



More Notes from the Empty Nest: Building a Relationship by John Laster

Some folks' response to empty-nesting is to downsize. At our house, we're figuring that the daughters' circles of friends and loved ones will probably just continue to expand at their present geometric rate, so ... we're building on to the house. We have justified it by telling ourselves it's about "aging in place" and sure, there is some of that. (We have painted the walls a bunch of different colors so people with older eyes won't get disoriented, and we have made some of the main living spaces more accessible. In the

bathroom, we've installed some grab bars - our youngest daughter winced when she saw those - and there are some nifty hand-held shower sprays.)

What it's really about, though, is creating a space for gatherings of the larger family. (Should it turn out that the "larger family" doesn't want to gather, well, we'll cross that bridge when we come to it. But they'd better not turn around to ask to use the nifty hand-held shower sprays.)

A quote from our builder: "Ninety days, probably. One



hundred, tops." We *thought* we were exercising due diligence. We met with him multiple times (almost weekly for several months). We liked his creative problem-solving and his can-do attitude. We liked his flexibility. So we asked for his references and spoke with six of them. Six! Four of them gave unqualifiedly positive

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Simple vs. Easy: Are they one and the same?

by Keri Phillips

Many potential clients define their estate planning situation as "simple". Rarely do I speak to a prospective client who claims that they have a very complicated family situation that is going to require a great deal of work. Why is this so?

Perhaps "complicated" is a matter of perspective - we view our own lives as simple because they are *our lives*. Or perhaps it is related to popular culture - dysfunctional family situations are always smearing the headlines, which makes us feel that our lives are comparatively simple. Whatever the case might be, does simple really mean easy? I found myself pondering this one day while decorating. (I am a part-time design consultant for a major furniture retailer.)

I was working with a couple designing a cozy modern living room in their ultra-modern loft space in downtown DC. They are self-described "minimalists" who like clean lines and clutter-free spaces. This was a tall order. Creating a space that feels complete but not busy, simple but not barren, clean but not stark takes a LOT of work.

This made me realize that simple and easy are not one and the same. Another example: many people modify their diets to exclude things like meat, dairy, gluten or sugar. This

concept sounds simple enough - stop eating certain foods. However, once you really start reading the labels on packages, you realize how many unexpected ingredients are in your everyday pre-packaged food - which makes a seemingly simple dietary omission anything but easy.

The same can be true in estate planning. It can be "simple" to decide who you want to get what, when you want them to get it, and how it is to be given. But it is not always easy to create a document that conveys your message clearly, fully, accurately, and without ambiguity - that's where we come in. Of course, it is important that your

documents enable others to understand your wishes - but it is just as important that your documents prevent others from misunderstanding your wishes! Achieving this balance can sometimes be surprisingly challenging.



The Reading of the Will: Does this actually happen in real life?

by Chris Tomlin

TV shows and movies sometimes feature a "reading of the will," in which grieving family members gather in a lawyer's office and listen to the lawyer read aloud from the will of their recently passed relative.

People occasionally ask whether these ceremonial readings actually take place. As far as we know, these are not common at all – we don't perform them, and we don't know of any other lawyers who perform them. The "reading of the will" seems to exist mainly on film and television, for dramatic (or sometimes comic) effect.

Long ago, this practice might have been common. Before the invention of photocopiers and scanners, the lawyer might have possessed the only copy of the will, in which case it would make sense to gather for a shared reading.

Nowadays, the thought of coordinating (let alone performing) a reading of the will seems a bit daunting. Certainly, it would provide an element of performance art that is often lacking in most estate planning practices. Would we have microphones? Visual aids? Honey and lemon water to soothe our overworked vocal chords? Perhaps we could hire a lawyerly-looking professional actor to don a tailored suit and perform the readings for us – preferably in a rich baritone. (We would of course be in attendance on the sidelines, to answer any legal questions that came up.)

Also, we got to thinking, how long would it actually take to read a will aloud? According to wikipedia.com, "audiobooks are recommended to be 150–160 words per minute, which is the range that people comfortably hear and vocalize words." Our wills (and trusts) vary in length – but we looked at the wills and trusts that were signed in our office recently, and found that, when read aloud at 160 wpm, they would clock in anywhere from 16 minutes (a fairly basic will) to a whopping 87 minutes (a more thorough revocable trust document with tax-planning provisions and trusts for minor children). We can't speak for everyone, but we think most people would rather spend 87 minutes watching the latest romantic comedy or summer blockbuster than listening to a lawyer read a revocable trust. Also, the running times mentioned above are just for reading the document itself – not for explaining its provisions or answering any questions that people might have.

So, in case you were wondering, we'll probably stick to designing and explaining wills, rather than reading them aloud!



"I leave \$25,000 to the person who happens to be holding my dog during the reading of this will."

An ode to one of our favorite incapacity planning devices, the power of attorney:

Pretending that life will unfold without a hitch
Only makes matters worse when fate hands you a glitch
While you still have your wits and the power to choose
Empower another to step into your shoes
Really, this can spare you a case of the blues!

Often those nearing the end of life's journey
Find comfort in signing a power of attorney

As agents we usually recommend
Those family and friends on whom you depend
To help out in a pinch when the going gets tough
Or to handle your money and all of your stuff
Realize your alternatives are not so endearing
Nobody we know likes a guardianship hearing
Even if you're not sure whom to appoint
You should call us today – we will not disappoint!

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Building a Relationship, Cont.



responses. Two told us, “He does good work and he’s creative, but sometimes you have to keep after him to finish some things.” Ummm. I would run over my allotted article length if I told you what an UNDERSTATEMENT that turned out to be. To illustrate, our “ninety days, probably; one hundred tops” started on November 5, 2010. I am writing this article in October 2011 – roughly 350 days later. But hey, who’s counting?

The point of this column is not to bash the builder – we still appreciate his creative problem-solving and flexibility; we just wish that others could take our place in appreciating those qualities – but at their houses, not ours. The main point, though, is this: We did not find this builder by asking our trusted friends and advisers. And that turned out to be a mistake. Referrals are different from references; we take referrals really seriously. A reference does not require much; someone calls you and asks you if you would recommend so-and-so. You don’t necessarily feel that you owe the caller anything more than basic truth. A reference is just a statement of your general approval; a referral is a targeted recommendation based on a sense that the professional would be a “good fit” for your friend or client.

When you call us for a referral we feel an obligation to follow through. Sometimes, we call ahead to the professional because we want to make sure it’s a good match. And we always ask the client to give us feedback about the referral. That helps us know if we should refer other people there in the future. This is just another example of how we value our relationship with you.

In turn, our single best source of clients – year after year - is referrals from other clients and professionals with whom we work. That is a source of great pride because we assume that they (you) take as much care in making referrals as we do. So, thank you.

Budget Woes May Doom Tax Techniques

The current federal estate tax exemption of \$5 million is scheduled to be reduced to \$1 million on January 1, 2013, unless Congress acts ahead of time to change the law. While we’re busy holding our breath to see what will happen, please bear in mind that inaction may have its own price.

The Budget Control Act of 2011, signed into law in August, calls for a new committee to consider tax legislation. Some currently available tax-saving techniques might be on the table to be eliminated. These include, for example:



- Valuation discounts for newly-created partnerships and other closely-held business
- Short-term Grantor Retained Annuity Trusts (GRATs)
- Sales of discounted assets to intentionally defective grantor trusts (“estate freeze” transactions)
- Long-term dynasty trusts

Eliminating these techniques would likely enhance tax revenue without constituting a “tax increase”. This combination might look particularly tempting to legislators looking to balance the budget while minimizing political blowback.

Additionally, the effective date of any new legislation could be the date of proposal, rather than a future date – meaning that these techniques could disappear with little warning.

So, if you have been considering any of these planning techniques, you may wish to act now before Congress acts to eliminate them!

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NEED A SPEAKER?

Many of you have enjoyed John Laster's informative and entertaining lectures on planning for death and incapacity. Please remember that we are always on the lookout for new speaking opportunities. If you are looking for a speaker for an upcoming event at your workplace, club, or social organization, please let us know!



SURVEY SAYS?

Some of our most valuable referrals come from financial planners. We enjoy the synergy that comes from working with financial planners, and we think this brings great value to our clients. Lately we've been surveying financial planners, using surveys created on www.surveymonkey.com, to find out which traits they value most in an estate planning lawyer.



For our first survey, we chose four communication skills that we believe are important for an estate planning lawyer. We then asked the financial planners to rank these communication skills from "1" to "4", with 1 being the most important and 4 being the least important. The results were as follows:

| OVERALL RANK | SKILL | AVERAGE RANK |
|--------------|---|--------------|
| 1 | Explaining concepts in plain English | 2.00 |
| 2 | Returning phone calls and emails promptly | 2.09 |
| 3 | Providing regular progress updates and timetables for the completion of projects | 2.64 |
| 4 | Accommodating the client's preferred communication style (e.g., phone, email, face-to-face) | 3.08 |

Several planners mentioned that they considered all of these qualities to be important – which we took as a good sign!

Next, we chose five qualities that we consider important in assessing a lawyer's estate planning documents. We then asked financial planners to rate them as either "Very Important" (4 points), "Important" (3 points), "Somewhat Important" (2 points), or "Not Important" (1 point). The results were as follows:

| RANK | QUALITY | AVERAGE RATING |
|------|--|----------------|
| 1 | The documents are "readable" | 3.63 |
| 2 | The documents are customized to reflect the client's stated values | 3.55 |
| 3 | The client receives drafts of the documents quickly | 3.00 |
| 4 | The drafts are accompanied by "executive summaries" | 2.89 |
| 5 | The documents use drawings and charts to illustrate concepts | 2.44 |

Several planners mentioned that we had not included one quality that they considered *most* important – that the documents be legally accurate and accomplish the client's goals! Of course, we had taken it for granted that estate planning documents should be legally accurate – but it doesn't hurt to be reminded of that fact!