



Editor: Diane Slomowitz

I REMARRIED. WHAT ABOUT MY ESTATE PLAN?

**CHANGES IN YOUR LIFE?
CHANGE YOUR ESTATE PLAN**



By: Danielle Walter,
FOS Legal Assistant

I was lucky to find love in my forties.
I met a wonderful guy, Craig.

Craig, who had never been married before and has no children, is just the best. Craig and I love riding our Harley, hiking with our dogs and traveling. Some might say we live a “dangerous” lifestyle by having a cycle, but we love it and are careful.

Craig and I have been married for four years. The problem? I was married before, had a daughter, and had executed estate planning documents with my first husband.

Estate planning documents which I had never changed. Not when I got divorced, and not when I married Craig.

My will, my trust, even my account designations—none reflect my life or wishes now.

My attorneys tell me that under Wisconsin law, my ex “dropped out” of my estate plan when we divorced. That’s a relief, but it doesn’t solve my whole problem.

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As Danielle Walter’s adjacent article shows, one definition for life is “change.”

Danielle’s most recent change, a remarriage (not to mention divorce), has critical estate planning implications.

Under Wisconsin law, Danielle’s ex-husband was automatically excised from her estate upon their divorce.

However, Danielle still needs to create a new estate plan to ensure that her second husband, Craig, receives the distributions which she wants him to receive when she dies.

A similar issue arose regarding the estate of David Cassidy, teen heartthrob to baby boomers and newfound hunk to millennial fans of *The Partridge Family* reruns.

Estranged from his daughter Katie (an actress in TV’s *Arrow*), he excluded her as a beneficiary under his estate plan.

By the time Cassidy died late last year, he and Katie had reconciled.

Cassidy, however, never amended his estate plan to provide for Katie. She therefore is not legally entitled to any distribution from his estate.

Cassidy could have prevented this result had he amended his estate plan, after the reconciliation, to include Katie as a beneficiary.

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NEW TAX LAW IMPACTS ESTATE, GIFT TAXES

Much of the discussion about the new tax law has been about income taxes, including the changes to the individual and corporate tax rates and the allowance or disallowance of various deductions.

The new law, however, affects more than income taxes. It also affects estate and gift taxes.

The estate tax exemption is now doubled.

In 2018, a married couple can transfer, during life and/or at death, approximately \$22.36 million free of estate, gift, and generation-skipping transfer taxes.

Individuals can transfer approximately \$11.18 million.

These figures will increase annually for inflation until 2025, when, under present law, they will revert back to 2017 levels.

If you are subject to the new law, your FOS attorney can review and, if appropriate, modify your estate plan to take advantage of the increased exemptions.

LARSEN AT UW

FOS estate planning attorney Bailey Larsen spoke at a March panel on tax planning and techniques at the University of Wisconsin—Whitewater.



BE LIKE HEF—HAVE THE LAST WORD



In life, Hugh Hefner was known for his Playboy Mansion, his pajamas, his pipes, and his parties.

In death, however, Hef may become more known for potentially saving a family member’s life.

The great holder of drinks included in his trust a proviso that a beneficiary may not receive funds or property if the trustee reasonably believes that the beneficiary abuses drugs or alcohol.

Hef even provided that the trustee can require that a beneficiary submit to drug testing and substance abuse treatment.

Hef was still benevolent, providing that when tests show that an abusing beneficiary has not used drugs or alcohol for 12 months, the trustee may begin or resume distributions.

Are you concerned about leaving funds to a potential beneficiary whose decisions or actions may adversely impact them personally and/or financially?

Appropriate estate planning strategies exist to protect your assets, and maybe that beneficiary.

Hef’s estate plan protected his assets from being used for what he perceived to be unhealthy purposes—excessive alcohol or drug consumption. It also provided incentives for a beneficiary to avoid and/or obtain treatment for substance abuse.

An estate plan can also protect assets against profligate spending by a beneficiary who is too young or immature, or who otherwise cannot stick to a reasonable budget. In these instances, an estate planning document can entrust the personal representative or trustee with discretion as to the timing and amount of all distributions to a trustee.

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Photo Source: http://www.eonline.com/news/hugh_hefner

I remarried, from page 1

I want my money to go to the people that I love, and that includes my husband as well as my daughter.

I also want my husband, in addition to my daughter, to make health care decisions for me, if the need arises.

I have been a legal assistant for 22 years. I have witnessed what happens when people do not plan ahead and, when it is too late, leave their families in a bind. I don’t want to be in that position. I know it is time to have new estate planning documents drafted.

Thankfully, Fox, O’Neill & Shannon’s estate planning attorneys are here to help. They will listen to me and draft estate planning documents that reflect who I am and what I want and need. It is great to have peace of mind.

FOS’s ESTATE PLANNING ATTORNEYS



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A Certified Public Accountant (CPA), Al worked at the Big 8 Arthur Andersen accounting firm before joining FOS.

Al is a member of the Greater Milwaukee Foundation’s Herbert J. Mueller Society. He is a past Chair of the Wisconsin Bar Association’s Taxation Section and a former Chair of the Milwaukee Bar Association’s Taxation Section.

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Greg worked at the Big 8 Arthur Andersen accounting firm before joining FOS. He is a CPA.

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CHANGES TO POD ACCOUNTS: THE BANK RULES!

People change their minds all the time. That's why pencils have erasers.

People even change their minds as to who they want to receive the funds in their bank account when they die. Accounts designating post-death beneficiaries are called Payable on Death ("POD") Accounts.

A POD account is a contract between a financial institution and an account holder under which a designated person or entity will receive the account proceeds when the account holder dies.

Typically, a POD account is created via a bank form, signed by the account holder and a bank representative, which lists the person or entity to receive the funds upon the account holder's death.

A recent Wisconsin Court of Appeals case discussed what happens when an account holder tries to change the POD beneficiary by a separate handwritten note which is not delivered to the bank.

Unfortunately for the account holder's intended beneficiary, the Court held that the separate note was legally insufficient to remove the initially named beneficiary. *Mueller v. Edwards*, 2017 WI App 79.

Had the account holder simply gone to the bank and filled out a substitute POD beneficiary form, he would have accomplished an effective change of beneficiary. Simply writing a note, and locking it in a safe, as the account holder did, did not comply with the law.

As a result, a person who the account holder, now deceased, decided he *did not want* to receive the account proceeds, was the person legally entitled to them. And the person the account holder decided he *did want to receive* the proceeds, received nothing.

The lesson? Call your bank. And your FOS estate planning attorney.

Hef, from page 2

It can withhold the distribution of some or all assets until a beneficiary reaches a specific age or ages.

A "normal" beneficiary such as a son or daughter might receive one-third of his or her distribution at age 30, another third at 35, and a final third at 40.

A provision regarding a financially problematic son or daughter, on the other hand, might push those ages back to 35, 40, and 45, or even further.

Every family functions differently and, properly tailored, so can every estate plan. In fact, there can be as many estate plan variations as there are estate plan makers.

So have the last word and protect your loved ones at the same time. Contact your FOS estate planning attorney to obtain an estate plan specifically tailored for your desires, your concerns, and your family.

Source: <https://pagesix.com/2017/12/21/hugh-hefner-demands-his-heirs-stay-sober/>

Change Plan, from page 1

Hopefully, your family was never estranged like the Cassidys.

But when did you last review your estate plan? What has changed since you signed them?

Has your personal representative or trustee moved out of the country? Choose a new one.

Is your formerly wayward daughter now the most responsible person you know? Loosen when she receives funds under your trust.

Is the couple you chose as your children's guardians having a joint mid-life crisis? Talk with your spouse, and then replace them.

And while you're at it, go beyond your will and trust and review your powers of attorney. Do you trust your named financial agent and want the agent to continue? Good to know. No change needed to your financial power of attorney.

Do you feel differently now, than you did years ago, about what medical measures you want taken (or avoided) if you become incapacitated? Change your mind, change your health care power of attorney.

And, like Danielle, be sure to review the beneficiary designations for your financial, retirement, and insurance accounts. Out with the old and in with the new!

So, review your life and your estate planning documents. Then contact your FOS estate planning attorney to update them.

SOURCE: <http://www.foxnews.com/entertainment/2017/12/07/david-cassidys-will-leaves-out-daughter-katie-report.html>



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KARDASHIAN DID IT. WHAT DO YOU WANT TO DO?

Kim Kardashian:

"I put it in my will that I have to always have my hair done if I am like, cannot talk to myself or like, communicate,"

Chuckle if you must. Kardashian, however, has accomplished, in her own way and true to her own self, what many of us fail to do.

She decided what she wanted, and put her desire into action.

Kardashian misspoke about putting her direction in her will, which is not effective during one's life.

Kardashian likely included, in

her power of attorney, a directive for her agent to hire beauticians to style her hair if she becomes incapable of doing so herself.

What do *you* want?

Barring medical or financial issues, do you want to remain home if you're incapacitated?

If you live outside of your home, must it be pet-friendly so your dog or cat can visit?

Do you want new library books every week, even if you can't read them yourself?

Medical issues permitted, do you want a nightly scotch after dinner?

Some desires are important to

almost everyone. Others may seem trivial to everyone you know. But not to you.

And that's the point.

Most attention rightly gets paid to the essential health care decisions which arise upon a person's incapacitation.

DNRs, feeding tube, life-sustaining measures—these and other critical medical decisions should be spelled out in your Health Care Power of Attorney, so that your agent knows and can act on your stated desires.

These critical desires, however, are not our only ones.

Our "non-essential" rituals bring a history and quality to our lives.

We don't want them to automatically disappear if we become unable to summon them ourselves.

The best (and sometimes only) chance to maintain them is to confirm their importance in a power of attorney or written memorandum.

Who knows? Your friends might be impressed that you "pulled a Kardashian."

Source: <http://www.thecut.com/2018/01/kim-kardashian-wests-will-includes-a-good-hair-clause.html>.