

A recipe for estate planning disaster awaits amateur 'cooks'

By *Linda T. Cammuso*

With the holidays approaching, Americans' thoughts turn with anticipation to food. In the midst of our weight-conscious, diet-obsessed culture, the holidays are a time when we happily throw caution to the wind and indulge in the most decadent of delights.



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As eager cooks everywhere break out their favorite time-tested holiday recipes and experiment with new ones, it is a fitting time to discuss every estate planning attorney's least favorite year-round recipe: the estate planning disaster. Well-intentioned but unsuspecting people who have tried to go it alone on their estate planning often cook up this innocent, but thoroughly inedible, recipe.

Every good recipe starts with a tanta-

lizing description of the completed dish, and the estate planning disaster is no exception.

If prepared according to the instructions, diligent cooks can expect this concoction to yield a delightful and often unexpected medley of flavors including: unnecessary time and money spent in probate court; unintentional omission of beneficiaries; increased capital gains and estate taxes paid by the heirs; a hemorrhage of assets spent on costs of long-term/nursing home care; exposure of assets to beneficiaries' creditors; irresponsible spending of inherited funds by young or spendthrift beneficiaries; unintentional disqualification of special needs beneficiaries from their needs-based benefits; and everyone's favorite — confusion, hurt feelings and fighting within the family.

In order to achieve perfection, quality ingredients are a must. The staple ingredient for the estate planning disaster is lack of proper legal counsel. Even the slightest bit of advice from a qualified estate planning/elder law attorney is bound to spoil

this recipe, so it is crucial that the cook steer clear of any professional advice.

If desired, lack of professional legal advice can be substituted with advice from friends, relatives, neighbors or others with absolutely no estate planning expertise. Cooks with a flair for adventure can experiment by combining the advice of several non-professionals for a smorgasbord effect. This can also help to intensify some of the flavors described in the previous paragraph.

Another key ingredient to the estate planning disaster is waiting — in fact, the longer you wait the better. Like a fine wine or cheese, the estate planning disaster is only improved by the passage of time. The ideal timeline is to wait until well into one's senior years, preferably on the verge of a health, family or financial crisis.

Finally, the cook should look through the cabinets to see if there are any troubled family dynamics on hand. This oft-overlooked ingredient adds an explosive quality to the recipe. Not unlike the smallest dash of a strong hot sauce, family tensions can change the whole character of this recipe,

transforming a benign dish into an eye-watering experience.

When it comes to the estate planning disaster, estate planning attorneys all too often have to play the role of a reluctant food critic; think of us as *The Iron Chef's* of estate planning. The reviews of this dish are surprisingly bad. Call us perfectionists or even control freaks, but nothing makes an estate planning professional sadder than to see someone's botched, homemade attempt at estate planning.

At the end of the day there is no substitute for experienced and compassionate advice. Before you become the next victim, avoid a nasty case of estate planning indigestion and consult a qualified estate attorney today.

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