

# **DISHARMONY ALERT**

## **How To Bomb-Proof Your Estate Plan**

Courtesy of the Elder Law Firm of Anderson Associates, P.C.

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In the past two years, we have seen a surprising increase in the number of serious disputes among the children of our clients, especially baby-boomers with a sense of entitlement, after their parents have passed on. Disharmony has risen to at least **25%**<sup>1</sup> Even worse is the resulting alienation which for many of these families will last a lifetime.

Why the increase? It boils down to the resentment and jealousy of those excluded from decision making; the mistakes, delays, and controlling behavior of those in charge after the parental “glue” that held the family together is gone. “I would rather have my children live in harmony without money after I’m gone than be in miserable alienation with millions,” one client recently admitted.

Take the Carlson family for example. We wrote a living trust for Mr. and Mrs. Carlson 15 years ago. They had 5 children who were “good kids and got along with each other.” They named a local son, a business man, as successor trustee. The parents passed on in September, 2008. The local refuses to give an accounting to the other four children and still has not cashed in any investments nine months later. The four children left in the dark have hired an attorney to force the son to fulfill his duties.

In another family, the local child who was named as trustee is doing a great job, but her older siblings resent her being in control and are demanding that all decisions taken by the local child be approved by the older siblings.

We offer ten innovative Harmony Enhancing Measures to reduce the risk of disharmony. Five of the measures include:

1. A pre-death meeting to “clear the air” regarding parental harmony wishes;
2. Having children sign a conflict resolution agreement;
3. Prepare anti-bicker forms for tangible personal effects;
4. Divide successor trustee duties between a professional and a family member, or assign all duties to a professional;
5. Enroll in our Firm’s Longevity Program designed to update your plan and prepare your family trustee for the future;

The other five Harmony Enhancing Measures are on the next page.

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Only you can decide which of these measures are right for your family. Please give this topic serious thought before the next meeting.

Please ask about our Disharmony Risk Assessment form. By filling it out, you will be able to more carefully evaluate your family's disharmony risk.

### **THE OTHER FIVE HARMONY ENHANCING MEASURES**

6. Include "life planning" provisions, which clearly state your preference to *age in place* in the least restrictive housing setting when you need assistance and use your funds to access quality care.
7. Direct children to attend a "clear the air" settlement conference after your passing—guided by an experienced attorney.
8. Name a neutral party, e.g., a friend, attorney, or accountant, to serve as a "Trust Protector", who will check-up on the Trustee and enforce mediation upon a dispute.
9. Include a "no contest" provision which disinherits a child who contests the estate plan.
10. Set an exact fee to compensate a child for serving as Successor Trustee so that no one can complain later.

For more information or to schedule an appointment with one of our attorneys, please call The Elder Law Firm of Anderson Associates, P.C. at (906) 228-6212, email us at [upelderlaw@charter.net](mailto:upelderlaw@charter.net), or write to us at 148 W. Hewitt Avenue, Marquette Michigan 49855.

<sup>1</sup> In his law review article, Timothy P. O'Sullivan estimates current family conflicts at 33% in estate plans, see "Family Harmony: All Too Frequent Casualty of the Estate Planning Process", p. 250, Marquette University Law School "Elder Advisor", May 2007.