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ESTATE PLANNING AND PROBATE LAW

DickersonLaw Newsletter

TOPIC OF THE MONTH:

Avoiding Disaster with a Will in the Second Marriage Situation

Some of you have been married more than once. Some of you have children from each of those relationships. Some of you still don't have a Will. If this describes you, guess what?! The Texas Legislature has prepared your estate plan for you, and it probably is not what you want and will likely lead to litigation and fighting among your spouse and children.

To help you understand how this works, I will use the following example throughout. Able is our decedent. He was married to Betty and they had 2 children Charles and Daisy. Able and Betty divorced. Able then marries Esther and they have one child Frank. Able dies without a will.

Section 201.002 of the Texas Estates Code, directs where Able's separate property will go as follows: 1/3 of the personal property and a life estate in the Able's land goes to Esther his surviving spouse, 2/3 of the personal property and the remainder of the land goes to Able's children, Charles, Daisy and Frank.

Section 201.003 of the Texas Estates Code, directs where the community property of Able and Esther will go: Esther will keep her 1/2 of the community estate and Able's children, Charles, Daisy and Frank will share Able's 1/2 of the community estate.

As you can see, there will be quite an issue between Esther and Charles and Daisy, when it comes to the house. Esther will get to stay there, in addition, Charles, Daisy and Frank will need to wait for Esther to pass away to get access to their share of the real estate. Likewise, the furniture, vehicles, etc., would need to be divided 1/3 and 2/3. These divisions can create a lot of interfamily tension.

There is a solution, an alternative to the Legislative estate plan. By drafting a will, your decision, your plan is what will control. Why not have your plan control the way your assets will pass. There are many different combinations of how assets can be distributed. It is important to meet with your legal advisor to see how to best distribute your estate.

In summary, you should choose how your estate is distributed. As you can see, not making a choice still is a choice (though not a good one). If you are interested in preparing your will, or reviewing your current will, contact me at 956-791-5422 or email at jmd@dickersonlaw.com to schedule an appointment. For more information, visit my website at www.dickersonlaw.com.

TIP OF THE MONTH

Asset protection is something that needs to be in place before something happens. Once you have received a letter from an attorney, the risk of being able to get protection can be at risk of a suit for fraudulent transfer. Like insurance, you need to have it before you have a problem, in order for it to work. Take action ahead of time to protect yourself, call me at 956-791-5422 or email at jmd@dickersonlaw.com. For more information, visit my website at www.dickersonlaw.com.

PERSONAL NOTE

Baby Charlotte is coming along and should arrive late September early October. I thank you all for your prayers and well wishes. We can't wait for her to get here.

Our scouts are working on fundraising for Jamboree and Boy Scout Popcorn time is coming. You will be hearing from scouts in your neighborhood soon.

Until next time have a safe and prosperous August and September!
Joseph Michael Dickerson

CALENDER OF EVENTS

August: Student's return to school. Be careful in school zones

Aug. 18 My son Isaac and My birthday

Sept. 5 My son Andrew's Birthday & Labor Day

Sept. 11 Memorial of September 11 Attack.
Jamboree Scouts Flap Jack Fundraiser Breakfast at Applebee's

Sept. 23-25 Troop 201 Camp Out

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