



Elder Law Guys: New Year's Resolutions, Once Again

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We hope you are enjoying your holiday season, while also recognizing that the new year begins in one week.

Are you ready? Each year brings new decisions. Unfortunately, we may also have swept under or into the hearth the decisions we didn't make during the present year.

So, let's take a look — based upon some of our client experiences — at a few resolutions for the new year that we would highly recommend. Remember, a resolution is nothing more than a promise to do an act of self-improvement — and one that may benefit others.

At the top of our list is the need to have “The Discussion” relative to end-of-life issues. So many people cannot/do not get up the courage to bring up this issue with their loved ones. Thus, the scene gets set for some pretty horrific family dynamics when the end is near.

Do you really want your children fighting over what you would want done, especially if you've never discussed it with them and are no longer in a position to tell them?

Use this time of year when most families gather together to start (and, hopefully, finish) this aspect of a conversation. It may also help others present to do this for themselves, especially the younger ones. Remember, three of the most well-known legal battles over end-of-life issues involved females in their 20s. It's not just a subject for us older folk.

Figure out what you want done and whom you want to do it, if you can't. Discuss it with them. Make sure they are willing to follow your wishes. And, from a recent situation, make sure other family members know what you want, whom you picked to act on your behalf, maybe (gulp) even why.

Then put it in writing with both a “living will” and health care power of attorney or as a combined document such as an “advance directive for health care.”

Now it’s time for us to harp on another one of our favorite New Year’s resolutions for clients to make: “It’s my money and I know what I will do with it.”

Figure out what you have, where it is, how it’s titled (owned), and where you want it to go. Remember, what you may own may make up a mixed bundle of monetary items, ranging from cash, your home, your IRA, your insurance policies, your stocks and/or mutual funds, your bonds, etc. These assets may also be complicated by any debts you may have and which would have to be resolved.

Start by simply listing everything you own, even the nonmonetary items.

Yes, we know it may be simple, but it can also be time-consuming. So what?

If you want to deal with these “things,” it’s best to know exactly what they are. You’re taking an inventory of accumulated resources so that they can be disposed of the way you want.

Has that already been determined by some of them being “beneficiary designated” such as an IRA, 401(k) or insurance policy? Did you even designate beneficiaries for these resources? And, are they still going to the right people?

Where are these resources located: brokerage firm, safe deposit box, under the mattress? No joke. We had a situation where \$350,000 in cash was found in the walls, under the floorboards, and, yes, even under the mattress. And, no one knew it until the person died.

Another document to consider, and which we will write about more extensively in another column, is an “ethical will.” This is a document, written in your words, in which you can state to those whom you wish to see it, what values you would like to pass along to future generations.

To quote Mahatma Gandhi, (who must have had some Slovenian blood in him): “The future belongs to what you do today.”

Quick update and a nice holiday gift: On Dec. 13, President Barack Obama signed into law the 21st Century Cures Act, a significant portion of which was the Special Needs Trust Fairness Act. This act will now permit competent, disabled individuals to establish and sign their own

Special Needs Trust. Before, only a parent, grandparent, guardian or court could establish such a trust for that individual.

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