

WILLS ARE FOR MORE THAN MONEY

Lester died of cancer at 68. I grieved at the funeral because he was a friend and special client. “Special” because he taught me more about writing wills than I ever learned in law school.

When he called my office six months ago, insisting on an immediate appointment, I said “Sure, come on over, what’s the problem”? Lester was a personal friend who had never consulted me about his legal affairs.

“I can’t tell you now,” he answered nervously, “but it’s an emergency. I’ll be there right away”. He hung up.

I am neither a criminal attorney accustomed to desperate calls from jailed clients, nor a divorce lawyer used to sobbing visits after marital disputes. My practice is typical of suburban lawyers- -heavy on real estate closings, wills, and the legal details of small businesses. Still, every client thinks his case is an emergency.

Lester walked into my office dressed as always in Bermuda shorts and a polo shirt- -his standard bicycling garb. In middle age he had taken up biking with a vengeance; for sport and for health. “John, I just received some bad news”, he began. My doctor called and asked me to come and talk to him about the chest x-ray I had last week. There’s a spot on my left lung, and you know what that means”. He stopped and handed me a rough draft of a will. “I need your help”.

I nodded understandingly and looked at what he had handed me. “I leave all my property one half to my wife and one half to my children.” The second sentence was the clincher. “I give and bequeath to my son, Lawrence, my Raleigh International bicycle and one half of my bicycle equipment; to my son, Raymond, I give and bequeath my Raleigh Super Course bicycle and the second half of my bicycle equipment.” Attached were two typed pages of stocks and bonds he owned.

Here was a man with a two-page list of stocks and bonds worth a million dollars and he devoted more space in his will to his bicycle than his money. It was Elvis leaving his guitar, Billy Graham his Bible, and Henry Ford his first Model-T.

I never saw Lester alive again, but I loved him for letting me prepare that will. Before then, I had looked upon wills simply as a mechanical means of passing on wealth- -a routine workman’s task calling for minimum thought from the lawyer. Lester caused me to see that a will is an expression of values a person has gained during his life- -materialistic and otherwise- -and wants to pass on to the living. Part of a lawyer’s job is to express these personal values in the will. Lester valued not only money, but the health and enjoyment he received from bicycle riding. He wanted his sons to remember him by having his bicycles, and he also wanted them to retain his values of regular exercise and good health. This was the personal touch in his will, and it taught me to include a personal dimension in every will I draft.

With my new philosophy of writing wills came a new checklist of items to cover with the client. The standard ones were still there: Who do you want to receive your property? Who should be named guardian of your children if they are minors? Who do you want to be your executor? Any charities you want to leave money to? Will you have enough property for estate tax problems- -over \$600,000 Added were questions like: 1) Do you have any items of personal value or meaning you want to leave to a special person? 2) Any special messages or advice to give someone? 3) Any values you wish to share or encourage in others?

These questions are meant to make clients think about the opportunity to use their wills for more than a means of parceling out money.

One of my favorite examples is a young advertising executive. Most young couples do not like to think about wills because it means focusing on the unpleasant and unfamiliar subject of death. However, this couple had a friend who had been killed in a car accident. We spent many hours discussing which relative should serve as guardian of the children. I advised someone geographically close so the children's school and friends wouldn't be too disrupted, and a person with children close in age to their children in order to understand them. After outlining a lengthy will with guardianship and insurance trust provisions, I asked about items of personal significance to include.

"My wine," the husband shouted. The opening bequest in his will is a classic: "I give and bequeath my case of 1961 Chateau Mouton Rothschild Magnums to my brother."

I learned quickly that many clients will try to use a will to control their heirs from the grave. "I leave all my property to my wife provided she does not remarry", one client made me write. Another client insisted on the clause: "I bequeath \$25,000 to my grandson on his 25th birthday upon the condition that he never smoke tobacco or drink alcohol before that day and that he swear to my executor that he shall never do so afterward."

I confess to some misgiving over such attempts to control from the grave. However, they do not shock my conscience as much as a bequest of "\$100,000 to my daughter provided she marry a white man of the Methodist faith in which she was raised." This bequest was the subject of a lawsuit by the daughter who took a husband of another faith. The daughter lost 50 years ago; today she might prevail under a different philosophy of civil rights.

When I find clients thinking along such restrictive lines I try to discourage them. I suggest instead using a will to make a statement- -to influence rather than to control, although the line between the two can be difficult to draw.

Is it possible for the average person to parcel out property at death without a will- -to "avoid probate"? Often it is, through joint ownership or through trusts. But this is just for money, and as Lester taught me, a will is for more than simply passing on wealth to the next generation. Properly thought out, it can put a personal dimension into estate plans.

A will, in other words, can be a means to making a final, special statement to special people- -a way to leave something that can mean much more than money.