

Feud-Proof Your Inheritance Plan

Pass the buck to your heirs and potentially keep the family peace.

BY ALYSSA FORD

As a wills attorney who specializes in avoiding family inheritance disputes, Les Kotzer has seen a lot of wild behavior. Like the woman who smashed a crystal figurine in the parking lot to keep her sister from having it. Or the well-to-do brothers who spent a fortune in legal fees bickering over a Howdy Doody lunchbox and Dad's old football trophy. Kotzer has seen so much, in fact, that he was compelled to write a book of real-life inheritance stories called *Where There's An Inheritance: Stories From Inside the World of Two Wills Lawyers* from his Ontario practice.

"Even the most sensible, rational people sometimes devolve into 10-year-olds when it comes to wills and trusts," says Kotzer.

There's a perfect explanation for why inheritors seem to go over the edge says Newport Beach, California, psychologist Dr. Steven Hendlin, author of *Overcoming the Inheritance Taboo*. "Children interpret inheritances as a kind of final report card from Mom or Dad," says Hendlin. "All the competitive and resentful feelings from the past come bubbling up to the surface."

It's an experience known to literally millions of Americans, particularly those from high net worth families. According to a landmark study from Boston College called "Millionaires at the Millennium," the United States is currently in the middle of the largest inheritance boom in its history, with more than \$41 trillion expected to pass between generations from 2000 to 2050.

And yet, says Kotzer, "inheritances are kind of an electric, third-rail issue. People just don't want to talk about it." Rather, experts say, openly discussing inheritance is exactly the best way to attempt to feud-proof your family: talk openly about what you plan to do with your wealth.

HONEST AND OPEN

There are a few language tricks that attorneys can use to discourage squabbling heirs. "Some jurisdictions, but not all, allow a no-contest clause that voids any inheritance gift if the inheritor challenges the will," explains Kotzer.

But inheritance historians, attorneys, and therapists agree the most effective thing estate holders can do to prevent a feud later on is to simply be transparent in the present.

"Ideally, the reading of the will is just a formality, and everyone knows what's going to happen," says Hendlin. On the flip side, the worst-case scenario is the bereaved family perched on the edge of their seats in an attorney's office, waiting to see that mystery manila envelope finally opened. "The last thing you want to create is a feeling of shock," says Kotzer.

Hendlin suggests gathering your inheritors in one place for a kind of semiformal family summit where you can make clear your thinking, perhaps even with handouts and financial statements. You might preface the conversation with this little fun fact: The United States is the only first-world country that allows freedom of testation, or the right of estate holders to completely disinherit their children.

Kotzer suggests you offer room for limited feedback, particularly in regard to property and possessions. You might learn, for instance, that Sally has always loved the lake house, but Susan really doesn't care for it at all and is much more emotionally invested in the antique furniture. "I might also suggest that parents feel out their children for who wants to be the executor," says Kotzer.

Both experts agree that "the talk" goes much smoother if the parents initiate the conversation rather than vice versa.

"It's much more difficult for children to bring it up because if they do it seems as if they are circling the body," says Hendlin.

A GENERATIONAL GAP

Part of the difficulty in our modern culture, says Hendlin, is an uneasy feeling that if you speak openly about death it will fall quickly upon your house. "I don't think people think of it as a superstition, but that's really what it is," says Hendlin.

Baby Boomers seem to be particularly uneasy. According to a 2005 study about family conversations conducted by the Hartford Financial Services Group, 74 percent of people in the Traditionalist Generation and older are "very comfortable"



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talking about estate issues, whereas only 54 percent of Boomers say they feel the same level of comfort.

That's partly explained by history, says Princeton University professor Hendrik Hartog, author of the forthcoming *Someday All This Will Be Yours: A History of Inheritance and Old Age*. Hartog makes the case that, during the past 150 years, the United States has experienced a dramatic shift in perception regarding inheritances.

"A hundred years ago, families talked quite openly about the will, the estate, and who was going to get what," says Hartog. "It was the measure by which parents could guarantee their own care in old age, by offering the promise of a reward for the child, most often a daughter, who was singled out to care for them."

But with the creation of pensions and Social Security, and the growth of an entire industry of retirement communities and elder care facilities, the older generation became much less dependent and had the freedom to shroud their inheritance plans in secrecy.

CLASH OF WILLS

That shift in culture, coupled with the largest intergenerational transfer of wealth in American history, has meant an explosion in inheritance-related legal cases. Several law firms are opening dedicated trust practices to cope with the boom in

inheritance lawsuits.

Surprisingly, says Kotzer, it's less often the cold-hard cash that breaks families into warring factions than it is the stuff: Grandma's wedding ring, the anniversary china, Dad's old baseball glove.

"It's not just giving a dining table or a workbench," says Hendlin. "It's 'Mom or Dad always loved you more, and now I have proof.'"

Kotzer strongly recommends that estate holders develop a strategy for their possessions. "It's important to create a neutral strategy, which can minimize the chance of your children arguing over your personal effects," For example, he says, your will could instruct that each child has the opportunity to pick something they wanted at the same time. If two children pick the same thing, they could flip a coin. If three children picked the same thing, they could draw names out of a hat. "That can often work," says Kotzer, "because it is neutral and does not favor one child over another."

Hendlin suggests finding out which heirlooms mean the most to your children and gifting them while you are alive. "There's a lot of joy in giving to your children while you're alive," says Hendlin. "Embrace that joy now. Don't wait until you're no longer around." ■

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