

# COMMON SENSE NEWS

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## Common Sense Elder Law

200 N. Wood River Ave.

Wood River, Illinois 62095

(618) 251-3300 Phone

(800) 525-0513 Toll free

(618) 251-3358 Fax

**The Law Office of  
Rick Gibson & Associates**

rwgibson@commonsenseelderlaw.com

## EIGHT REASONS TO HAVE A LAST WILL AND TESTAMENT

*IMAGINE*, for just a moment, if you could attend your own wake.

That's not an easy thought. But the fact is, we're all going to die. It's as certain as the sun rising every morning and Uncle Sam getting his cut every April. So let's have fun with that thought for a moment.

Most prominently at your wake, of course, your closest loved ones — your spouse and children. They're emotionally impacted, but unequivocally loyal. These are the people you'll most want to see taken care of after you go.

Next are other relatives, maybe grandchildren, great nieces and nephews, ex-wives and extended family, some of whom just might be showing up for appearances in case the old coot left something for them in the will.

Patiently waiting to pay respect are friends and colleagues you've known your whole life. Maybe a priest or college president, a lifetime neighbor, all of whom are there not because they want something from you, but because of you.

Thinking about your own wake? **Where there's a will, there's a way.**

The fact is, you work a lifetime accumulating assets, personal property and mementos.

So why would you want to leave it up to someone else to divide it all up after you die? It takes just a little time make sure *all* your assets are passed on to your loved ones. There's just as much value in an old family photo album as there is in your stock portfolio. That's why you need to consider *everything* in a Last Will and Testament. If executed correctly, it will clearly state your wishes and ensure they are carried out. Here are eight reasons to get going today:

### **1. You don't want to leave it up to your family members to guess what your wishes were after you die.**

In estate planning, you are conveying the message to your loved ones they are important enough for you to have taken the time to think it through.

### **2. People may not die in the order you plan,** so if a joint account owner passes away before you there's a contingency plan in place. Your family will know your wishes if the co-owners of your accounts die before you do.

### **3. You want to include plans for a gift to a charitable, religious, or community organization** that has played a significant role in your life. The school that has educated your family members; the church central to your life;

the foundation working tirelessly for a particular disease. If its your cause, it's worthy.

### **4. You do not want the state to determine how your assets and property are to be divided and distributed.** You would rather make that decision yourself, rather than a government entity that is bound by inflexible and impersonal laws.

### **5. You don't want your family to fight over important personal items.** You'll be amazed by what could cause a family squabble. Attorney Rick Gibson says that in his years of experience in family law, fights over personal items are the most emotionally-charged conflicts he sees.

### **6. You do not want a court to determine who is to be your executor** and take care of your affairs after your death. Identifying an executor will make it so much easier on your relatives. And if your wishes change as the years go by, you can always adjust.

### **7. You do not want your estate to pay taxes.** Through proper planning, federal and state estate taxes can be minimized or avoided altogether.

### **8. Who wants an Anna Nicole Smith circus after they die?** The money may be different, but the fight isn't.

## DO I HAVE OPTIONS BESIDES A LAST WILL AND TESTAMENT?

A last will and testament may not always be appropriate. For some a **Revocable Living Trust** is a better alternative for planning purposes. For others, some form of irrevocable trust is necessary.

A Revocable Living Trust is a legal document that includes instructions regarding your assets when you die.

Isn't that what a will does? Yes. The difference is that a Trust prevents the assets in the Trust from being tied up in the court system, or probated, at your death.

Trusts are not all that complicated. The first step in establishing one is meeting with an attor-

ney and telling him you want to set one up. You will become the Grantor. As Grantor, you and only you can make changes. You will also need to name someone as Trustee to manage the assets in your trust. You can be your own trustee or appoint someone, such as a family member or a bank, to serve as Trustee.

Finally, you designate beneficiaries — people or organizations who will receive your assets when you die. This is the key area where a trust differs from a will because you can plan for different scenarios.

For example, you want a portion of your assets to go to your

grandchildren but they are all teenagers. You can set up your trust with a condition such as they don't get any assets until age 25. Or if you have very young children, you can set it up so that the Trustee manages and takes care of their share until they reach a certain age.

*A trust gives you flexibility because you are able to plan for several different contingencies.*

After you set up a trust, it must be funded. This means you need to re-title your assets in the name of your Trust. Again, a lawyer will walk you through it and let you know if a trust is what you need to meet your goals.

*We help seniors  
protect their assets  
for their children.*

## YOU NEED A LIVING WILL, TOO

No one wants to think about it, but having a living will is another way you can protect your family from painful decisions in the event you are terminally ill and unable to make a decision about your continued medical care on your own.

For a doctor to withhold or withdraw artificial life-sustaining treatment, the law says there has

to be clear and convincing evidence of the patient's wishes. The best way to do this is through a living will.

Remember the sad, painful story of Terry Schiavo of a year ago? Long before her health crisis, her husband said she had made it clear to him of her wishes not to be kept alive by artificial means. The only thing

was, she didn't tell her parents and nothing was in writing.

A legal document would have saved the Schiavo family years of anxiety and pain — not to mention the media circus that revolved around her.

A living will is a legal document that will make your wishes crystal clear.

## A TRUST FOR MY PET?

Trusts are so versatile you can even create one for your pet. Who is going to take care of your dog, your cat, or even your canary or rabbit is a very real issue to many Senior Americans.

Unlike your children or other relatives, an animal cannot be the beneficiary of your will. Pet owners need to designate someone to take care of their pet after they die and can leave money to that person for the

cost of providing care.

In some states, it's not enough just to state your wishes in a Last Will and Testament. You might think your brother can take care of Fifi, but, once he gets the money from your will, there's no guarantee Fifi won't get a trip to the pound instead of a pound of dog biscuits when you're gone.

A Pet Trust can provide direction regarding any of the unfore-

seen circumstances that may arise.

Setting up a pet trust is a lot like setting one up for a person. You designate a caregiver and then the trustee is in charge of making payments to the caregiver for all your pet's expenses. And it's a good idea to name alternate trustees and caregivers in the event something should happen to them. And you can relax knowing that your best friend is being taken care of as well.

## FIRST NEWSLETTER A SUCCESS, SO WE'RE DOING IT AGAIN

Dear Readers:

Welcome to the second edition of Common Sense News. The first newsletter received a lot of positive feedback. I have heard from many of you that reading it was time well spent and that it was full of worthwhile and useful information. So the staff of Common Sense Elder Law and I have decided to continue giving you solid information to help you plan for your financial future.

Several people mentioned that my newsletter reminded them that they needed to do something for themselves as well as their parents.

For several years, I have spoken at St. Anthony's Hospital in Alton, Ill., on Estate Planning issues. Frequently I would tell the group that my main goal was to get them to do something – anything – as long as they left the meeting with at least one goal in mind for their financial future and an action step in which to accomplish it. I would remind them in my presentation that Estate Planning benefited their heirs more so than themselves because their heirs would be the ones left to sort out any unresolved issues or confusion.

The best planning for any situation is planning done

with sufficient time for cool reflection as opposed to planning done under a crisis situation. There are so many more options if planning is done ahead of time, not to mention the piece of mind that is gained in knowing you have an Estate Plan.

This newsletter goes out to clients, friends, select nursing home and some of my attorney colleagues. If you know of someone who might be interested in receiving this publication or my information packet on Estate and Medicaid Planning, let me know and we'll send them off.

*Rich Gibson*

## WHAT KIND OF CRAT IS THIS? I WANT TO GIVE MY MONEY TO CHARITY

Remember CRAT from our last newsletter? If not, let's review:

Under current IRS rules, a **CRAT (Charitable Remainder Annuity Trust)** is a type of trust that provides a fixed income to the donor based on a percentage of the fair market value of their assets when they are transferred to the trust. The income stream will not change during the life of the trust and the donor will not share in any growth in the investment portfolio.

In plain English, the ultimate beneficiary of your CRAT is your favorite charity, and you get a stream of income while you're donating. It's a win-win situation.

More good news about charitable giving: Buried in the 900-plus pages of the Pension Protection Act of 2006 were many tax provisions to benefit seniors. One such law allows you to donate money to charity from your IRA.



If you are 70 1/2 or older, you can have money from your IRA – both traditional IRAs and Roth IRAs— sent directly to a charitable organization.

The benefit for taxpayers, according to Kay Bell of [bankrate.com](http://bankrate.com): the IRA gift keeps the donated amount out of the giver's taxable income tally, thereby lowering the filer's tax bill.

Bell writes that it could also be a worthwhile giving method for filers who otherwise wouldn't get a tax deduction, such as those who take the standard deduction.

Older filers often don't have the deductions younger taxpayers have, because they have paid down or paid off their mortgage and have no legal dependants (unless you can't get rid of your 35-year-old son who still loves under your roof.) As a result, they take the standard deduction.

Another reason: Older filers sometimes face donation limits based on their income. Generally, Bell writes, you cannot donate an amount that exceeds 50 percent of your adjusted gross income. But when the money goes directly to the charity from the IRA, it doesn't count against the limit because it is not included in gross income.

As of now, this provision expires at the end of 2007, so the time to act is now. Again, the staff at Common Sense Elder Law is ready to advise you on this and any other planning needs.

*The best planning is done with sufficient time for cool reflection.*

The Law Office of Rick  
Gibson & Associates

200 N. Wood River Avenue  
Wood River, Illinois 62095

e-mail:  
rwgibson@commonsenseelderlaw.com

Phone: (618) 251-3300  
Toll Free: (800) 525-0513  
Fax: (618) 251-3358

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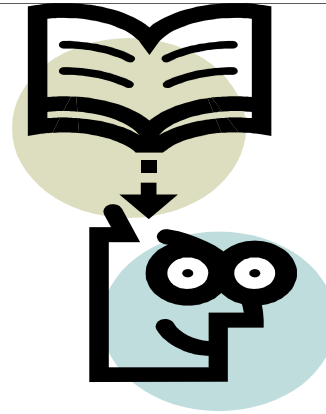
MEMBER

## EXCUSES? WE'VE GOT PLENTY OF THEM

There's a lot in this newsletter to digest. Many of us read these kinds of mailings, think the information is pretty good at first glance, then leave it with the stack of junk mail on your kitchen counter until it becomes part of the clutter that gets tossed out with the spring cleaning.

We all have excuses for putting off estate planning. It's nothing we haven't heard, or even thought of ourselves. In fact, we're providing them for you so you have something to tell that little voice in your head that keeps repeating the benefits of estate planning and taking action right now!

**1. I'm not planning on dying anytime soon.** No one is. The truth is though, not many people plan on dying anytime *later*, either.



Don't spend all day thinking of excuses unless you can come up with some better than these!

**2. My family gets along pretty well; they'll figure it out.** No family can figure it out by itself, especially under the stress of a funeral.

**3. An attorney is just going to cost me a lot of money.** Yes, there will be a fee. But an attorney will also be able to show you how to save more in the

long run than it cost now.

**4. It's a good idea, but I'll get to it later this spring.** That's fine, but when spring turns into summer and summer turns into fall, you still haven't called. Time is the most precious asset we have and acting now will ensure that no time is wasted.

**5. The whole process is intimidating.** We know it can be. That's why it's important to have an attorney you feel comfortable with who can walk

you through the process step-by-step. The staff at Common Sense Elder law can do that.

**6. I won't be able to see all the benefits.** No, but your children and grandchildren will, and they'll thank you for it long after your gone, as well as that German Chocolate Cake recipe you left them.