

Where there's a Will, there's a way!

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My wife and I are "list makers". We have lists of the birthdays and anniversaries of our family and close friends, and even lists of things that need to be repaired in our home. Are we compulsive? Yes, you'd better believe it.

Nowhere is this compulsion more evident than when we prepare to go on vacation. We have standard lists of things to be done before we leave such as picking up airline tickets and giving comprehensive written instructions to our parents, who will be staying at home with our daughters.

We also inevitably get around to reviewing our Wills to make sure they are up to date. Have we made adequate provisions for our children? Are we happy with our choice of Executors who will manage the Estate and the guardians who will be responsible for the care of our children?

In this regard, my wife and I aren't much different from most of my clients. People often give thought to preparing or amending their Wills prior to going on vacation. I don't intend to recount the many important reasons for having a Will. Suffice it to say that the grief your loved ones will suffer following your death will be greatly magnified if you don't have a valid Will.

There are volumes and volumes of legislation and case precedents that govern people who die intestate (without Wills). Regrettably, your personal wishes with respect to the disposition of your property (who gets what) will only be honoured if you have a valid Will. The Courts will

attempt to administer your Estate in a manner that is fair and reasonable and in accordance with the law; however, this may not be consistent with your known intentions.

You best protect your loved ones and the assets which you worked so hard to accumulate during your lifetime by having a valid Will and reviewing it on a periodic basis to ensure that it reflects your current wishes. To steal a common slogan, "Don't leave home without one!"

My wife and I also routinely review our assets and liabilities and prepare a list to be utilized by our Executors. We note the location of our bank accounts, safety deposit box, R.R.S.P.'s, stocks and bonds, and insurance policies. We list the names, addresses and telephone numbers of all parties who have personal knowledge of our financial matters.

It is important that you indicate all your assets including (as humorous as it may sound) any jewellery that you may have hidden in your home. (P.S. TO. POTENTIAL THIEVES - We have no jewellery or cash in our home!) I also suggest that you prepare a video of your home and its contents (to be stored off site), which will prove invaluable in the case of a theft or fire in submitting an insurance claim. It is equally important to list your liabilities and debts; creditors have a way of "coming out of the woodwork" when somebody dies.

In my practice, I often advise business clients to execute a Power of Attorney before leaving on vacation. The person appointed as "your attorney" will be permitted to execute certain documents and perhaps cheques when you are out of town. If your return home is delayed or you forget some personal business, your attorney can execute documents on your behalf. It is also possible to limit the purposes for which the Power of Attorney can be utilized.

In addition to the preparation of a Will, listing of assets and liabilities, and Power of Attorney, there are some special

considerations that apply if you are associated with a company or partnership. In connection with corporate interests, it is wise to have a Shareholder's Agreement that not only defines and regulates the ownership and transfer of shares but also provides for the management of the Company's business. It is usual to have a similar agreement if you have a partnership interest.

Such agreements typically make provision for death and disability and the day-to-day operations of the business, including cheque signing and decision-making. With respect to death, it is common to have the Company or the partnership purchase insurance which provides the necessary cash for it to purchase a deceased's interest.

If you are a director of a Company, make sure that you appoint an alternate to attend Meetings in your absence; if you are a shareholder, be sure to appoint a proxy to attend Meetings. The procedures to be followed with respect to these appointments will be set out in the Articles of the Company, kept with its corporate records.

Finally, if you are a parent, in addition to promising your kids a truckload of presents when you return from vacation, here are two practical suggestions. The first is to leave a letter of authority permitting a physician or medical facility to treat your children in emergency circumstances during your absence. The second is to prepare a list of their specific medical history (in layman's terms), including immunizations and any allergies.

I have specifically attempted to avoid the trap of using "legalese" (that specific language which only lawyers use and understand). Therefore, you may wish to consult with one of the many qualified lawyers, accountants, business advisers and other professionals to ensure that your personal and financial affairs are in order.