



November Planning

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Law Firm of Cheryl A. Ward, PL

New Floridians from Out-of-State

Do I need new estate planning documents?

Each year, thousands of people from other states move to Florida. There are many attractions to those who chose to move to Florida: warmth, lack of taxes, our beaches, and more. One of the biggest questions we hear is: "Do I need to update my estate planning documents after I've moved?"

To provide an answer, we must first identify which document(s) are in question. If we ask this question in reference to a Last Will and Testament versus a Durable Power of Attorney or Trust Agreement, there are different statutes, regulations, and rules that regulate whether they can continue to be valid.

A Last Will and Testament created in another state may be utilized in Florida, if it was made in accordance with the laws of the land in which it was created. Therefore, the move alone does not require a new Last Will and Testament. However, if you are trying to act as an agent of a principal under a Durable Power of Attorney, and it doesn't contain statutory language or isn't specific enough, it may be ineffective to conduct certain transactions. Each document requires an independent evaluation. To maximize, and perhaps not be badly affected by laws of this State, updating all documents is usually advisable.



Homestead Planning

Current updates and opinions

Florida has strict rules and requirements regarding the distribution of a homestead after a person's death. The most commonly misunderstood applications involve the transfer of homestead during a marriage, a second marriage, or when minor children are involved. This can wreak havoc on those who don't realize the limitations that homestead laws create.

However, most Floridians want the homestead tax exemptions and all the benefits that come along with it. For example, a homestead is not subject to creditor claims and forced sale during your lifetime. You must maintain this protection by meeting specific requirements.

As Florida's homestead laws have many complexities and nuances, it's highly advisable that you speak to an attorney to prevent unwanted outcomes, hardships on your loved ones, and unwanted tax or creditor implications.

What happens after your death centers on the answers to the following questions: 1. Does the property meet homestead requirements? 2. How does it pass to the next generation? And 3. Is the homestead free from claims of the estate?

For example, it is important that when a Last Will and Testament is prepared, it doesn't disrupt the homestead status. One way that this can happen is when there is a direction of sale and splitting of proceeds among beneficiaries. Such a direction results in loss of the homestead benefits in probate. This is one of the many reasons that a lay person needs to be careful in attempting to prepare their own estate planning documents.

When a deceased person leaves their family in difficult situations due to poor planning, their image can be tarnished even with the best of intentions. Proper estate planning shows you love and care about what happens to those you leave behind.



Simplify

Asset Distribution

Estate planning doesn't have to be complicated. It should be as simple as possible. The less complicated you make it, the easier it will be on beneficiaries.

Prevent Problems

Update the Outdated

Which is worse, having an outdated Will or none at all? Perhaps you have a change in relationships or overlooked assets. It may be time to update your documents.

Maintain Assets

Prevent Dissipation

Cost-effective estate planning, while living and upon death, is equally as important as stopping family disputes before they happen.



What is the third-generation curse?

Wealth loss is alive due to the disconnection of values from the original wealth makers



Cheryl A. Ward, Esq.

Definition of the third-generation curse: The original generation (or the first generation) is the generation that worked hard to create the wealth. As the wealth passes to the second then the third generation, it becomes less and less likely that the wealth will be maintained, resulting in the third-generation curse of wealth loss.

According to AMG National, “90% of wealthy families are likely to lose their money by the 3rd generation.” This is a statistic no first-generation wealth creator wants to hear. However, it is true that many subsequent generations mismanage, misuse, and squander the funds the original wealth creators worked hard to build. **This is the third-generation curse.**

In this article, I’ll address some possible causes and solutions for this all-to-prevalent issue, so you can avoid becoming a part of the above statistic.

Causes of and possible solutions to this curse:

One major contributing factor to the third-generation curse is the inheritors’ **poor spending habits**. When the children of wealthy people are not instructed on the proper spending and investment strategies their parents or grandparents employed to amass wealth, they are significantly more likely to misuse the funds passed down to them. To help negate this, the original generation must understand their heirs’ and descendant’s lack of skills or interest in investing and instruct them accordingly.

Poor estate planning is another contributing factor to the third-generation curse. One solution to this issue is the creation of Trust Agreements that control distributions, protect from creditors, adapt to market fluctuations, consider taxes and charity, incentivize original generation values, transition wealth smoothly to the next generation, and more. This is something an experienced estate planning attorney can assist the original generation with establishing.

In addition to the practical instruction needed for third-generation family members to retain wealth, there’s also **psychological factors** to be considered. So frequently, inherited wealth imbues a sense of entitlement and lack of motivation. How to inhibit this? By establishing proper parameters for the inheriting of wealth through the creation of Trust Agreements as mentioned above, the original generation can establish control over what is distributed to their family members after they pass.

“90% of wealthy families are likely to lose their money by the 3rd generation”

- AMG National

As part of proper estate planning, the original generation should also consider tax efficiency as it’s key when ascertaining multi-generational investment choices. Lack of planning can create tax implications which can result in major losses and erode wealth. There are also planning techniques and methods that take advantage of tax benefits and loopholes.

In summation, how does the original generation ensure that their wealth remains in the family for more than two or three generations?

Ensuring funds remain in the family is a possibility through **instruction** to subsequent generations of proper investment and spending habits and comprehensive **estate planning** through an experienced estate planning attorney.

Reach out to my office today to schedule a free consultation with me to discuss further how I can assist you with avoiding this all-to-prevalent third-generation curse.

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