

KH LAW NEWS

2009 Edition

May

Handling Matters After the Death of a Loved One: Just Do It

When someone close to us dies, it is a time of grief, confusion, and change. As we struggle through our grief, we go through the haze of the funeral and burial. Then, it is tempting to just bury our heads in the sands of grief. However, things must be done to handle the deceased's affairs as they wanted them handled. Long delays can jeopardize their wishes.

First, there are significant deadlines from a tax perspective. If the deceased had enough in assets to have a taxable estate, which varies from state to state, a return must be filed within nine months of death.

Second, if the assets generate income, such as interest or dividends, then the estate or trust may have to file an income tax return of its own. If this return is not filed, interest and penalties could apply.

Third, if a will is not probated within a time proscribed by law, it becomes very difficult to transfer title to assets remaining in the decedent's name. The court procedure becomes more complex, and, hence, more expensive.

Fourth, notice of the decedent's death cuts short creditors' opportunity to make a claim against the assets of the decedent. So, creditors who might have been cut short in the first year by a notice would still be able to make a claim against the assets of the decedent long after they otherwise would have been barred.

Fifth, assets in the decedent's name cannot be transferred, mortgaged, or otherwise dealt with in the absence of probating the will. You may be thinking: "Who cares? I don't want to sell it anyway." Perhaps unexpected expenses arise and you would need to sell or mortgage the property. Years down the road, the process will be much more cumbersome and will delay the sale of the property, potentially causing a loss in value. The more volatile an asset, the more important a timely resolution.

Sixth, the executor or trustee has a fiduciary duty to resolve matters in a timely manner. This means that if they do not resolve matters in a timely manner, they will be responsible to other beneficiaries for any losses due to their negligence.

Finally, if there are multiple beneficiaries involved, allowing things to sit will cause increasing friction between the beneficiaries. Some beneficiaries may need their bequests. Others may disapprove of the investments. Still others may have personal issues or think someone is trying to abscond with the assets.

There may never be an ideal time to wrap up the decedent's affairs. But, it must be done. Doing it in a more timely manner will avoid complications with the government and the beneficiaries. So, take some time to grieve, but, within the first two or three weeks, set up an appointment with an estate planning attorney who can help you get things resolved. Taking the first step is the hardest. Once you choose a qualified estate planning attorney, they will help you each step of the way from then on. Having off-loaded that worry, you can focus on grieving your loss, honoring their life, and moving forward with your own.

Attorneys Michelle T.L. Hernandez and Dera Johnsen-Tracy have extensive legal experience in the area of estate planning and are active members of the American Academy of Estate Planning Attorneys. To schedule your free consultation today, simply call (800) 431-9776.

This month brings us May Flowers and...

Handling Matters After the
Death of a Loved One...
Get Your Free Estate
Planning Kit!
Funeral Trust Seminar
Coming Soon!

KH Kudos
Buying/Selling a House...
Free Living Trust Seminar
Go Green!
From All of Us

This Mother's Day—Show Your Care!

In appreciation for your mother's love and tender care over the years, let her know the importance of planning for her future today!

Request an
Estate Planning Survival Kit

for more information

We want to hear from you!

Call us at 1-800-431-9776 or
visit us on the web at
[www.KH-LAW.net!](http://www.KH-LAW.net)



Krueger & Hernandez will be offering a seminar at the end of this month regarding the importance of Funeral Planning. If you are interested, please call us today at (800) 431-9776 for more information and to reserve a spot! Slots are limited!

KRUEGER & HERNANDEZ CELEBRATES TWO MAY BIRTHDAYS!

KARA E. MALSTON—MAY 8

MICHELLE T.L. HERNANDEZ—MAY 28



Renee Nehring celebrates ELEVEN years as a Krueger & Hernandez team member! Well done Renee! We're lucky to have you!



Want to know more about our firm? Get access to our archive of articles on the topics you're interested in! Just visit us on the web at www.KH-LAW today!

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The information provided in this newsletter is not intended to serve as specific legal advice. Viewing this information does not constitute an attorney-client relationship. All testimonials are released by express consent of our clients.

Buying a Home? Selling A Home? How Your Attorney Can Help...

If overlooked, the fine print of contract and title work can cause significant problems. Utilizing an Attorney can ensure you a secure real estate transaction. They are trained to read and understand the legal terms used in such instances, and can make you aware of any laws that may affect your transaction.

How An Attorney Can Help You When Buying a Home:

- Draft and interpret the *Offer to Purchase* to ensure you have a binding legal contract containing your terms of the deal.
- Make you aware of laws that otherwise may prevent you from using the property for what you want, for example, rezoning restrictions.
- Review all closing documents to protect your best interest with regard to such possibilities as transfer fees, real estate taxes and recording fees, including special assessments. An attorney will inform you if you have tax liabilities incurred prior to your purchase. This will also ensure that you are receiving the benefit of your bargain.
- Ensure that you take title to the property as you intend to. The needless occurrence of a probate proceeding upon a title holder's death is a common mistake when buyers are not represented by counsel.
- Ensure that you take good title to property without any liens.

What An Attorney Can Do For You When Selling a Home:

- Interpret the *Offer to Purchase*. If this contract is not specific enough, it could end up in dispute and squash your deal.
- Coordinate the closing for you.
- Ensure you receive credits you're entitled to within the closing documents.
- Obtain evidence of title for you and help resolve any title problems.

Buying and Selling your home is likely the most significant investment you will make in your lifetime. You should not rely on other professionals (e.g. real estate agents, mortgage loan officers, title company representatives) to protect your legal interests.

For more information about buying or selling your home, please contact us at (800) 431-9776.



MADISON AREA FREE LIVING TRUST SEMINAR!

Sign up today to find out what will happen with a Living Trust and what will happen without a Living Trust, *even* if you have a will!

Choose from the following four seminars at:

One Financial Place
8215 Greenway Boulevard
Middleton, Wisconsin 53562

Wednesday
May 6th, 2009
10am-12pm

Thursday
May 7th, 2009
10am-12pm

Tuesday
May 12th, 2009
10am-12pm

Thursday
May 14th, 2009
10am-12pm

Refreshments will be served.

Seats are limited and spaces are filling up quickly! Call our 24 hr. reservation line at (608) 824-9540 or register online at www.KH-LAW.net



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Happy Mother's Day from Krueger & Hernandez!

Mark L. Krueger—Michelle T.L. Hernandez

Angela Nichols Philipp—Dera L. Johnsen-Tracy

Kate Aeschbach—Kayleigh Robinson

Stacie Ray—Shelley Craker

Renee Nehring—Eileen Shanks

Rynae Stefan—Kara Malston

