

### ***Care and Custody of the Estate Plan***

I have stated in previous articles that there are three core documents to a good estate plan: (1) The revocable living trust or, in very limited circumstances, a will; (2) a Durable Power of Attorney; and (3) an Advance Health Care Directive. Some people go through the effort of creating an estate plan but then set it on a shelf or lock it away in a safe deposit box without telling anyone of its existence or its provisions. When disability or death occurs the family or other interested persons are surprised to learn of the existence of an estate plan. This situation often creates chaos at the very time when order is an absolute necessity.

Many times a person who has been named as a successor trustee or an agent first learns they were chosen as a trustee or agent when he or she has to perform the required duties. Before an individual is named as your successor trustee, executor or agent in your estate planning documents, you should ask that person whether he or she will consent to serve. If your estate plan involves appointing a guardian for your minor children, you should have a thorough discussion with the prospective guardian concerning your plans for your children's welfare and education. Once you create your estate plan, you should inform your successor trustee, executor and agent that you have created an estate plan and let them know where the original and copies of your estate planning documents are located. In fact, it would be a good idea to give the successor trustee, executor or agent a copy of the document in which they are named so that they could become familiar with it and be prepared to produce it and perform their duties if the occasion arises. You should also give a copy of your Advance Health Care Directive to your doctor and request that it be made a part of your medical records. You may also wish to discuss your health care desires with your doctor so that he or she will make decisions guided by your preferences.

An estate plan should be a living, "evergreen" set of documents. The original documents should be kept in a safe deposit box, a home safe, or at a minimum, a fireproof box. A copy of the documents should be kept at home and always accessible. The entire estate plan should be reviewed every three to five years at a minimum and certainly in the event of changes in family structure. Deaths or births of beneficiaries, divorces or marriages and significant financial changes are examples of circumstances that may require amending your estate plan. Also, if any of the administrators of your estate (your successor trustee, executor, agent or guardian for minor children) are no longer able or willing to serve, or if your preferences change, your estate plan should be amended accordingly. Don't just lock your estate plan away -- make it relevant to your circumstances on an ongoing basis.