Post-Death Disputes Are on the Rise. IS YOUR ESTATE PLAN READY?

SUBMITTED BY **SHANNON M. WEST AND ABIGAIL MCGOWAN | ATTORNEYS | REINHART BOERNER VAN DEUREN s.c.**

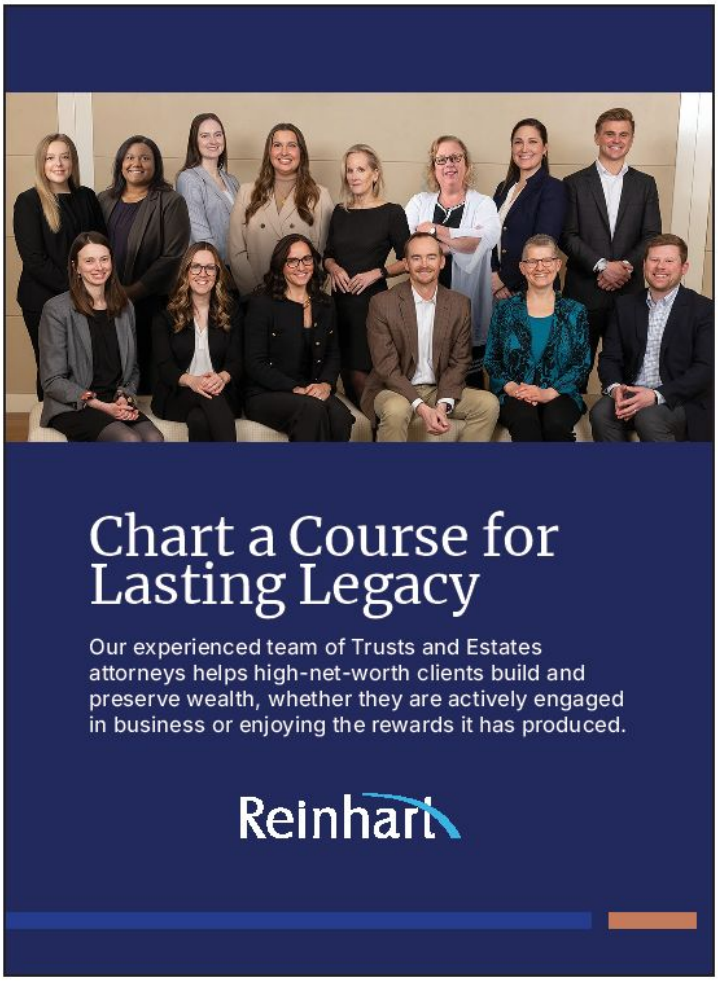
MANY PEOPLE ASSUME THAT ONCE AN ESTATE PLAN is signed, their wishes will be carried out without issue. Unfortunately, that is not always the case. Across Wisconsin and the country, disputes involving trusts, wills, and inherited wealth are increasing as families become more complex, wealth transfers become larger, parents and grandparents live longer, and beneficiaries become more willing to challenge estate planning decisions after a loved one's death.

One of the most common sources of conflict involves challenges to the validity of estate planning documents, especially when a family member's expectations do not align with the reality of the estate plan. Family members may argue that a loved one lacked the mental capacity to sign a will or trust, particularly when documents were updated later in life. Others may claim that a caregiver, family member, or other trusted individual exerted undue influence over the person making the estate plan. These disputes often arise unexpectedly and can dramatically alter how assets are distributed.

Conflicts also frequently develop during the administration of an estate or trust. Personal representatives and trustees are responsible for managing assets, paying expenses, communicating with beneficiaries, and making distributions. They are also required to carry out their duties with high standards of care. While a testator may have good intentions in appointing a fiduciary, sometimes the individual's skillset, or own life circumstances do not align with the demands of the role. Beneficiaries sometimes question whether those fiduciaries are acting fairly, managing investments appropriately, or following the terms of the governing documents. Disagreements over valuations, investment decisions, accountings, and distributions can quickly escalate into litigation.

Disputes can also arise from actions that occurred before death. Concerns about misuse of powers of attorney, changes to beneficiary designations, or transfers of assets during a person's lifetime, particularly for elderly or vulnerable adults, often do not come to light until after the person has died and their assets are administered.

Fortunately, many of these disputes can be avoided through thoughtful estate planning. A well-crafted estate plan does more than determine who receives assets. It creates a framework for administration, selects trustworthy fiduciaries, addresses succession issues, and provides clear guidance to minimize uncertainty.

Regular reviews of estate planning documents are equally important. Major life events, such as marriages, divorces, births, deaths, business transitions, or significant changes in wealth, may warrant updates. Maintaining good records, documenting the reasons for major decisions, and working with experienced legal and financial advisers can also help strengthen an estate plan against future challenges.

Ultimately, effective estate planning is not just about transferring wealth. It is about preserving family harmony, protecting privacy, and ensuring that your wishes are carried out as intended. Investing time in proactive planning today may spare your loved ones considerable expense, stress, and conflict tomorrow.