

The Harmonious Family That Won't Fight

By Gary Altman

Do You Remember the Last Time You Had a Fight with Family Members?

As we begin the start of the 4th of July Holiday weekend and the vacations families share around this time, I think about the messy and dysfunctional family, the back-stabbing Roys as I conclude the show Succession.

Most families are happy families. They get together for the holidays, share laughs, and tell stories. Everyone gets along and enjoys each other's company. Then, the matriarch or patriarch dies. Suddenly, years of pent-up resentment and hurt feelings bubble to the surface, and the once-happy family is now embroiled in litigation over the decedent's estate. This does not just happen in wealthy families like the Roys.

When everyone is alive and happy, it is easy to think that nothing will break a family apart. Many people believe that since everyone is getting along, estate planning is optional because everyone will look out for one another and do what is fair. However, it is crucial that you have a properly prepared estate plan. Failing to plan not only takes control out of your hands but can also leave hurt feelings and possible confusion over your true wishes. This confusion will force family members to the only source able to remedy the misunderstanding: the probate court.

The successful show Succession showed what family trauma looks like. How can children grow up in the same family and respond so differently? How many of us come from dysfunction?

Per a Forbes magazine 2019 poll 70-80% of Americans identify their families as dysfunctional. Additionally, 10% of Mothers are estranged from their children, and 40% have experienced family estrangement. Many things contribute to dysfunction, abuse, absent parents, substance abuse, insecurity, and manipulation between siblings and family members, which can be deep-rooted and carried from generation to generation, e.g., Hatfield and McCoy's.

While not planning can lead to disastrous consequences, poor planning can be as harmful.

Documents not up to date, vague, or improperly prepared can lead family members to challenge them. If the documents are unclear, family members may have differing opinions as to the true intention of the decedent. This is especially unfortunate for those with a trust: One of the primary reasons to have a trust prepared is to avoid court involvement.

Suppose your documents are up to date and clearly state your intentions, but you worry that your decisions may displease your family. In that case, you can include a no-contest clause that may prevent or limit your will or trust challenges. A no-contest clause is a provision that states that if a person contests your will or trust—whichever document contains the clause—and is unsuccessful, they will receive nothing. However, their effectiveness can vary from state to state, so if you think your family might contest your wishes, it is essential to seek the help of an experienced estate planning attorney.

One common situation where contests can arise is when someone is left out of the will or trust. To disinherit a family member intentionally, consider leaving them a significant amount but less than an equal share at your death and using a no-contest clause. By doing this, if the contest is unsuccessful, the family member has something to lose. This may discourage them from contesting your wishes. However, you need to work with an experienced estate planning attorney to ensure this strategy is the best for you based on your state's law and your family's situation.

If you are concerned about a beneficiary receiving a sum of money outright because of creditor issues, spending habits, etc., you need to refrain from disinheriting them. By utilizing a discretionary trust, you can set aside money for the individual to distribute to them when and how you determine. Leaving money to a family member need not be an all-or-nothing decision.

Regardless of your family situation, it is imperative to have a well-drafted, up-to-date estate plan in place. Will or trust contests can be costly and quickly drain the estate or trust, which

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means your loved ones will end up with less than you intended. Labeling tangible items you wish to go to certain family members is also helpful. Family dysfunction is vicious. Take steps to end the cycle, do whatever you can to end the contention, and take steps closer to forgiveness. Most families wish to continue gathering for the family holidays.

We can assist you in creating an estate plan that will ensure that your wishes are carried out and that harmony can be maintained within your family after you are gone. Call the attorneys at Altman & Associates at [301 468 3220](tel:3014683220) or fill out our [contact form here](#) to schedule an appointment.

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