



TRADITIONS...WHEN SHOULD THEY BE BROKEN?

By: Sabrina Winters, Attorney at Law, PLLC

Confession time! I played a little hooky from work yesterday and treated myself to a manicure in the middle of the day nonetheless! My enjoyment for that hour or so is the peace and quiet. It's not having to make too much conversation or maybe reading up on some People stories. I do not typically engage in too much conversation.

But yesterday, the nail tech from Vietnam was feeling down and I could tell really needed to talk to someone. She told me about how her father in law died last year, and how ugly his wife was treating his son and how the estate has still been going on for various reasons. She said it is common not to have a will.

This led to an enlightening discussion of how her Vietnamese family views death and what their traditions are. She told me that the tradition for her Vietnamese family is that the oldest takes care of everything when the parent dies. This means that the oldest is named as the beneficiary on all assets and is then entrusted to distribute the money equally to all the other siblings.

As an Estate Planning attorney, you can imagine my concern over this. Why?

1. How can mom and dad guarantee that she will distribute the money? If she is named beneficiary, it is hers and hers alone and cannot be controlled "from the grave" so to speak.
2. How long is she going to take to make the distribution...if she even does?
3. In North Carolina there is no inheritance tax. If she distributes it, it would be considered a gift from her to her siblings and not an inheritance to the siblings. I see potential gift tax issues.

It doesn't matter if you are Vietnamese, Italian or Irish. The same concerns I have above

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would apply. When you are dealing with an estate and how it is distributed, it has absolutely nothing to do with your “traditions”. The laws in North Carolina apply to everyone and do not bend because of nationality or beliefs or traditions. There are other ways that a person’s heritage and traditions can play a significant role in estate planning...but not when it comes to distributing assets!

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