However, that's not what we're addressing here.

Here, we're addressing contests that are attempts by disgruntled family members and would-be beneficiaries seeking to improve the benefit they received through your plan. We're also seeking to prevent contests that

are a result of disputes between members of blended families, particularly those between spouses and children from a previous relationship.

Working with an experienced lawyer is critically important if you have one or more family members who are likely to be unhappy with how they are treated in your plan. Some of the leading reasons for unhappiness include having a plan that benefits some children more than others, as well as when your plan benefits friends, unmarried domestic partners, or other individuals instead of—or in addition to—your blood relatives.

In these cases, it's vital to make sure your plan is properly created and updated to ensure these individuals will not have any ground to contest it. One way to do this is to include clear language that you are making the choices laid out in your plan of your own free will, so no one will be able to challenge your wishes by claiming your incapacity or duress.

Beyond that, it's also crucial that you clearly communicate your intentions to everyone affected by your will or trust while you're still alive, rather than having them learn about it when you're gone. We often recommend holding a family meeting (which we can facilitate) to go over everything with all impacted parties.

Prevent Disputes Before They Happen

The best way to deal with disputes is to make sure they never occur in the first place. This means working with us, your Personal Family Lawyer®, to implement strategies aimed at anticipating and avoiding common sources of conflict. Moreover, it means constantly updating your plan to keep pace with your changing circumstances and family dynamics.

Whether the dispute arises from disgruntled heirs, sibling rivalries, or conflicting interests of your blended family, us, your Personal Family Lawyer® is specially trained to predict and prevent such issues.