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Rethink Goals, Rethink Priorities for the New Year

**WHY YOU SHOULD NOT
MAKE YOUR PERSONAL
ADVISOR A BENEFICIARY***Written by Francine D. Ward*

Imagine this: Over the years, your lawyer, CPA, or investment advisor has become a good friend. In some cases, that professional advisor is closer to you than your family. Or maybe you do not have any kids, and you are not close to any existing family member. You know about your personal advisor's family, their pets, and you have things in common. You just really like her. And maybe that advisor had some significant losses over the past few years.

You may have already designated charities but do not want to leave those charities everything. As for individuals, you would prefer that your assets go to someone you trust and

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care about. So, when you and your spouse begin discussing who to leave money to, your advisor's name consistently comes up. You then discuss leaving a significant share of your estate to this professional advisor. In your opinion, it would be a little token of your appreciation. STOP RIGHT THERE!

WHAT COULD GO WRONG?

As professional advisors, we frequently spend hours with our clients. As a result, we become privy to some of the most intimate details of their lives. Being a good listener and helping them achieve their estate planning goals can create a special bond. For that reason, designating your trusted advisor/friend as a beneficiary of your will, trust, insurance policy, or retirement account feels natural. So why would your professional advisor ever refuse such a generous gift from you?

For some personal advisors, such as lawyers, CPAs, and investment advisors, the professional licensing organizations have made the decision for us. Yes, there are lawyers and other professional advisors who choose not to adhere to the disciplinary rules. But most of us, who value our licenses and the public, take those rules seriously. Primarily because we know those rules are designed to protect the public.

FINRA REGISTERED INVESTMENT ADVISORS

Professionals registered with and regulated by the Financial Industry Regulatory Authority (FINRA) are subject to FINRA Rule 3241. With few exceptions, this rule requires anyone registered with FINRA to decline to receive a bequest (a gift at death). That includes being named as a beneficiary under a will, trust, or as a designated beneficiary of a life insurance policy or retirement account. One exception is if you are among the very specific list of family members. The rule is straightforward and leaves very little

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room for interpretation. In general, a registered investment advisor cannot accept such a gift from or otherwise be a beneficiary of a client's estate.

ATTORNEYS

State Bar rules of professional conduct govern the ethical and professional responsibilities of members of the legal profession. The American Bar Association's (ABA) Model Rules of Professional Conduct (Model Rules) have been adopted by most of the 50 states and the District of Columbia. In 2018, the Supreme Court of California approved sweeping changes that brought California's rules closer to the ABA Model Rules. Under all of the rules, lawyers are generally precluded from being named as a beneficiary in a client's will or trust document that the attorney prepared. The exception is if the lawyer is preparing documents for a family member.

ACCOUNTANTS

Certified public accountants (CPAs) are also subject to rules that prohibit them from being the beneficiary of any portion of a client's estate. One exception is if it can be clearly shown that such a gift does not impact the CPA's ability to exercise independent judgment.

As noted above, in the estate planning context, the professional advisor should avoid profiting from the death of a client. That said, the professional is free to continue to offer services that they provide, in the normal course of business, to the trustee or executor of the deceased client's estate. But if a professional receives a windfall through a gift, bequest, or beneficiary designation (not based on compensation for services rendered), that professional should think twice before accepting. Accusations of undue influence or questions of impropriety have been the topic of much discussion in the halls of professional

organizations and among the public. Having to defend themselves and possibly make payouts that can be costly to that professional's reputation and practice. Even if proven innocent, the emotional, mental, and financial cost to the professional could be great. The last thing you want years after you are gone is for some disgruntled family member to drag your professional advisor/friend into court or before the disciplinary board.

THINGS OF NOTE:

1. Professional advisors with clients wanting to make them beneficiaries should almost always politely decline. The professional might also take time to explain the practical and ethical reasons why accepting such a gift would harm not only the professional, but also the client and the profession.
2. The personal advisor might then talk to the client about alternative recipients, e.g., charitable organizations that they may find appealing.

Your actions today will help your professional advisor maintain integrity. Such actions will pay handsomely from a reputational and professional point of view.



DID YOU KNOW CAR ACCIDENTS COULD IMPACT YOUR ESTATE PLANNING?



Written by Francine D. Ward

Whether you are in a hot, dry area where the sun is always shining or a cold, wet area, the weather can impact your driving. Slippery roads, rain, snow, bright sunlight, night glare, and various other hazards all contribute to road conditions. Sadly, with the occurrence of these conditions and the reckless attitude that some people have when driving, your chances of being in an accident increase.

No two situations are the same. That said, here are some things to consider if you find yourself in an accident:

1. Make sure you and your passengers are not injured. If you or one of your passengers are hurt, call 911 and report the accident immediately. When safety and health are an issue, your first priority must be to ensure that everyone gets the medical attention they need. If you are unable to call 911, ask anyone you can communicate with to make the call. Depending on the location of the accident, a concerned bystander might have already made the call.
2. Find a safe location to move yourself and your vehicle. If no one appears injured and you are not at risk of further danger from nearby traffic, find a safe location to move your vehicle.
3. Exchange contact info. If the accident involves another person, exchange contact and insurance information with them. This will make it easy for you to contact the other party if your insurance company or the police need to speak with them.
4. Wait for the police to arrive. Even if no one is injured or if injuries appear minor, it is still wise to wait for the police to enter the scene. If you seek reimbursement from an insurance carrier, you will need a police report. Also, if you need to respond to claims from the other driver about damages you may have caused, you will need a police report. Having a detailed report will help you avoid having to pay for damages when you are not at fault.

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Additionally, it is important to contact your car insurance company as soon as possible. You may want to contact them even before getting out of the car. The insurance company can provide you with crucial advice and guidance at a very stressful time to make sure that you do not make mistakes in dealing with the other driver that could have significant consequences when it comes to liability. Many people mistakenly believe that it is better not to report minor accidents to your insurer in an effort to prevent their premiums from increasing. However, this can be a dangerous approach. Failing to report an accident and allowing the insurance company to immediately get involved to mitigate possible claims for damages could lead to much larger claims against you and could result in your insurance company refusing to cover such claims due to your failure to report in a timely manner.



Ways A Car Accident Can Impact Your Estate Planning

1. Healthcare decision-making. If you are injured in an accident and become unable to make decisions, you will need someone who can act on your behalf. That person will need to speak for you and interact with medical professionals. If you had an advanced healthcare directive prepared, your designated agent will be your person (your agent). If you do not, decision-making authority could be unclear and might also render your next of kin as your agent—a person you do not want making life or death decision on your behalf.

2. Sufficient insurance coverage. The average person does not realize that sufficient insurance coverage is an effective way to protect against lawsuits. The last thing you want, if involved in an accident, is to have to make a big payout to the other driver. That could eat into your savings and potentially put your property at risk. Having adequate car insurance is one way to ward off a lawsuit. Beyond increasing your insurance limits on your car insurance, you may also want to discuss with your insurance broker whether it would make sense for you to purchase an umbrella insurance policy. Umbrella policies act as a backup insurance to your car insurance policy. Essentially, if you are involved in a car accident where the damages you caused exceed the limits of your car insurance policy, an umbrella insurance policy can step in and cover such excess liability.

As part of your estate plan strategy, have a conversation with your insurance advisor. Discuss your car insurance limits and any umbrella policy that you may have. Don't be caught off guard.

3. Beware of Fraudulent Transfers. After an accident, you might be tempted to take actions that could harm you later. Such actions might include transferring your property and accounts to friends or family in an effort to hide what you own. In many states, if you attempt to transfer property after an accident, where you are considered liable, that is deemed a fraudulent transfer. You could be liable for additional damages for causing the prevailing party in the lawsuit to expend extra effort and expense to pursue the fraudulently transferred property.





5 Reasons to Protect Your Retirement Accounts

Written by Francine D. Ward

Retirement accounts offer protection for your assets while you are alive. Did you know that once you pass away, that protection disappears? When your loved one inherits your retirement account, rapacious creditors can scoop right in and seize those funds. What does that mean for your loved one? That with one lawsuit, they have lost everything. Your hard-earned cash disintegrates into thin air, and your loved one could be left with nothing. THERE IS A SOLUTION. It is called a standalone retirement trust (SRT). This special type of trust can protect inherited retirement accounts from your beneficiaries' creditors.

Below are five types of individuals who should strongly consider SRTs as part of their overall estate planning strategy:

1

If you have considerable combined retirement plans. Loved ones can use an SRT to shield the retirement plans from creditors.

2

If you think your beneficiary might not be good at handling money. You should consider

an SRT if you are concerned about how your beneficiary will spend the inheritance. With an SRT, you can provide oversight and direction on how much can be received and when.

3

If you are concerned about a divorce proceeding, lawsuits, or other legal actions.

Suppose your beneficiary is a party to any type of legal proceeding, including a divorce, bankruptcy, or other legal action. In that case, a well-drafted SRT can save the day and protect the inherited retirement accounts from those creditors.

4

If you have a beneficiary who receives or might receive

government assistance. If a beneficiary receives or might later qualify for some form of needs-based governmental assistance, the last thing you want is for your beneficiary to lose those benefits. An SRT can be drafted to avoid disqualification.

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5

If you are married and part of a blended family, naming your spouse as he

designated beneficiary of your retirement account could hurt your children. Your spouse would then be able to disinherit your children intentionally or unintentionally. You can avoid this by naming your spouse as the lifetime beneficiary of an SRT and then passing the remainder to your children from a previous marriage after your spouse's death.



YOU HAVE SPENT YEARS WORKING HARD TO GROW YOUR WEALTH. KEEP IT SAFE FOR YOUR LOVED ONES. DON'T LET CREDITORS BECOME YOUR BENEFICIARIES.

YOU CAN JOIN ME ON MY
FACEBOOK GROUP



DID YOU
KNOW
?

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4. No, Revocable Trusts Do Not Protect Your Property from Lawsuits. A common myth is that revocable living trusts protect your assets from lawsuits and creditors. This is not true. You can draft a revocable trust that will protect your assets after you die. But a revocable trust generally offers no protection against your creditors or lawsuits filed against you. Why not? Because the nature of a revocable trust vs. an irrevocable trust is that you, the settlor (creator of the trust), remain in control until you die or become incapacitated.

Protect your assets before you are in an accident. Don't wait!



Legal Friday
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INTELLECTUAL PROPERTY AND ESTATE PLANNING ATTORNEY

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A WORD FROM YOUR

Trusted Legal Counselor

Written by Francine D. Ward

It is hard to believe we are in January of 2022. I am sure some of you are also thinking, “Where has the time gone?” I remember when we were all talking about the New Millennium. Yet here we are into its third decade.

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I remember when we were all talking about the New Millennium. Yet here we are into its third decade.

Francine



IMPACTS OF COVID

As with so many others, I have been impacted by Covid. I am grieving the loss of my husband, my mom, a family pet, and to a great extent—my freedom. All this is under the umbrella of this deadly virus. Yet, despite all that, life goes on.

RETHINK GOALS, RETHINK PRIORITIES

With the events of the last two years, I find myself wanting to rethink my goals, to rethink my priorities. Not just my business goals but also to take a fresh look at my personal goals. Where am I, and what do I want from this next chapter of my life?

GOAL PLANNING

Also, as I quickly approach my 69th birthday, every moment needs to count. So, I break my goals into several categories: health, financial, family, friends, business, spiritual, service, and miscellaneous. **What about you?**



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