

**Stories From Almost 50 Years of Practice in Estate Planning and Estate**

**Administration**

By: Ronald P. Johnson

- A. Basic Estate Planning Documents
  - 1. Health Care Release Form
  - 2. Advance Directive for a Natural Death (“Living Will”)
  - 3. Durable Power of Attorney for Health Care
  - 4. Durable General Power of Attorney
  - 5. Last Will and Testament
  - 6. Revocable “Living” Trust
- B. Living Will
  - 1. Complex – needs much explanation
  - 2. Issue with long term hydration or nutrition
- C. Durable Power of Attorney for Health Care
  - 1. Geographic proximity
  - 2. Time consuming
  - 3. Must use it
  - 4. Funeral Decisions
- D. Durable General Power of Attorney
  - 1. Very broad powers
  - 2. Abuse

E. Last Will & Testament

1. Issues with probate
2. How to avoid probate
3. Handwritten will and problems

F. Revocable Trust

1. Avoids probate
2. Can contain trusts for spouse, children and grandchildren
3. S. corporation shareholders
4. Must actually title assets in trust or have trust as beneficiary
5. In conjunction with POD or TOD designations
6. Disclaimers
7. Abuse

G. Joint Ownership of Assets

1. Ease of access on death
2. Access for funeral expenses

H. Beneficiary Designations

1. Percentages
2. Minor children

I. Life Insurance

1. Ownership and beneficiaries
2. Can avoid claims of creditors
3. No minors as beneficiaries

4. Incorrect beneficiaries
5. Estate as beneficiary
6. Lack of coordination among insured owner and beneficiary

J. Premarital and Post Marital Agreements

1. Important for second and subsequent marriages
2. Overcomes elective share statute
3. First marriage scenarios
4. Issues with N.C. Doctrine of Necessities

K. Most Frequent Problems in Estate

1. Vehicles – joint but not JTWROS
2. Failing to transfer joint assets
3. Real estate in other counties or states
4. Not transferring assets at all
5. What the children really want