

BASIC ESTATE PLANNING, PART TWO: MISCONCEPTIONS ABOUT WILLS

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Real Wealth® Radio Network

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(Note: The following was written in response to a question from Bill in Green Bay regarding understanding documents used in basic estate planning.)

One of the most common misconceptions about wills and trusts follows what we discussed last time regarding powers of attorney, the notion that, “**A will protects me if I become incapacitated.**” All too often we’re talking to clients and they say, “Oh yeah, my son’s going to take care of that if I become sick” or “My daughter’s taking care of that.” And, when we ask them, “Where did you appoint them?” they reply, “We named them in the will.”

What has to happen for the will to take effect? Someone has to pass away. For this reason, a will cannot name someone to take care of financial or healthcare matters while you are still alive. So, again, a will does not protect you in the event of incapacity.

The next misconception is probably the one that we hear most often. “**I’ve got a will so I’m going to avoid probate.**” A will does not avoid probate - it actually leads you into the probate court. A will must be filed within the probate court within 30 days of your death. In effect, your will is a roadmap telling the judge how you want your property to be distributed. The judge makes sure all of your property is collected, inventoried, appraised and all of your bills and taxes are paid. Then, the judge can approve the distribution of your property to your heirs. In the meantime, your assets are actually frozen.

And that brings us to our next misconception, the idea that **a will prevents quarrels over assets.** This is not true. It actually encourages people to contest your estate plan. The assets are frozen in the probate court until the bills are submitted and paid, and all contests are heard. Then the distribution is made. So, unless there are no contests, all of the assets remain frozen until all those claims are heard. Literally anybody, your neighbor, a relative or somebody you don’t even know, a stranger, can contest your will. We all know how slow the courts move today. Somebody contesting your will could actually freeze or delay the distribution of your estate by months or longer.

Let’s talk about the next misconception - **property can be distributed according to the terms of your will in only a few weeks.** This is absolutely not true; in fact, a typical probate in Wisconsin takes anywhere from 12 to 14 months. And, the legal, court and filing fees cost on average three to five percent, or more, of the gross value of your estate. That means your family will pay on average \$3,000 in legal fees and filing fees for every \$100,000 in assets that go through the probate court.

A team of Real Wealth® Advisors can easily assist you with your will and guide you through the entire estate planning process. You should work with a qualified attorney

who has spent a lot of time working in this area. You want somebody's who's focused on estate planning and family issues rather than a general practitioner. A financial advisor can help you best take advantage of your individual financial circumstances. They can work together with your attorney and accountant as a "quarterback" to ensure that your objectives and goals are met. Whatever you do, don't go it alone!

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Jim Silbernagel and **Tony Jasen** lead Wisconsin's only statewide, homegrown Real Wealth® Advisor Network and have been conducting their Financial Talk Show since 1990. They have garnered a reputation as down-to-earth financial professionals who look well beyond the obvious product-driven environment associated with Financial Planning to the *real* life issues of wealth. Their vision is to educate their listeners on the deeper issues of wealth management and its relationship with their life, specifically their stage in life, and to help people maximize life from *Real Wealth*®.

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