

Legal Notes: February 2013

My mother died in Florida last October. While I've been helping people with the estates of their families for years, handling my mother's estate has given me a different perspective on the process. A few thoughts:

She died unexpectedly. I didn't know the first thing about her financial or other affairs. It took a number of days just to sort through her records, and even more time to contact the various credit card companies, banks and insurance companies. More time than I would have expected. Credit card companies especially run the gamut from easy to deal with to exceptionally difficult (Discover was on a companywide retreat the day I called). And, they all need slightly different documents. Get all those arcane details, like social security number, mother's maiden name and even a driver's license number.

She died in Florida. Good and bad. The good is that Florida doesn't have any income tax, so filing just a federal return will be easier. The bad is that she died in Florida. While Wisconsin/Minnesota have roughly similar probate processes, Florida's is quite different. In Wisconsin, a small estate is pegged at under \$50,000 but in Florida the amount is equal to the cost of the funeral and the decedent's last medical bills. Try figuring that out.

She died with a trust. Also, good and bad. If you've ever met with me regarding estate planning you know that I'm not excited about using trusts (a/k/a living trusts, revocable trusts, inter vivos trusts) in general. They are often more trouble than necessary and people have a hard time properly keeping them up to date. My mother did have here Florida condo in a trust. Good. This let me sell the condo without going through probate. However, she had a number of bank accounts only in her name, not the trust. Bad. If the accounts had been in her name, or even had a beneficiary designation, I could have transferred them easily. Instead, I needed to go through the small estate probate process described above.

She had made some arrangements for her funeral. The problem was that no one knew what they were. While we finally found the paperwork some days later, there was an initial scramble to make arrangements. We didn't know if she had a burial trust or any other type of pre-paid arrangement. Turns out she did, but back in Madison and nothing in Florida (her official state of residence).

So, the takeaways: Think about a trust if you live in Florida (or Arizona) and own real estate. Make a folder with current information, or at least a list of banks and credit cards (and don't have too many credit cards, but I don't know if anyone needs to be

told that any longer). Use payable-on-death or beneficiary designation when possible. Give your relatives a copy of your funeral arrangements.