



November Brings Us:

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KH LAW NEWS

Bringing you our best

November 2007

What's the Worst That Can Happen?

Often, people procrastinate with estate planning. We think, "What's the worst that can happen?" We think it will not really affect us, only what happens to our money after we've passed. Unfortunately, that's not true. Of course, it will affect our money, causing delays, expenses, and potential infighting. However, the lack of planning can also affect *us*.

Perry Whatley, known by his friends as "Bit," was a refinery worker in Baytown, Texas. Bit lived an ordinary life, living frugally in a modest home. Bit made a shrewd investment in Humble Oil, which became Exxon, and later Exxon Mobil. That small investment ended up worth millions.

However, like many of us, Bit did not have a good estate plan. He had had a power of attorney, but had even revoked that. Bit, who was a widower, slowly declined in health and had a caretaker. His niece, Jeannie Anderson, the daughter of his only brother, became concerned when the caretaker began to exert increasing control over her uncle, who she knew had various health issues. When Bit married the caretaker, Dawn Johnson Whatley, Jeannie decided it was time to ask the probate court to step in to determine his capacity and appoint someone to manage his assets. Bit was in the middle of a fight between his new wife and his niece. His new wife took Bit out of state and away from family in order to avoid an order of the probate court. After more than two years, three-fourths of Bit's fortune had been spent on legal fees and court battles. And then, he died, far from family.

This is not how most of us would want to spend our final days: Isolated from family, on the run from a court order, and in the middle of an exhausting, expensive legal battle. How could Bit have avoided this problem? He could have done estate planning which would have provided for potential incapacity. First, Bit could have put his assets in a Revocable Living Trust. Such a Trust would have allowed Bit to manage the assets when well, and would have allowed a successor trustee (selected by him up front) to manage the assets for him during his incapacity. Powers of attorney would have complemented the trust. This would have avoided the costly and emotionally draining court battle.

Estate planning certainly helps ensure that your assets are distributed the way you want after your death. However, more importantly, estate planning ensures that the people whom you trust are in place with the power to manage things when you are no longer able to do so for yourself. An attorney who focuses practice on estate planning can help you put things in order so that you can rest easy knowing that Bit's fate is not in your future.

Attorney Michelle T.L. Hernandez has extensive legal experience in the area of estate planning and is an active member of the American Academy of Estate Planning Attorneys. To schedule your free consultation today, simply call (800) 431-9776.

The Hills Are Alive...

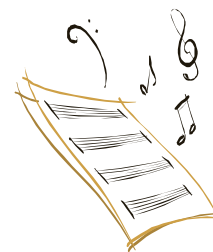
The Sound of Music: Presented by The Baraboo Theatre Guild



**Come check out our very own
Attorney Angela Nichols Philipp as a nun!**

**November 1, 2, 3; 8, 9, 10 at 7:30pm
November 4 & 11 at 2:00pm**

**Al Ringling Theatre
136 Fourth Ave.
Baraboo, WI 53913**



Get What You Want Out of Your Divorce with Advanced Planning (part 2 of 2)

Other issues that may be dealt with in your divorce include health insurance and taxation. If your health insurance is provided through your spouse's employer, although the children can continue coverage under that policy, you will have to either get your own policy or continue for 36 months with COBRA coverage. If your spouse does not voluntarily prepare the information, either ask for it or go directly to the employer. Also, if you need to have health insurance provided for you through your spouse's employer and you want your spouse to pay for it, this is something that your attorney can negotiate as part of a settlement agreement.

For taxation purposes, is it important to you to take any dependency exemption that you and your spouse may be eligible for? If not, you may be able to use this issue as a carrot to obtain something else that is more important to you.

While you may hire the greatest divorce attorney in the world, he or she is not going to be able to get you everything. You are going to have to give and take. Whether you settle or litigate your case, this is the reality. However, if you make your priorities clear to your attorney, he or she should be able to either make an offer of settlement to your spouse or make a case to the court that both gives you what you want most and is reasonable.

Being reasonable is crucial, because it forces your spouse and his or her attorney to seriously consider your offer. In the alternative it informs the court that you are attempting to resolve this matter fairly, and it provides the court with a resolution it can adopt should you not be able to reach a resolution.

Having a clear idea of what you want most may also help to minimize the cost of divorce. For example, if your attorney knows from the onset that you are interested in staying in the marital home and retaining stocks, but that you are not so concerned with retirement dollars, then the attorney can structure a proposal that addresses your concerns while making it palatable for your spouse.

This does two things. First, it gets straight to the point of what you want, without spending time and money debating the numerous paths that your divorce could take. Second, it gives your spouse an idea of your priorities and what you are offering to them. This will either lead to an agreement that you can both live with, or will let you know that you cannot reach an agreement because you are both determined to keep the same things. Either way, you streamline the process by knowing what each party's positions are, and then proceed with either negotiating or preparing for litigation.

By recognizing that you are not going to take everything, hopefully you can go into the process with realistic expectations and be more prepared for your life after the divorce.

If you or someone you know needs help during the difficult process of a divorce, please call Attorney Mark L. Krueger at (866) 455-2993.

For the complete article, please visit us on the web, at www.kh-law.net.

American Academy of Estate Planning Attorneys Fall Summit is a Success!

Recently, Attorney Michelle T.L. Hernandez, Eileen Shanks, and Dera Johnsen traveled to San Diego in order to attend this year's AAEPA Fall Summit. During this conference the ladies attended seminars and workshops in order to better assist you, our clients!

The AAEPA requires all of their members to attain 36 hours of continuing legal education in estate planning each year, much of which is obtained during seminars such as these.



Mark L. Krueger
Michelle T.L. Hernandez
Angela Nichols Philipp
Gregory Fumelle
Eileen Shanks
Penny Bykowski
Shelley Craker
Dera Johnsen
Stacie Ray
Renee Nehring
Kera Palmer
Kara Sanger



Happy Thanksgiving from all of us here at
Krueger & Hernandez SC!