

THE LATEST TWIST ON THE CLASSIC RICH GIRL DILEMMA: “IN THE EVENT OF MY DEATH, MY PARTNER WANTS MY CHILD & MY MONEY”

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I. IT’S ABOUT ACCESS	201
II. THE DILEMMA OF FORTUNE	204
III. DECISION-MAKING IN GENERATIONAL ESTATE PLANNING	205
IV. CONCLUSION	209

The Johnson & Johnson fortune has seen its share of twists and turns in the classic family fortune dilemmas.¹ Seward Johnson’s estate was in litigation for years, due to his children challenging the spousal inheritance of his much younger wife, Basia.² Elizabeth (Libet) Johnson’s attempt to adopt a Cambodian boy, William, whom she had custody of since his entrance into the United States, failed in the face of the finalized Cambodian adoption of the child by her ex-boyfriend, Dr. Lionel Bissoon.³ The highest court in New York recently ruled that Bissoon is the only parent of the child.⁴ Although that case

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1. Mark Ellwood, *Casey Johnson - Death of a Gossip Girl*, EVENING STANDARD, Jan. 15, 2010, available at www.thisislondon.co.uk/lifestyle/article-23795269-casey-johnson---death-of-a-gossip-girl.do (describing that the heiress to the Johnson & Johnson fortune died alone in a rat-infested Los Angeles mansion providing a cautionary tale of a pointless hunt for fame that has tarnished the reputation of one of New York’s grandest dynasties).

2. *Id.* Seward’s will left Basia his £250 million fortune. The couple was married for twelve years “and during that time spent £15.5 million building Jasna Polana, a 46,000 sq. ft. neo-classical villa kitted out with antique furniture and artwork from the family collection, as set on 140 acres in western Princeton, New Jersey (Jasna Polana is now a golf club).” *Id.* After the three year legal battle over Seward’s testamentary capacity the six children settled with a £25 million cut from Basia’s share. *Id.* See also generally, DAVID MARGOLICK, *UNDUE INFLUENCE: THE EPIC BATTLE FOR THE JOHNSON & JOHNSON FORTUNE* (1993). For more on client representation in the will contest see Ellen J. Pollock, *The Eight Million Dollar Associate*, AM. LAW., May 1986, at 33.

3. Ellwood, *supra* note 1. Libet Johnson is the granddaughter of Robert Wood Johnson I and the daughter of Robert Wood Johnson II (Bobby), and she is known as “one of the richest women in America.” *Id.*

4. Dana Kennedy, *Band-Aid Heiress Loses Bitter Custody Fight*, AOLNEWS.COM, Feb. 16, 2010, <http://www.aolnews.com/2010/02/16/article/band-aid-heiress-loses-bitter-custody-fight/>. “Elizabeth Johnson, heiress to the Johnson & Johnson fortune, lost a bitter and often bizarre four-year battle with her ex-boyfriend Tuesday when New York’s highest court ruled that her adoption of a Cambodian orphan should be voided. The court affirmed an appellate court’s decision in 2007 [that] [sic] because her ex-partner, Dr. Lionel Bissoon, had already legally adopted the boy in Cambodia, her own later attempt to adopt him in secret in New York was invalid.” *Id.*

did not place the family fortune at risk, another Johnson heiress's similar choices might have.

Casey Johnson, niece to Libet and daughter of Woody Johnson, adopted a daughter, Ava, who has lived most of her life with Casey's mother in New York.⁵ "The rich girl's dilemma," as Casey has said, is that "there's nothing left to want," except for the right partner.⁶ Tila Tequila, Lizzie Grubman, Jasmine Lennard, and Courtney Semal (all past partners of Casey) might be eligible to seek parental rights of three-year-old Ava Johnson, and thus the family fortune.⁷ Indeed, the Daily News reported in January 2010 that Tila Tequila intended to do just that.⁸ Tila and Casey were engaged at the time of Casey's death, says Tequila, who also announced her plans for litigation over the child.⁹ There is no such pending litigation yet, but that possibility is in no way without merit and does indeed place the "classic rich girl" in a new dilemma, particularly because California law allows some special privileges to partners and their children.¹⁰ This article will examine Tequila's chances in a custody claim to Casey's daughter based on their engagement and how that might provide Tequila access to the Johnson fortune.

You might say the Johnson family needs a life-sized family band-aid to remedy the potentially predatory partner who seeks to challenge custody of an adopted child, and thereby access the family fortune.¹¹ Forced to contend with the classic rich girl dilemma in an entirely new way, the Johnson family fortune has been placed at risk by heiresses who may fall for an opportunistic partner.¹²

This article explores whether a partner may access the family fortune by virtue of parentage of a partner's adopted child when that partner has little to no legal connection to the child (via adoption, biology, primary caregiver, or *de facto* parent) nor to the partner (contractual, testamentary, civil union, marriage, or registered domestic partnership) but may have some claim to assert such rights based on progressive state law. The article will discuss relevant legal issues and considers how complicated the landscape for families has become. Section I provides background as to how some state case law allows a person to

5. See Ellwood, *supra* note 1.

6. Steve Fishman, *Libet in Love: The Custody Battle Between Johnson & Johnson Heiress Libet Johnson and Her Diet-Guru Partner*, NY MAGAZINE, Mar. 3, 2008, available at <http://nymag.com/news/features/44754/index2.html>.

7. See Ellwood, *supra* note 1.

8. Nicole Lyn Pesce, *Tila Tequila to Seek Custody of Casey Johnson's Adopted Daughter: 'She's Not Resting in Peace'*, DAILY NEWS, Jan. 13, 2010, at 2, available at http://www.nydailynews.com/gossip/2010/01/13/2010-01-13_tila_tequila_to_seek_custody_of_casey_johnsons_adopted_daughter_shes_not_resting.html#ixzz0zGnUG9dw.

9. *Id.* Tequila told Extra: "Johnson's mother, Sale, currently has custody of Ava, 3, which Tequila insists goes against what her 'wifey' wanted. 'Her last wish was to have Ava, have me have Ava,' [when] explaining that she intends to file adoption papers." *Id.*; See also *Tila Tequila Wants Custody of Casey Johnson Daughter*, TRANSWORLDNEWS, Jan. 13, 2010, available at <http://www.transworldnews.com/NewsStory.aspx?id=156922&cat=2>.

10. See Section I, *infra* notes 22–29.

11. See *supra* notes 8–9 and accompanying text.

12. See *supra* notes 8–9 and accompanying text.

access the child of his or her partner by virtue of that partnership. Section II provides classic rich girl examples of the dilemma played out in case law and gossip columns alike. Section III offers solutions for generational estate planning that may provide some assistance to dynasty families in equipping their children for leaving a legacy, rather than a muddle of partnership chaos. This article will close with suggestions for generational estate planning designed to defend a family fortune from potentially opportunistic partners.

Every wealthy parent worries that a voracious partner will take advantage of his or her child. When that partner can claim parenthood status, his or her access to the family fortune is all the more rapacious. The latest twist on the classic rich girl dilemma is well worth this epigrammatic examination.

I. IT'S ABOUT ACCESS

A child's access to fortune can create provision or dilemma for his or her parent. In every state in America, an adopted child takes his or her parent's estate by intestate succession.¹³ Adopted children inherit from their parents just as natural children.¹⁴ Thus, because a child of an heiress takes naturally by intestacy from the estate of his or her deceased parent, Casey Johnson's daughter will take her intestate share of Casey Johnson's share in the Johnson & Johnson fortune.¹⁵ Effectively, Casey's fortune passed to her daughter upon her death.

A wealthy parent's partner's access to his or her child can more intimately entangle and cloud the emotional interests with financial benefits that may arise in the event of the wealthy parent's death. Anyone who is in a position to make a claim to the custody and care of the child will generally also be able to access the child's inherited funds, because a custodian generally has access to the monies of the child to care for the health, education, and welfare of that child, even if held in trust.¹⁶ This could be an opportunity many potential custodians would find difficult to pass up, even if there is no conscious opportunistic desire evident on the part of the potential custodian. A potential custodian to a child heir could present concerns to the other heirs of that family fortune and to the family generally.

These concerns are further complicated by recent court decisions that have awarded custody of a child to a stepparent, even over a natural parent, and

13. UNIF. PROBATE CODE § 2-114(b) (amended 2008).

14. *Id.*

15. *See id.*

16. *See* UNIF. TRANSFERS TO MINORS ACT § 14(a) (1986) [hereinafter UTMA]. "A custodian is a person who is given property to hold for the benefit of a minor. Some form of UTMA has been enacted in every state, allowing property to be to a custodian on behalf of a minor." JESSE DUKEMINIER ET AL, WILLS, TRUSTS, AND ESTATES 118–19 (7th Ed. Aspen 2005).

certainly over her family.¹⁷ These cases generally occur by virtue of a supposed or actual partnership between the parent and her partner.¹⁸

In some jurisdictions, same sex partnership rights appear to take precedence over marriage, as homosexual partners often may have greater parental rights than heterosexual stepparents.¹⁹ A stepparent generally has no parental rights or duties to the child of his or her marriage partner.²⁰ However, in light of some recent legislation and subsequent case law, same sex partners have gained rights as parents, even when their role in the child's life is more akin to that of a stepparent.²¹ There are three prime examples of this phenomenon: the Vermont case of *Miller-Jenkins v. Miller-Jenkins*, the California case of *N.B. v. A.K.*, and the New York case of *Debra H. v. Janice R.*²²

In *Miller-Jenkins*, a mother lost custody of her biological daughter to her ex-partner of a Vermont civil union when courts treated the case "the same as a custody dispute between a heterosexual couple," and afforded the non-parent female partner natural father's rights, rather than a stepparent's status.²³ It appears that the natural mother has since fled with her child to escape her court-ordered duty to turn her child over to the custody of her ex-partner.²⁴

In *N.B. v. A.K.*, a California court ordered a natural mother to share custody of her biological child with her ex-partner after they had been broken up for more than a year, and the mother and child had already relocated to Alabama, despite the fact that the homosexual couple had not entered into a domestic partnership during the tenure of their relationship.²⁵ Alabama courts have both recognized and refused to uphold that ruling.²⁶ Though the child has only ever

17. DAVID CHAMBERS, *Stepparents, Biological Parents, and the Law's Perceptions of "Family" After Divorce*, in *DIVORCE REFORM AT THE CROSSROADS* 102, 121-259 (Stephen D. Sugarman & Herma Hill Kay eds. 1990).

18. *Id.*

19. *See infra* notes 22-29 and accompanying text.

20. Chambers, *supra* note 17, at 108-09.

21. *See infra* notes 22-29 and accompanying text.

22. *See Miller-Jenkins v. Miller-Jenkins*, 912 A.2d 951, 971-72 (Vt. 2006), *cert. denied*, 127 S. Ct. 2130 (2007); *see Miller-Jenkins v. Miller-Jenkins*, 637 S.E.2d 330 (Va. Ct. App. 2006); *see A.K. v. N.B.*, No. 2070086, LEXIS 315, at *15-16 (Ala. Civ. App., May 23, 2008), *reh'g denied*, 2008 Ala. Civ. App. LEXIS 821 (Ala. Civ. App., Nov. 21, 2008), *vacated* 2010 Ala. LEXIS 111 (Ala., June 30, 2010); *see Debra H. v. Janice R.*, 14 N.Y. 3d 576, 587 (2010); *see also* Courtney G. Joslin, *Interstate Recognition of Parentage in a Time of Disharmony: Same-sex Parent Families and Beyond*, 70 OHIO ST. L.J. 563 (2009) (discussing *Miller-Jenkins*, 912 A.2d 951).

23. *See* Don Surber, *Step-mothers get custody over parent?*, DAILY MAIL, Dec. 30, 2009, <http://blogs.dailymail.com/donsurber/archives/6856>.

24. *Id.*; *See also* Rena M. Lindevaldsen, *Sacrificing Motherhood on the Altar of Political Correctness: Declaring a Legal Stranger To Be a Parent Over the Objections of the Child's Biological Parent*, 21 REGENT U. L. REV. 1 (2009) (providing a thorough analysis of this phenomenon of averting the biological parent's fundamental rights).

25. *A.K.*, 2010 Ala. LEXIS 111, *11 (Ala. June 30, 2010).

26. *Id.* at *20.

lived with her natural mother, who is now married to the child's stepfather, the natural mother has lost custody in California to her ex-partner.²⁷

Debra H. v. Janice R. is a third example of a same-sex partner assuming rights and duties of a parent, though appearing more like a stepparent.²⁸ *Debra H.* involved a civil union litigation in New York where New York's high court awarded "visitation rights over a child born into a Vermont civil union to the mother's former lesbian partner."²⁹ The court reached this decision because "Vermont courts have interpreted civil unions to confer legal parenthood on the partners."³⁰ In Vermont, partners to a civil union are accorded the same benefits, protections, and responsibilities as those granted in a marriage; therefore, the New York court applied Vermont law and recognized a claim by Debra H. to the child of Janice R. on the basis of parental rights by virtue of comity toward Vermont's law as it did not violate New York's public policy.³¹

In each of these cases, a partner was granted parental rights by virtue of the partnership, either through legislation-afforded interstate recognition, or through judicial analysis.³² These facts are more troubling in light of common law rules that do not afford stepparents parental rights by virtue of their marriage.³³ Stepparents and partners may be afforded custodial rights by virtue of a state's *de facto* parent doctrine, but those rules are often generally based on a substantial relationship a third party has in affording primary care to his or her partner's child.³⁴ This judicial trend toward parentage to partners is troubling to the timeless primacy of the natural parent doctrine and to the differences of authority accorded to partnerships and marriage.³⁵

In evaluating Tila Tequila's custody claim to Casey Johnson's daughter, based on Tequila and Johnson's engagement, a court may follow an analogous path to partnership, as the court did in *N.B.*³⁶ By virtue of that partnership,

27. *Id.* at *11.

28. *Debra H. v. Janice R.*, 14 N.Y. 3d 576, 601 (2010).

29. Peter J. Smith, *New York High Court Grants Parental Rights to Ex-Lesbian Partner*, LIFE SITE NEWS, May 5, 2010 <http://www.lifesitenews.com/news/archive/ldn/2010/may/10050506>.

30. *Id.*

31. *Debra H.*, 14 N.Y.3d at 598–606. It would seem that full faith and credit might be the more appropriate legal rule to apply here, as this dispute is between states, rather than between nations (which are generally afforded comity). See Lynn D. Wardle, *From Slavery to Same Sex Marriage: Comity Versus Public Policy in Interjurisdictional Recognition of Controversial Domestic Relations*, 2008 BYU L. REV. 1855, 1855, available at papers.ssrn.com/sol3/papers.cfm?abstract_id=1440329.

32. Surber, *supra* note 23; 2008 Ala. Civ. App. LEXIS *821; Smith, *supra* note 29.

33. See Chambers *supra* note 17.

34. See Stephanie S. Reidlinger, *Duck...Duck...Goose! Chaotic Applications of De Facto Parenthood Doctrine without Statutory Guidelines Leave Children Wondering, "Who is it now?"* 30 FAMILY LAW NEWS, Virginia State Bar (Summer 2010).

35. See *Troxel v. Granville*, 530 U.S. 57, 65–66 (2000).

36. *N.B. v. A.K.*, No. 2070086, 2008 WL 2154098, at *5 (Ala. Civ. App. May 23, 2008), *vacated*, No. 1080440, 2010 WL 2629064 (Ala. June 30, 2010). *N.B.* and *A.K.* had no registered partnership, just as Tequila and Johnson have no registered partnership, but the court in their case likened their relationship to a partnership despite its lack of formal registry. The Tequila-Johnson engagement would only serve to offer greater evidence of a partnership, despite its lack of formal registry. See *id.*

Tequila may already have parental rights to claim custody of Johnson's child.³⁷ Her claim that Johnson intended that outcome may offer further evidence for her claim to a probate or family court judge.³⁸ Because a custodian is generally entrusted with both the care and the property of the child, these particulars might provide Tequila access to the Johnson fortune.³⁹

Such fact patterns complicate the family fortune dilemma and provide surviving partners a door to a parental interest to a surviving child heir.⁴⁰

II. THE DILEMMA OF FORTUNE

Dilemmas of fortune are not unheard of by any means, nor are they unique to same sex partnerships.⁴¹ One need look no further than the fairly recent example of the child of Anna Nicole Smith.⁴² When Smith was found deceased in a Florida resort hotel room, her lawyer and sometimes partner, Howard K. Stern, was quick to take custody of her child, baby Danny.⁴³ It was not apparent until later that her natural father, Larry Birkhead, was entitled to custody by virtue of his paternity under the doctrine of the primacy of the natural parent.⁴⁴ The interest of both men in the child's fortune inherited from her mother was the subject of some speculation, though the irony is that now there is no money.⁴⁵

This analysis brings us to the concerns that the Johnson family may have with regard to the estate of Casey Johnson passing to her adopted daughter and the alleged attempt to gain custody of the child by Casey's one time partner, Tila Tequila. Tila's custody claim, based on her engagement to Casey, may

37. *See id.*

38. *Id.*

39. *See id.*

40. *E.g., In re Dally*, 202 B.R. 724, 728 (Bankr. N.D. Ill. 1996).

41. *See generally* Andrew & Daniel Mayores, *The Probate Lawyer Blog: Famous Fortune Fights*, <http://www.probatelawyerblog.com/> (last visited Jan. 28, 2011) (tracking ongoing fights over celebrity estates).

42. *See* Howard K. Stern Was Anna Nicole Smith's 'Principal Enabler,' Says Attorney General, FOX NEWS, Mar. 13, 2009, <http://www.foxnews.com/entertainment/2009/03/13/howard-k-stern-anna-nicole-smiths-principal-enabler-says-attorney-general/>. "Stern, who initially claimed he was the father of Smith's infant daughter, Dannielynn, appeared distraught as he spoke last year at a memorial marking the one-year anniversary of Smith's death. 'Few people who knew Anna might not realize how smart she actually was because unless she wanted you to know you didn't know.'")

43. *Id.* "Stern, who came to the Bahamas with Smith during her pregnancy in 2006, gave up custody of Dannielynn in spring 2007 after DNA tests proved Smith's ex-boyfriend Larry Birkhead was the father." *Id.*

44. *Id.* "Dannielynn has been named the sole heir of her late mother's estate, with Birkhead and Stern as co-trustees. Dannielynn could inherit millions of dollars if the estate wins an ongoing court fight over the oil fortune of Anna Nicole's late second husband, J. Howard Marshall." *Id.*

45. *See* Nancy Dillon, *Anna Nicole Smith's Estate Will Receive None of \$1.6M Left By Late Hubby J. Howard Marshall*, DAILY NEWS, Mar. 20, 2010, available at http://www.nydailynews.com/gossip/2010/03/19/2010-03-19_anna_nicole_smiths_estate_to_receive_none_of_j_howard_marshall_300_million_cour.html.

carry weight in a California court proceeding in light of previous rulings.⁴⁶ A custody ruling in favor of Tila by virtue of the parentage that could inure to her benefit in her partnership with Casey is possible under California's analysis. Casey's alleged oral testimony stating a desire that Tila retain custody of the child could also be influential.⁴⁷ Such a custody ruling might provide access to the Johnson fortune to Tila Tequila by virtue of her custody of Casey's child.

The legal implications of parentage and custody rulings on family fortunes are very real in light of judicial trends, particularly those recognizing same-sex partners as parents of a partner's child. It behooves families to consider how to educate their children regarding the potential for abuse of affections, particularly as that may relate to a partner who may seek parentage to access a family fortune.

Values transferred from parent to child in a family are more significant than may be realized at the outset of any new relationship an heir may enter into. When positivism creates new dilemmas—and even when it does not—decision-making in generational estate planning has become a tall order for many with family fortunes to protect.

III. DECISION-MAKING IN GENERATIONAL ESTATE PLANNING

The media dubbed Casey Johnson the “Band-Aid princess.”⁴⁸ When her privileged life turned towards drug abuse and run-ins with the law, she struggled financially as the “Johnson family reportedly cut her off and their tough love approach [has] sparked a debate over the best way to handle troubled children.”⁴⁹ When the family implemented this approach, they also took custody of her adoptive daughter.⁵⁰ “While the details of what transpired between Johnson and her family are not clear . . . ‘shunning’ a child and cutting him or her off completely is ‘barbaric’ and ‘destructive,’” explained one family therapist.⁵¹

Although other high profile families, such as Pierce Brosnan and Martin Sheen, have used a tough love tactic with their children, families may be cautioned nonetheless against taking such drastic measures—cutting a child off financially and emotionally may be devastating in various ways.⁵²

46. See *Ex parte N.B.*, No. 1080440, 2010 WL 2629064, at *3 (Ala. June 30, 2010) (“In October 2006, the California trial court entered an order purporting to find that, in addition to the mother, A.K. was also the child’s mother”); see also *Elisa B. v. Superior Court*, 117 P.3d 660 (Cal. 2005).

47. See TRANSWORLDNEWS, *supra* note 9; see also Pesce, *supra* note 8 (noting Tila’s statements that Casey wanted her to have the child).

48. Juju Chang & Kate McCarthy, *Is Tough Love the Best Approach for Troubled Children?*, ABC NEWS, Jan. 6, 2010, <http://abcnews.go.com/GMA/casey-johnsons-family-reportedly-tough-love-approach/story>.

49. *Id.*

50. *Id.* “In December [sic] Johnson’s Porsche was impounded and a nanny service won a \$20,000 judgment against her, TMZ reported.” *Id.*

51. *Id.*

52. *Id.*

Research shows “that 70% of all wealth transfers in America are doomed to failure in that the heirs involuntarily will lose control of the inheritance left [to] them.”⁵³ It also suggests that the odds of sustaining wealth across generations are as low as 30%.⁵⁴ The problem of maintaining inheritances is not the lack of proper financial and legal advice available to parents, but “the values and practices of heirs themselves. In other words, the children [heirs] lack[ed] the values and skills to manage their inherited wealth wisely.”⁵⁵

Cursory investigation reveals the need for generational estate planning in light of pop culture relationship dilemmas is in high demand. There are numerous books on family wealth dilemmas, corporations designed just to help families handle their fortunes in terms of generational transfer concerns, and resources to help families prepare their heirs to inherit.⁵⁶ Wealth Legacy Group, for example, provides services such as workshops on “transferring wealth and illuminating issues of power and control in families, intimate relationships and money, raising grounded children in a materialistic world,” and offers support groups for a variety of relational concerns.⁵⁷ They also take particular note that “[i]nheritors often have an ambivalent relationship with money, experiencing embarrassment and even guilt about their fortune and privilege.”⁵⁸ Heirs frequently are not equipped to know how to protect their own money or their own emotions.⁵⁹

For these reasons, a successful transition of family wealth often requires the preparation or training of heirs set to inherit that wealth.⁶⁰ Several resources are available that claim to assist families in this task, and it seems that nearly all concur that a transfer of family values is as crucial as how to transfer the family wealth.⁶¹

53. Alpha Omega Family Services, *Planned Giving*, <http://www.alphaomegafamily.com/plan.html> (last visited Jan. 30, 2011).

54. ROY WILLIAMS & VIC PRESSIER, *PREPARING HEIRS: FIVE STEPS TO A SUCCESSFUL TRANSITION OF FAMILY WEALTH AND VALUES* 17 (2003).

55. *Id.*

56. See, e.g., JUDY MARTEL, *THE DILEMMAS OF FAMILY WEALTH: INSIGHTS ON SUCCESSION, COHESION, AND LEGACY* (2006); see generally, WEALTH LEGACY GROUP, <http://www.wealthlegacygroup.net/services/index.php> (last visited Jan. 29, 2011); see *5 Ways to Prepare Your Heirs to Inherit Your Estate*, INVESTOR GUIDE, <http://www.investorguide.com/article/6677/5-ways-to-prepare-your-heirs-to-inherit-your-estate> (last visited Sept. 8, 2010).

57. *Our Services*, WEALTH LEGACY GROUP, <http://www.wealthlegacygroup.net/services/index.php> (last visited Jan. 29, 2011).

58. *Who Benefits*, WEALTH LEGACY GROUP, <http://www.wealthlegacygroup.net/who-benefits/index.php> (last visited Jan. 29, 2011).

59. *Id.*

60. WILLIAMS & PRESSIER, *supra* note 54.

61. See JAMES E. HUGHES JR., *FAMILY WEALTH—KEEPING IT IN THE FAMILY: HOW FAMILY MEMBERS AND THEIR ADVISERS PRESERVE HUMAN, INTELLECTUAL, AND FINANCIAL ASSETS FOR GENERATIONS* (2004); CHARLES W. COLLIER, *WEALTH IN FAMILIES* (2007); THAYER CHEATHAM WILLIS, *NAVIGATING THE DARK SIDE OF WEALTH: A LIFE GUIDE FOR INHERITORS* (2008); JAMES E. HUGHES JR., *FAMILY: THE COMPACT AMONG GENERATIONS* (2007); ROY WILLIAMS, *PHILANTHROPY, HEIRS & VALUES: HOW SUCCESSFUL FAMILIES TRANSFER WEALTH* (2005); JOLINE GODFREY, *RAISING FINANCIALLY FIT KIDS* (2003).

If your family can agree on a value system and develop a long term plan to keep the family value system and the family wealth intact, your heirs will understand the whys behind the actions and be involved in the wealth strategy—thus more apt to continue to follow the plan and keep the wealth.⁶²

Family values are critical to the cohesion of the family; they reinforce the family's uniqueness.⁶³ Family history, culture, governance, and regular communication collectively work together to reduce the possibility of family fracture and disagreement, which can turn into wealth destroying controversies.⁶⁴ Ron Williams and Vic Pressier, authors of *Preparing Heirs: Five Steps to Successful Transition of Family Wealth and Values*, conducted a study revealing the number one reason hindering the successful transfer of wealth is the breakdown of trust and communication among family members.⁶⁵ This results in the failure to prepare heirs for their responsibilities.⁶⁶

If families corporately agree on their values, future family members are more likely to uphold them.⁶⁷ Mark Haynes Daniell in his book *Strategy for the Wealthy Family* sets forth recommendations that detail this approach:

Agree and act on the values the long term [sic] family will uphold—Meet with family members to define and document a family constitution or a family mission or values statement. Put methods in place within those documents to allow future, unborn generations the opportunity to modify and update the statements based on conditions in their generations.⁶⁸

Put governance mechanisms and structures in place to assist the family long term—This will allow development of future leaders, training of younger family members, and continuing involvement from all family members, including shared decision making on investment and business decisions.⁶⁹

Williams and Pressier agree on the importance of establishing a family mission statement, noting that to do so and to involve family members from childhood are keys to successfully transferring family values and wealth from one generation to the next.⁷⁰ They suggest a detailed strategy that has been

62. *5 Ways to Prepare Your Heirs to Inherit Your Estate*, *supra* note 56.

63. *Id.*

64. *Id.* Engaging “the family and heirs in open communication and shared decision making,” is important when educating heirs about their roles and family finances. *Id.*

65. WILLIAMS & PRESSIER, *supra* note 54 at 48–49.

66. *Beating the Odds: A Practical Approach to Successfully Transitioning*, Institute for Preparing Heirs, (2010), <http://www.preparingheirs.com/learning/research.php?ID=3&show=1>; see generally, WILLIAMS & PRESSIER, *supra* note 54.

67. *5 Ways to Prepare Your Heirs*, *supra* note 56.

68. See generally, MARK HAYNES DANIELL, *STRATEGY FOR THE WEALTHY FAMILY – SEVEN PRINCIPLES TO ASSURE RICHES TO RICHES ACROSS GENERATIONS*, John Wiley & Sons eds. (2008).

69. *Id.*

70. WILLIAMS & PRESSIER, *supra* note 54, at 51.

successful in assisting families in maintaining authority, value, and control of the family wealth as it is transferred over generations.⁷¹ They have trademarked the “Williams Group Wealth Transition Checklist” to help a family compare itself to those families that have made successful wealth transitions.⁷²

Top wealth counselors, like Williams and Pressier, understand that the irony of financial freedom is that such status can often make an heir vulnerable to emotional manipulation because of their wealth.⁷³ A breakdown in family trust often exacerbates the problem, causing the heirs to diverge from the long-term family wealth plan.⁷⁴ The generational nature of family wealth transfer requires the promotion of that family’s values through what the authors call a “family’s financial and ethical heritage.”⁷⁵

Thinking long-term, as well as providing heirs with education and mentoring, are vital.⁷⁶ Daniell encourages families to make a long-term analysis, even creating a 50–100 year plan.⁷⁷ “By taking a long term [sic] view, especially on financial investments, money can be allocated across the various generations to best support the growth and maintenance of all generations.”⁷⁸ Counselor and inheritor, Thayer Cheatham Willis, notes the importance of

71. *Id.* at 55–56. This strategy offers clear, concise, well-organized, and easy-to-follow instructions that could enable families to evaluate their plans for transitioning family wealth, with the help of qualified professionals such as attorneys and accountants. *See id.*

72. *See id.* It includes:

1. Our family has a mission statement that spells out the overall purpose of our wealth.
2. The entire family participates in most important decisions, such as defining a mission for our wealth.
3. All family heirs have the option of participating in the management of the family’s assets.
4. Heirs understand their future roles, have “bought into” those roles, and look forward to performing in those roles.
5. Heirs have actually reviewed the family’s estate plans and documents.
6. Our current wills, trust, and other documents make most asset distributions based upon heir’s readiness, but upon their age.
7. Our family Mission includes creating incentives and opportunities for our heirs.
8. Our younger children are encouraged to participate in our family’s philanthropic grant-making decisions.
9. Our family considers family unity to be just as important as family financial strength.
10. We communicate well throughout our family and regularly meet as a family to discuss issues and changes.

Id.

73. *See generally* JACK CANFIELD, *THE POWER OF FOCUS: WHAT THE WORLD’S GREATEST ACHIEVERS KNOW ABOUT THE SECRET OF FINANCIAL FREEDOM AND SUCCESS* (2004).

74. WILLIAMS & PRESSIER, *supra* note 54, at 36–44. Ways to build family trust include giving personal physical care for future infant and toddler heirs; providing love and discipline rather than simply solving problems with money or gifts; encouraging activities that boost the self-esteem of heirs; and demonstrating or teaching the heir the values held by the family. 5 *Ways to Prepare Your Heirs*, *supra* note 56.

75. *Id.*

76. *Id.*

77. DANIELL, *supra* note 68.

78. 5 *Ways to Prepare Your Heirs*, *supra* note 62 (citing DANIELL, *supra* note 68).

formal education in exposing heirs to a broader world of ideas, including the opportunity for heirs to learn general finance principles, as well as the family finances, in increments that are age appropriate.⁷⁹

Multi-generational families are known for family cohesiveness.⁸⁰ “Family cohesiveness is a term that refers to a family’s common bonds and desire to work and play together. It is important that family members continually build and strengthen familial bonds so that their money and legal arrangements are not the only things that keep them close.”⁸¹ Shared values, family history, and family culture contribute to maintaining family wealth. Shared family governance, where the family regularly meets and makes informed decisions together, cements this cohesiveness.⁸² These elements accomplish the family mission, usually translating to familial support for philanthropy.⁸³ “Whether family members prefer to give their knowledge, time[,] or dollars, support for philanthropy is a rewarding and fulfilling practice that conveys family values to the next generation. At a minimum, wealth preserving families tend to encourage and support family member philanthropy.”⁸⁴ In fact, “He who seeks good finds goodwill . . . whoever trusts in his riches will fall, but the righteous will thrive like a green leaf.”⁸⁵

Families cannot choose the partners of their child heirs, but they can prepare those heirs for what might lie ahead. Children of fortune do not gain a good understanding of what is at stake unless their family takes the initiative to educate them.

IV. CONCLUSION

Personal wisdom and responsibility in intimate relationships, particularly when those relationships involve a child and mimic family life, begin with intergenerational patterns of family strength that safeguard, expand, and shield the family fortune. Key among those patterns is building trust through communication.⁸⁶

Somewhere along the line, Casey Johnson lost her connection with her family, their values, and how they related to her life decisions. Her partner’s

79. See generally THAYER CHEATHAM WILLIS, *NAVIGATING THE DARK SIDE OF WEALTH: A LIFE GUIDE FOR INHERITORS* (2008).

80. Steve Barimo, Kirby Rosplock & Jill Shipley, *The 25 Best Practices of Multi-Generational Families*, GenSpring Family Offices 1 (2010), www.GenSpring.com/documents/WP-25-Best-Practices-of-Multi-Generational-Families.pdf.

81. *Id.*

82. *Id.*

83. *Id.*

84. *Id.* at 4. Regarding shared philanthropy and strategic philanthropy as avenues of successful family focus, actor Alan Alda said, “I’ve come to believe that giving feels good, but I think giving strategically feels terrific.” *Id.* at 5.

85. *Proverbs* 11:27–28 (New International Version).

86. Barimo, *supra* note 80, at 6 (quoting Lee Hausner, “Generally, when parents inform their children about the estate plan, the children feel more respected.”).

chances in a custody claim to her daughter based on their partnership might provide an avenue of access to the Johnson fortune that could significantly effect Johnson & Johnson. This tragedy should be a call to families to consider raising their child heirs with an understanding that promotes the family mission.

Family solutions for generational estate planning may have been able to provide some assistance for a dynasty family estate like Johnson & Johnson. Indeed, such training might have equipped Casey Johnson for leaving a legacy, rather than a muddle of partnership chaos at a very early demise. Generational estate planning is designed to effectively defend a family fortune from not only spendthrift children, but could also be effective against their opportunistic partners, regardless of sexuality. Every wealthy parent worries that his or her child will be taken advantage of by a predatory partner; when that partner can claim parenthood status, his or her access to the family fortune is all the more rapacious and requires a thoughtful approach to generational family wealth planning.