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Ethical Wills - More Precious Than Gold

In this profession as elder law and estate planning attorneys we have the opportunity to speak with people about their final wishes almost every day. We then craft legal documents such as wills and trusts that comply with the law so that the individual's worldly assets are passed along as smoothly as possible. We, as attorneys, try to remove emotional and inflammatory words. The trust or will is usually scrubbed clean of certain words to limit, as much as possible, opportunities for court battles and hurt feelings. The estate documents, a will or a trust, is there to help properly pass along the person's earthly belongings.

But what so often happens to us, after speaking with someone for even a short time, after hearing the story or his or her history, we feel that our documents are seriously inadequate. Not legally inadequate. We find they won't sufficiently share the life of the person. You have so much more to share than possessions. The real heart of the person, his or her values, beliefs and traditions, which are so important to share, rarely have a place in our legal documents. These treasures are so valuable and yet often overlooked and even inappropriate for the written legal estate plan.

Have you ever heard of an ethical will or a legacy document? It is the sharing of values, wishes, beliefs and more, in a written form. To the recipient, ethical wills can be even more valuable than the will or Trust and sometimes, words are more precious than anything material. Some have told us they did not understand why their spouses, children or families would want something like that. We would then ask them, "Would you have wanted one from your mother, father, spouse or loved one?" They quickly begin to see how precious an ethical will can be.

Ethical wills have a long history in Jewish culture; however, many others have espoused the concept. The writers' intention was to convey their ideals for generations to come. Ethical wills have been known to be lengthy or short. For example, one parent wrote, "Kids, this is my last wish, be good to each other; share and share alike; don't fight...Mom." A simple statement such as that shares a person's heart for their children. Another parent wrote, "Don't forget whose child you are." Longer versions tell of family history, reasons for beliefs or actions, or religious or moral beliefs. A modern day example of an ethical will is from a recent movie, Raising Helen. A sister, who died suddenly left two letters, one to each of her sisters. She explained why she chose one over the other to be the guardian of her children. She did the opposite of what anyone would expect and the sisters, throughout the movie, struggled to understand her letters. Of course, in the end, they came to understand and respect her wisdom. The letters remained a treasured part of their lives.

Ethical wills answer the question about the "missing" part of my legal documents; the part we must leave to our clients. While we continue to believe a legal estate plan is a must for every person, we hope each will also write their own ethical will.