



# Financial Literacy Avoid These Estate Planning Nightmares

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By Michele Lerner

A serious illness, family crisis or death in the family can bring out the best behavior among relatives -- or the worst. According to the 2014 Intra-Family Generational Finance Study by Fidelity Investments, 64 percent of parents older than 55 who have at least \$100,000 in investable assets and their adult children over 30 aren't on the same page about when the right time is to have conversations about estate planning. Even among those families that do talk about these topics, few get into the level of detail that's recommended. The study found that 31 percent of parents say they haven't talked in detail about estate planning; an additional 10 percent haven't discussed the subject with their offspring at all.

One reason that estate planning is so complicated and emotionally fraught is that adult offspring often confuse love and money. "What many parents don't understand is that their children do not see an inheritance as dollars, they see it as 'love units,'" says Ken Moraif, a certified financial planner or at Money Matters, a wealth management and investment firm in Dallas-Fort Worth.

Problems can arise when parents decide to leave a bigger inheritance to one child because, for example, that child isn't doing as well financially as another. "The child that received the smaller inheritance interprets that as 'Mom and Dad loved my sibling more than me,'" says Moraif. "This creates resentment and ill will that the parents had no intention of creating." He says parents should



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individually explain a disproportionate inheritance to each adult child and allow them to vent their frustrations, so that they don't feel punished for their success or less loved.

Hurt feelings and misunderstandings aren't the only inheritance troubles that can plague families. Consider the following real-world stories of times when estate plans (or lack thereof) went awry.

## 1. Failure to Plan

"We recently faced an unfortunate situation with a grandson who had lived with his grandfather for 30 years because his mother wasn't in his life and his father had died," says Pat Simasko, founder of Simasko Law in Mount Clemens, Michigan. The grandson put his life on hold to take care of his grandfather as he got older, but when the grandfather passed away, the grandson wasn't entitled to any inheritance.

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“The grandfather never put his \$750,000 estate in proper order,” says Simasko. “There wasn’t anything that could be done. It truly amazes me that if a person would take one to two hours to properly plan, future disappointments could be avoided.”

## 2. Derailed by Simple Administrative Details

Craig Myers, a financial adviser and president of CR Myers & Associates in Southfield, Michigan, says he met with a woman whose mother left a trust that stated that her children were to inherit 100 percent of the estate. There was even a prenuptial agreement with her new husband stating that all of her assets prior to the marriage were to go to her daughter.

Unfortunately, the beneficiary designations on the accounts were never changed to name the trust, and as a result of this oversight, her new husband received 100 percent of her estate. “Someone may have a trust that explains their wishes upon death,” Myers says, “but if their beneficiary designations are not properly titled, they could disinherit their family without meaning to do so.”

Dan White, a financial adviser and founder of Dan White and Associates in Philadelphia, had a similar problem with a client whose husband passed away from a heart attack during their vacation in Spain. “Her husband was a self-employed lawyer,” says White. “He put together all the paperwork, but forgot to take care of the biggest item. ... He never named a beneficiary. Everything had to go to probate, and it took her months to sort out this mess.” White stresses to his clients the importance of having a professional review all paperwork. “One proofread through the document, and all of the delays would’ve been avoided.”

## 3. Cross-Country Squabbling Siblings

A client of John O. McManus, an estate attorney and founding principal of McManus & Associates in New York City, had a client whose daughter lived on the West Coast and son and daughter-in-law lived close to her on the East Coast. The children had joint power of attorney, and the daughter would sign blank checks so that her brother and his wife could pay for things their mother needed without constantly needing her signature.

“The son wrote his wife checks from his mom’s account as a salary to pay her for taking care of his mother, which caused some tension between the siblings,” says McManus. “Due to the son’s history of run-ins with the law, the daughter was wary of letting him have too much power over his mom’s estate.”

Ultimately, the mother named the daughter as sole executor. But after the mother passed away, the daughter-in-law took things out of the house that she claimed were hers or were “intended for her” by the deceased mom. “The daughter called the cops to have the daughter-in-law arrested when she would not leave the home of the decedent,” says McManus.

McManus was able to get both parties to agree that the daughter-in-law could go through the house with the estate sales team to select items that she claimed were left to her, and the company would value these items to be deducted from her share of the deceased’s estate.

To avoid situations in which relatives fight over individual property, it’s best to include a written list of items of value with designated recipients in your will.

## 4. Blended Family Brouhaha

Lauren Brouhard, vice president of retirement at Fidelity Investments, says that census data shows that blended families now outnumber traditional families in the United States. And stepparents, stepsiblings, and half-siblings can make estate planning much more complicated.

For example, a mother may want to leave different inheritances to her biological children than she does to her stepchildren, or want to protect her biological family’s inheritance in the event anything happens. “Without a meaningful discussion with the family about her intentions -- and some follow-up steps to ensure these intentions are carried out -- things can end up quite different than expected,” says Brouhard.

McManus recalls a client who died, leaving an administrative mess that led to an extended and

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complicated estate settlement process involving the man's ex-wife, kids and current girlfriend.

For more than a year, there was a fight over who could open one of the client's storage units. "Finally, we were able to find a day that lawyers from all the represented parties could go together to open the unit," McManus says. "We had to count every item down to the socks to create an itemized list of contents to be divided among the heirs."

The haggling over every detail of the deceased's estate continues, McManus says: "His ex-wife, kids and current girlfriend are still fighting over anything and everything, including airline frequent flyer miles. We had to value the miles, investigate the transfer of ownership to an estate name and

then equitably divide them."

### **Don't Leave Your Heirs a Mess**

A detailed will, properly identified beneficiaries, and designated recipients of effects from an estate can reduce the chances of a free-for-all after a death, although when multiple parties are involved who were already arguing before the parent's death, the chances are high that lawyers will be brought into the fray. "The point is, if parents don't make it clear what they want when it comes to things like estate planning, there's a strong likelihood things won't end up that way," says Brouhard. "Adult children have an important role to play in helping to clarify and carry out their parents' wishes, but this can only happen by talking things through as a family."