



Weatherby & Associates, PC Counselors at Law

Helping Families Preserve and Protect Assets and Values

Henry C Weatherby*⁺
Jeffrey S. Rivard***

**Also Admitted in MA, NJ, and ID
**Also Admitted in CA
*** Also Admitted in NY*

Joseph D. Farrell, of Counsel**

⁺ *Member National Academy of Elder Law Attorneys*

January 16, 2008

THOUGHT YOU'D LIKE TO SEE THIS:

REVIEWING YOUR AND YOUR CLIENT'S WILL AND TRUST

There really isn't such thing as a "simple" will. What should appear to the client as a clear and concise "executor's mission statement" is often quite difficult and time consuming to construct and may require considerable technical knowledge, skill, and experience. The technical and human aspects of the estate planning process must be brought together and placed into a larger context: **the identification and achievement of the client's objectives.**

Simply put, the estate planning process should help the client see and solve their financial problems. This is why "do-it-yourself" will drafting software sold directly to the public is both inadequate and dangerous; it may fail to consider and address many of the issues discussed below. In fact, the "fine print" on every will or trust in a box says this when it is actually deciphered.

- Has the will been coordinated with, or take into consideration the cash flow and tax implications of other dispositive documents such as IRAs, 401(k) plans, pension and profit-sharing plans, group and individual life insurance, revocable and irrevocable trusts, and jointly-held property?
- Does the will reflect recent changes in their personal situation and objectives? For instance, does it take into consideration changes in income, received or expected inheritances, newly acquired assets, health conditions, and business and personal relationships?
- Has there been a move from a community property state to a common law state — or from common law to community property state?
- Does the client have a second (perhaps vacation home) residence in another state — and how do that state's laws impact on their planning?
- Was the will or trust drawn before or after the youngest child or grandchild was born?
- Has there been a divorce or estrangement that is not — but should be considered in the will or trust?
- Does the will provide for an outright distribution when a trust with its helpful management and investment advice and oversight is indicated?

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34 Jerome Avenue, Suite 310 | Bloomfield, Connecticut 06002-2493
(860) 769-6938 | Fax: (860) 769-6942 | www.weatherby-associates.com

- Has the client set up a trust years ago that now “overprotects” and “over controls” with respect to assets passing to an informed and financially mature beneficiary?
- Is the trust perfectly valid and well drawn — but no longer necessary?
- Has the the right people been named as personal representatives (executors(ices)), trustees, or guardians?
- Are all of the people named stable and financially responsible?
- Do the documents name sufficient “back-ups” in case the parties named can’t or will not serve or die after starting to serve?
- Has an individual been named for a position a corporate fiduciary should serve (or visa versa)?
- Have now much older parents been named as guardians?
- Did they name close friends as guardians?
- Do the individuals named as guardians have the economic resources, the strength, and desire or will to raise young children?
- Has someone been named who will have a potential or inherent conflict of interest — such as naming one of several children as executor?

The solution to many of these questions is to insist that the entire planning team continually monitor and review the “big picture,” to co-ordinate, keep each other informed, and most importantly, to keep the client fully informed and the documents up to date.

AS ALWAYS, PLEASE FEEL FREE TO CALL ABOUT THESE OR OTHER MATTERS OF IMPORTANCE TO YOU, YOUR FAMILY, YOUR BUSINESS, OR YOUR CHARITIES.

Sincerely,
Weatherby & Associates, PC



Henry C Weatherby