

Knick-knack Knockouts

How to Avoid Those Family Fights Over Grandma's Tchotchkes

By Valerie Vignaux, Esq.

The most prolonged and venomous arguments I've witnessed in my estate-administration practice have not been over money. In my experience, the highest level of emotional warfare is reserved for tangible, personal property, or the 'stuff' that mom and dad, or grandma and grandpa, leave behind in the house.

The \$7 porcelain ballerina that sat on the mantel for 50 years, the carbon-steel chef's knife in the kitchen, costume jewelry, a crocheted Kleenex holder, photo albums, even the washing machine, if you can believe it — these are the objects that can send otherwise well-behaved, loving, and gentle family members to opposite corners of the boxing ring to steel themselves for a fight. And fight they do.

"Not me, and not my family," we all say. But it can happen to the best of us, and the conflict has the potential to do serious damage to a family already grieving the loss of a loved one. Adult siblings revert to traits and behaviors not exhibited since ages 6 to 12. Beloved in-laws who were once an integral part of the family are now interlopers who deserve nothing. And only after mom is gone do we learn that she seems to have promised her cuckoo clock to all four of her children. (Pro tip: none of you should take the cuckoo clock. Your own families will thank you for letting that one go.)

How do we prevent such consternation at a time when we should be coming together in our shared sadness? A list. A simple, old-fashioned list. I call such a list a will memorandum, and Massachusetts General Laws recognizes such a "separate writing identifying [the] devise of certain types of tangible property."

One of the most appealing aspects of the will memorandum is that this list can be updated, changed, thrown out, and begun anew at any time, without having to change the will itself. In fact, a properly written and executed last will and testament document typically provides that the author (the testator or testatrix) may leave such a memo, listing specific items for

specific people.

For any object of significant monetary value — jewelry, works of art, vehicles, and rare books are all such examples — I recommend providing for distribution directly in the will or trust document, as opposed to a separate memorandum. Similarly, a will memorandum is not an appropriate place to include gifts of money or real estate. But for all those personal belongings that have more emotional than dollar value, such a list is perfect.



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Some of my clients have also placed notes on the backs or bottoms of objects around the house, stating who is to receive it upon the client's death. This works, but I prefer a list that is dated and signed and kept with the client's copy of his or her will. It is helpful, too, if I, as the client's estate-planning attorney, have a copy in my file.

How does one start writing a will memorandum? Ask your family members what they want. Understandably, many people are not eager to have these conversations, but it is a gift to those you leave behind to prepare for your passing, and a gift to prevent discord in the family.

Want to achieve the next level of preparedness? Start giving possessions away before you die. If you know that your niece would enjoy your bamboo fishing pole, give it to her now so you can see her smile, hear her thank you, and forestall any arguments about it later. Further, giving away some of your possessions now will reduce the burden on those you leave behind to clean out your residence.

Take a look around your home. Is there

decluttering that could be done now? (For almost all of us, the answer is assuredly yes). Start making a list of items that you can part with now, and ask your family and friends if they're interested in any of them. By starting the process during your life, you are lessening the burden you might otherwise leave your loved ones.

"But I'm only 40 (or 50 or 60)," you say. You're not too young to start. Do yourself and your family members a favor and start making that list. Every one of us has at

least a few things that would be meaningful to another. If you don't have children, consider your siblings, nieces, nephews, and friends.

One last thing: although it can feel like tempting fate, please be assured that making a will memorandum (or having a will prepared, for that matter) will not cause your death. It will not court the agents of your demise. It will be an exercise of control over the uncontrollable. It will actually make you feel better, not worse. And it will make things markedly easier for those loved ones you leave behind. ♦

Valerie Vignaux is an attorney with Bacon Wilson, P.C., and a member of the firm's estate-planning and elder-law team. She assists clients with all manner of estate planning and administration, including probate, and provides representation for guardianship and conservatorship matters. She received the Partner in Care Award from Linda Manor in 2017 and served on the board of directors for Highland Valley Elder Services; (413) 584-1287; vvignaux@baconwilson.com