



New Year Resolutions

The New Year brings with it the tradition of making resolutions. How about we suggest some resolutions that you may wish to adopt for the New Year?

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High on the list for many people is the idea of making of a Last Will and Testament. We often times meet people who come in and tell us that meeting with us to discuss the Last Will and Testament was a New Year's resolution that they are now able to check off their list.

Many people believe the Last Will and Testament is the most important part of one's overall estate plan. We have also often heard it said that everyone needs a Last Will and Testament.

While each of the previous two points are open to debate, what is certainly beyond debate is the idea that everyone should focus on their current estate plan to confirm that however it is structured, it is consistent with one's intentions and, under ideal conditions, will achieve the tax, probate avoidance and Medicaid planning objectives as might be appropriate.

And if you're thinking that you do not have an estate plan, let me correct you. Everyone has a plan in place. Whether it is your plan or whether it is the plan that State law has set out for you as the default alternative, is the only real discussion.

Once you hear what State law says that about such matters, you might be sufficiently satisfied. On the other hand, as with most of our clients, their reaction is that they want to implement their own plan, so as to achieve their own objectives, all carried out by people that they trust and have named to do such work.

This leads us to other resolutions you might wish to consider for the New Year. Perhaps this might be the year to get those General Durable Powers of Attorneys for you and your spouse, or for you, if single. I think a strong argument could be made that these documents are generally far more important than a Last Will and Testament. But whether one type of document is more important than the other is an unnecessary argument. The reality is that since the documents perform very different functions, generally speaking, both type of documents are important.

How about a resolution to finally learn whether getting a trust is worthwhile or not. We have clients that come in and seemingly have spoken to the butcher, the baker and the candlestick maker, or some other combination of friends and family members. Needless to say, by the end of it all, they are quite confused. Admittedly, it is confusing. However, this part is not confusing at all. Meet with an attorney who can explain what a trust is, how they work, and whether this approach would be helpful for you. Generally speaking, if you own real estate, having a trust is a good idea. There are exceptions and that is why meeting with an attorney to evaluate your own personal circumstances is far better than attempting to figure it out on your own, with input from family and friends.

While I cannot speak for all attorneys, I can certainly address the practices in our office. We offer no obligation consultations to review the clients' circumstances, explain the above legal concepts in greater detail, answer whatever questions the client might have for us, advise on the appropriateness of certain legal solutions, including the use of a trust, and whatever the outcome, follow it up with a no obligation letter outlining our conclusions and generally offering a fixed fee proposal to implement the recommendations.

So, what do you think? Time to follow up on some New Year's resolutions?