

The Estate Planning – Survival Guide – Part I



By: Dorothy Hagel, JD, CFP, Barrister, Solicitor & Notary Public, Hagel Lawfirm

Your Will is most likely to be the last writing from you that your family will read and the effects of your Will are bound to stay with them for the rest of their lives. Therefore, you would want to ensure that the message they get is one you truly wanted them to receive.

There are four components to a complete Estate Plan.

1. Power of Attorney for Property – appointing someone to manage your financial affairs when you are unable to do it yourself.
2. Power of Attorney for Personal Care – appointing someone to make decisions about your medical treatment and end of life care.
3. Will – appointing your representative to distribute your property after your death and directing how the property should be distributed.
4. Funeral Arrangements – instructions concerning burial and memorial services.

You need to address all of these items otherwise things are not going to work.

Estate Trustee and Power of Attorney

There is a big difference between an Estate Trustee (aka "executor") and Attorney for Property (aka "power of attorney"). Your Attorney for Property will act on your behalf and manage your property while you are alive, but their authority ends on the day of your death, at which time the Estate Trustee takes over. There is no authority overlap between them. Although the same person may be appointed for both roles, Attorney for Property is appointed in the Power of Attorney document and Estate Trustee is appointed in the Will.

The Immortal Estate Trustee

Acting as an Estate Trustee is a big responsibility. Thus, you should consider health and age or your Estate Trustee. As the time goes by, our children are growing up and we are all getting older. If your Estate Trustee is significantly older than you are, there is a possibility that he may die before you.

Young children should not manage money, but generally by the time they are in their late 20's they are mature enough to handle it and you cannot protect them forever. If you want your Estate Trustee to manage the funds until your children are 60 years old then you need an immortal estate trustee and hire an institution.

The Cookie-Cutter Approach

When retaining a lawyer to prepare your estate documents, you are not paying them to simply type forms. Typing is not worth legal fees; you are paying for guidance in finding suitable estate planning solutions. Be truly careful about what you are paying for, as with shoes, cheap may turn out to be very painful in the end.

Will kits are particularly dangerous! If these forms are not properly completed and executed, the entire document may be invalid. Will kits are like self-medication; there is a chance that it will work, but there is also an even bigger chance that it will not work and cause a lot of damage instead. ●

Look for Part II and III in upcoming issues.



Dorothy Hagel JD, CFP

BARRISTER
SOLICITOR
NOTARY PUBLIC

- ESTATE ADMINISTRATION
- ESTATE LITIGATION
- ESTATE PLANNING
- ESTATE TRUSTEES
- EXECUTOR SERVICES AND SUPPORT
- GUARDIANSHIP APPLICATIONS
- HENSON TRUSTS
- POWER OF ATTORNEY - PROPERTY, PERSONAL CARE
- PROBATING OF WILLS
- WILLS & TRUSTS

905.990.3440
fax: 905.990.3442

268 Lakeshore Rd E., Suite 400
Mississauga ON L5G 1H1
@HagelLawfirm

info@dhestatelaw.com • www.dhestatelaw.com