

Kile & Kupiszewski Law Firm, LLC
Estate Planning, Elder Law and Special Needs Newsletter

8727 E. Via de Commercio, Scottsdale, Arizona 85258 • Phone: (480) 348-1590 September, 2014

Estate Planning Updated

We hope that your summer was enjoyable! The cooler weather should be here before we know it and then we can watch the weather reports for the East and Midwest with glee (as they have been doing all summer as we endure many 100 degree days)!

As you have been enjoying your summer, you probably have not spent any time thinking about your estate plan (Will, Trust, Powers of Attorney and Health Care Directives). We often meet with the beneficiaries of a person's estate after that person has become incapacitated or has passed away. The individual is emotional about the death or illness of their loved one as well as feeling lost as to how to manage or settle the estate of the loved one.

It is important for you to understand that, if you have a Trust, you must retitle your homes, timeshares, and non-retirement accounts into the name of the Trust. For example, the bank account title should be "Fred and Wilma Flintstone, Trustees of the Flintstone Family Trust" and not simply Fred and Wilma Flintstone. Having a joint account with your spouse will avoid probate when the first spouse dies, but it will not help your final beneficiaries avoid probate. Additionally, if the account is not titled to a trust, the Agent under your Financial (Durable) Power of Attorney might be unable to access that account. Unfortunately many financial institutions are unwilling to comply with the terms of a Power of Attorney document that is not directly from that institution. Additionally, the Financial Power of Attorney terminates on death. These same issues do not occur for trust accounts.

Real estate (your home, vacant land, second

homes etc) can also be titled to your Trust. This must be done by recording a new deed in the name of the Trust.

We strongly encourage you to do an Estate Planning Check Up. Review your documents to ensure that the Agents and Trustees you have chosen are still appropriate choices. Review the beneficiary designations on all retirement accounts (IRAs, 401(K), 403(B) etc), annuities and life insurance to make sure those are the proper beneficiaries. Do not list any minor or incapacitated persons as the direct beneficiaries of these types of accounts! If a minor is a beneficiary, a court may need to appoint a conservator to manage and safeguard those funds. Leaving money to an incapacitated person may mean that the person is no longer eligible for certain government benefits to help cover medical expenses or provide a stream of income.

Lastly, make sure your Trustee and/or Agent knows where to find your estate planning documents.

The Estate Planning, Elder Law and Special Needs Newsletter is published as a service of the Kile & Kupiszewski Law Firm, LLC, 8727 E. Via de Commercio, Scottsdale, Arizona 85258. This information is for general informational purposes only and does not constitute legal advice. For specific questions you should consult a qualified attorney.

The Kile & Kupiszewski Law Firm, LLC provides services related to: Wills, Trusts, Powers of Attorney, Special Needs trust, Estate/Trust Settlement, Medicaid (ALTCS) and VA benefits information, conservatorships and guardianships, Divorce and Adoption.

Please call us at: 480-348-1590 with questions.

www.kilekuplaw.com