

Legal Notes: October 2016

Stuff. We all have it. But what do you do with it when you die? You may not care, but your family may. Lately, it seems as if I'm spending too much time (and client's money) on stuff.

Arguments about stuff fall into two categories. In one category, family members just don't care, there are no arguments (except maybe how to get rid of the stuff). In the other category, family member fight tooth and nail over the stuff. What can you do to prevent this?

In all of my wills, I have a provision for the person to leave a list of where they want their stuff to go. There is even a formal document I give out known as the "Personal Property Memorandum." What these lists do is provide a guide to the personal representative about how he or she should divide the personal property. If the list is properly executed (easily done by just signing and dating the list), then the list legally binds how the personal representative distributes the stuff.

People should take advantage of this provision in their will (and if you don't have a will, then get one). The list can be simple, just identifying groups of property (e.g. stereo equipment, figurines) and to whom it should go. The list can also be very specific and identify individual pieces of property (e.g. Colt 1911 pistol, 1965 Mustang). One type of property to focus on are heirlooms, such as rings. Leave the original of the list with the original will, and keep a copy, or maybe give a copy along with the will to the named personal representative.

Another alternative is to include a letter spelling out your wishes in a more narrative form. While this may not have the legal effect that a list would, it could still act as a guide for the personal representative in distributing your stuff. Such a letter is also useful for a health care power of attorney, so you can cover both in a single letter.

Often, the value of the property is not the issue. I've seen families spend more on legal fees than the stuff is worth. The goal is to reduce the risk of squabbling among your family.