

Elderlaw & Estate Planning Update

ELDER LAW LESSONS FROM WILLIAM SHAKESPEARE

William Shakespeare, the ultimate Renaissance man, offered insight into pretty much every aspect of the human condition. Estate planning is no different. Following are abbreviated summaries of four Shakespeare plays along with an attempt by Attorney Chalgian at some humorous lessons you might take from them about estate planning and elder law: (Continued on page 4-7)



Visit our website at
mielderlaw.com
for more articles and blogs on
estate planning and elder law.

Shakespeare Continued

Hamlet

Father dies, mom re-marries dead husband's brother. Accordingly, in this case, the usual second marriage issues are compounded by the inter-family issues and, making matters worse (actually much worse) was the fact that father's death was at the hand of uncle – and with mother's complicity.



Hamlet is a happy-go-lucky college kid at the time this all goes down, but becomes understandably whacked out by the whole scenario. The Uncle's efforts to make Hamlet feel secure about his place in the hierarchy don't go over well, and things around the house just keep getting more tense until, as is somewhat common in Shakespeare plays, everyone ends up dead.

Lessons:

Suffice it to say the family dynamics in this case are bad – real bad. And, lesson number one for any estate planning attorney is that family dynamics play a BIG role in whether the plan is going to work or not. All of the baggage comes out when mom and/or dad die (and often when they become demented).

Lesson number 2: Second marriage planning is as hard as

it gets. Second marriages are often great for the people who are married – but rarely, if ever, good for the kids from the first marriage. I tell clients: “Let's accept the proposition that your children don't like your second spouse, and if you die first, they will be mean to him/her after you're gone. Feel free to prove me wrong, but my experience suggests I'm right on this.”

Interesting Side Note: American law currently precludes a person from inheriting property from someone they killed. So-called “slayer statutes” make sure you don't profit from your bad acts. Apparently that wasn't the case in Hamlet's day, or more likely, no one had the nerve to raise the issue.

Henry IV

Henry IV is a self-made man – self made himself the King of England. He has one child – a son, Prince Harry. Harry is a young man whose youthful qualities are likely recognizable to many of today's parents. Essentially, Harry hangs out with his friend Falstaff and other miscreants, sleeping in late and boozing it up most of the night – every night.

Dad is worried about whether Harry will ever get his act together. As it turns out though, when push comes to shove (literally), Harry rises to the occasion and proves himself a most worthy heir to the crown.

Lessons:

Some children mature later than others, and boys seem especially slow. But that doesn't mean they won't ever grow up (although that is a possibility). Many people who ultimately become successful will admit to a misspent youth. Parents with resources worry that if they pass before the child matures, or if the child never matures, their estate (what they have worked so hard to amass) will only be wasted on immature and self-destructive behavior after they die.

Shakespeare Continued



Today, as then, there was the idea of holding things “in trust” for children until they reach certain ages and/or demonstrate to the appointed trustee that they can handle things for themselves in an appropriate manner. In fact, many of the young kings of long ago would not take true ownership of their kingdoms during their youth, but decisions would instead be made by a panel of older wiser appointees

of the deceased King. In modern estate planning we are curiously returning more to the concepts of “Trust Protectors” and “Trust Committees” to provide this type of oversight. In addition, thanks to the evolution of the law of “discretionary trusts,” we now have an excellent mechanism for inherited resources to be used to provide for the needs of beneficiaries who are still maturing, while protecting those assets from their bad judgment.

King Lear

King Lear had three daughters. He was getting up in age. He wanted to abandon the cares of maintaining a kingdom and spend more time goofing off. So he split the kingdom into three equal shares. Two daughters flattered him and gladly accepted the gift. A third daughter told him he was being foolish and so he cut her out and gave her share to the other two.

Then, with a handful of his favorite knights, he retired to a life of milling about from one castle to another. But that didn't go so well. The daughters who received the kingdom

soon tired of him and his rowdy knights. King Lear ended up a pauper, living in the woods, eating bugs and whatnot.

Lessons:

Many older clients today get it into their heads that they should put their assets into the names of their children, while they (the parents) are still alive. This impulse has all kinds of potentially bad consequences, as experienced by King Lear.

Lesson number 2: Don't act rashly in making estate planning decisions. The kid who ticked you off because they said something you may not have wanted to hear, may be the one you should really be listening to and trusting. Those who butter up to you may have ulterior motives.

Julius Caesar

Julius Caesar is the only Shakespeare play I can think of in which an estate planning document is actually part of the plot. As you may recall, after Caesar is murdered at the senate, and after Brutus explains himself to the gathered masses, Marc Anthony reads Caesar's will to the people and they learn that Caesar left much of his estate to charity – public charities that they (the masses) will all benefit from directly. Soon the mood turns and Brutus and the other conspirators leave town quickly.



Lessons:

Including charities in your estate plan not only makes you feel good, but makes others feel good about you. In addition, today charitable giving provides tax planning benefits that Caesar did not have to worry about.

Lesson number 2: If lions are roaring in the streets and your wife dreams about blood shooting out of a fountain, it might be a good day to skip work and stay home.