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Planning Ahead



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Protect Your Estate Plan

Estate Planning is all about you, your legacy, your personal wishes and the people or charities you want to benefit, not what anybody else wants. If there are family dynamics such that you don't want to treat your children equally, or you want to make a significant gift to someone outside the family, that is your choice. Whatever your choice, it is important that it be your independent decision, free from any influence, or the perception of undue influence.

Over time, our elders must rely more on others for driving, shopping, bookkeeping and care. With that reliance comes a certain dependency. That dependency can make a person vulnerable to influence. Undue influencers can be family members as well as caregivers. Estate Planning attorneys take direction from you but must be on the lookout for signs of undue influence. The signs include changes to an existing estate plan that was consistent over the years but now will drastically change. A caregiver may now receive a large gift, or one child may now be favored over others. And when the elderly person wants to change lawyers, there is the question why. A huge sign is when someone other than the client calls the lawyer for the appointment, drives the elderly person to the meeting with the lawyer and, no surprise, will now receive an outsize share of the estate. With these set of facts, a Will Contest might be expected.

With that in mind, for your own protection, there are steps you can take to protect your estate plan against challenge. When it's time to update your estate plan, you should be the one to phone the lawyer and make your own appointment. You should arrange for your own transportation, by taxi or ride hailing service if you can't drive yourself. You should come alone to the appointment. If assistance of a caregiver is necessary, the caregiver should get you situated and then leave the conference room so you can meet privately with the attorney, out of earshot of the caregiver. Anyone who may benefit from the change in your estate plan should not be involved in the estate planning update. By avoiding even the perception of influence, your personal wishes are more likely to be upheld as your independent decision.

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