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TWO THINGS CERTAIN®

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I don't want to control my children from the grave!

By Jeremy C. Johnson, Esq.

I often hear the sentiment above exclaimed from prospective clients during an initial meeting. Typically, they are concerned that completing an estate plan equates to the post-mortem application of overly burdensome controls on their loved-ones. This is a common misperception.

Let me state this very clearly once and for all, "proper estate planning doesn't have to mean controlling your beneficiaries from the grave!" Of course you can, if you so desire, construct an estate plan that does in fact control your beneficiaries from the grave. However; most of our clients DO NOT wish to do this, and we are not in the business of creating estate plans that force unwanted objectives onto our clients.

Proper estate planning can allow you to do several things for your loved ones: 1) provide a clear and concise order of authority, designating who you choose, in a legally enforceable manner, to settle your financial and business affairs upon your incapacity and/or death; 2) explicitly state who you wish to be the recipients of your assets and how they shall receive the same; 3) build contingency plans into your management and distribution system (many of which your attorney will alert you to that you may not even realize you need to consider); and, 4) make certain that you have legally designated agents to handle your medical affairs and provide them with specific and appropriate instructions regarding your wishes should you not be able to communicate for yourself at a future point in time. In my humble opinion, none of these things logically equates to the notion of 'controlling from the grave.' Instead, these are loving acts that one undertakes to ensure that their family members and friends are not cast adrift in a sea of legal and/or moral uncertainty of action like so much flotsam and jetsam.

Having a concise order of authority; protecting your children's inheritance from outside intrusion and invasion (whether it be from law suits or failed marriages); ensuring that your intended beneficiaries receive what you wish them to receive, regardless of timing, age, or order of death; and, keeping your affairs straightforward, simple and out of the court system are the goals of most of our clients when they engage us to build a proper estate plan. None of these things bears the negative connotation of 'controlling from the grave.' So, the next time you have a friend, family member or acquaintance chide you on this issue, please provide them with a moment of your time to educate them about the act of kindness that having a proper estate plan is.



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About the Author:

Jeremy Johnson is a member of the Virginia and Massachusetts Bars. He has served as Director on the Board for the Peninsula Agency on Aging Endowment Fund, Inc. and the President for the Virginia Peninsula Estate Planning Council. In addition, Jeremy is a member of Wealth Counsel a professional organization devoted to help individuals retain control of their assets and businesses through proper planning. Jeremy has been named a "Rising Star" by Virginia Super Lawyers Magazine for 2011, 2012, 2013 and 2014 in the practice area of Trusts, Estates and Probate. Jeremy serves as the Registered Agent and General Counsel to multiple businesses from Virginia Beach to Arlington, Virginia; as well as throughout Massachusetts.