

# CLIENT AND FRIEND NEWSLETTER

February 2024

272 Hardie Ave SW, Renton, WA 98057 Phone: 425-251-8880  
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## TRUISMS BY BETH A. MCDANIEL, JD, CELA

Over the years, I have found myself coming back to certain 'truisms,' Microsoft Bing defines a 'truism' as a statement that is obviously true and says nothing new or interesting. At the risk of saying something you have heard before, here are a few...

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## EMPLOYEE SPOTLIGHT



This month we feature paralegal Laura Baker.

Laura brings a broad depth of experience in paralegal support to our firm. Laura earned her paralegal certification at UC, Santa

Barbara, and has a bachelor's degree in English and a master's degree in public administration. While she has specialized in estate planning law for over 20 years, Laura also has experience in probate and trust administration.

In her free time, Laura enjoys cooking, writing, and spending time with her family.

Laura can be reached directly via e-mail at [laura@bethmcdaniel.com](mailto:laura@bethmcdaniel.com) or (425) 496-6677.

## ESTATE PLANNING: THE DARKER SIDE BY BETH A. MCDANIEL, JD, CELA



Imagine putting a Will and other estate planning documents in place only to have your wishes turned upside down because you were persuaded to change your documents at a time when you were most..

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## CONT: TRUISMS BY BETH A. MCDANIEL, JD, CELA

...‘truisms’ related to what an estate lawyer may see regularly in a day-to-day practice:

1. Where there is money, there is family. Occasionally a lawyer will have an estate where the beneficiaries are distant relatives of the decedent with whom there was no apparent prior relationship. It may be human nature, but these are the estates for which law offices receive the most calls ‘out of concern as to how the relative’s estate is being managed.’ Translation: when will I receive my share? Here, the caller may not even know their relative’s name. If only these distant relatives were half as concerned about their relative’s wellbeing while they were still alive, the world would be a better place.
2. Pay me less now or pay me more later. We can all agree that no

one enjoys paying legal fees. The irony is that it is often those who despise paying these fees the most whose estates end up being more expensive to administer due to their using do-it-yourself documents which may contain ambiguities, missing clauses, improper provisions for minors or disabled beneficiaries, which were improperly executed, or the wrong documents were executed altogether. Just like with home improvement projects, it often makes sense to bring in the specialist from the beginning versus doing it initially yourself only to create a bigger, more expensive, and more involved project in the end.

3. Inheritance is a privilege, not a right. No one should have the expectation that they will receive an inheritance from their never-married Great Aunt Sally just by virtue of being related. Clearly Great Aunt Sally is free to leave an inheritance to her favorite charities, friends...

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## CONT: TRUISMS

...those nieces and nephews with whom she had a close relationship, or a combination thereof. Recently I read about a woman in China who left her multi-million-dollar estate to animal charities versus to her children as 'her children did not visit her when she was sick.' If I were a betting person, I would wager her unpleasant demeanor kept her children away and they may not have cared about getting an inheritance. The bottom line is that this woman's children, presuming the woman was competent at the time her estate plan was executed, had no right to an inheritance.

**4. Be nice to your kids or a stranger will choose your nursing home.** You may have come across a plaque featuring the following well-known quote, 'Be nice to your children as they will choose your nursing home.' However, in reality, if one's relationship with their children is strained due to issues such as addiction or personality disorders, it's

possible that a stranger, a professional guardian, may determine your long-term care setting. In our society professional guardians exist for many reasons including the absence of family members or friends or the inability of existing family members and friends to provide the necessary care or assistance. Know that professional guardians – and their attorneys – charge for the services they provide, with little to no motivation to preserve resources as Medicaid is viewed as a financial safety net which is available when funds are exhausted. I am aware of at least one professional guardian who 'dropped' a client when they ran out of money. This creates a frantic scramble – involving multiple phone calls – to try to find a replacement. Indeed, it is a true blessing to have family members and friends who are able and willing to step up and assist when we need their assistance the most. This is not the case for everyone.

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## CONT: ESTATE PLANNING: THE DARKER SIDE

...vulnerable and not fully aware of the impact of the changes you were making. Thankfully, we do not encounter this scenario every day; however, it happens often enough to cause concern.

Here, the vulnerable adult is dependent upon another individual, usually a child, for their care and support. This individual may persuade the vulnerable adult to change their documents either because they feel they are entitled, or because they believe the vulnerable adult's circumstances have changed. Sometimes this individual may have the best of intentions. Often other loved ones only become aware of the changes after the vulnerable adult member has passed away.

How can one protect themselves from having their estate planning plan thwarted or from putting a well-intentioned family member in the difficult position of trying to put...

new, needed documents in place?

Here are a few suggestions:

- Do an estate plan and revisit it often. It is advisable to update your durable powers of attorney every four to five years. On at least the same schedule, Wills and Trusts should also be reviewed -- even more often if a life changing event occurs (like a birth or a death). By keeping your documents updated, you increase the likelihood that you will have an appropriate plan in place upon your incapacity or death.
- Have relationships with trusted advisors. I highly recommend that you develop and maintain relationships with trusted advisors like an estate attorney, financial advisor, and certified professional accountant. You want to be a phone call away from professionals who are familiar with you and know your estate planning objectives.

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## CONT: ESTATE PLANNING: THE DARKER SIDE

Such professionals should look out for your best interests and take immediate actions to protect you, if necessary, should they suspect anything unusual. I think often of my client who was immediately alerted by his aunt's financial advisor when the aunt's 'caregiver' called the financial advisor, identified herself as aunt's new power of attorney, and asked how much money the aunt had. Due to this quick action by the financial advisor, my client's aunt's funds were protected.

To that end, any experienced elder law attorney should question why an older, frail appearing, individual is requesting assistance with updating their estate plan when they already have a long-standing relationship with another attorney. Similarly, an experienced, competent elder law attorney will do additional due diligence if the new client has a number of descendants, but states they want to leave all their estate,

or a disproportionate amount, to the individual who happened to drive the new client to the appointment with the lawyer. Of course, the lawyer could determine, after doing their due diligence, involving asking a number of additional questions, that there is a reasonable explanation for this objective. I can tell you from experience it can be difficult to assess these situations when you have no idea as to how this client would have presented themselves 5, 10, or sometimes just a few, years prior.

- Store your estate planning documents in a secure, safe place. This should always be done, but especially if there is any possibility that a disgruntled family member may locate your will in your home and be displeased by its contents. Alternatives to storing your Will in your home include in a safe deposit box or with the registry of the Superior Court. Note: if a safe deposit box is used, another

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## CONT: ESTATE PLANNING: THE DARKER SIDE

trusted individual should be added as a signer on the box.

- Share your estate planning objectives with trusted friends and/or family members and keep them updated should your plans change. By keeping these trusted individuals advised, they will be on

alert should your plans suddenly and inexplicably change.

Following these simple tips will help put you on the best path to having an estate plan which best protects you while you are alive and follows your wishes upon your passing.

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Disclaimer: this newsletter is informational only and should not be construed as legal advice.

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If you have questions or wish to make an appointment, please contact our client care specialist, Margo Passeau, at (425) 296-3121.

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