

# BEST INTENTIONS

ENSURING THAT YOUR ESTATE PLAN  
DELIVERS BOTH WEALTH AND WISDOM



Colleen Barney, Esq.  
Victoria Collins, Ph.D., CFP

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## **Dedication**

This book is dedicated . . .

To our clients who shared their personal stories

To our families who show us daily the importance of knowing  
our values

And to the victims of the terrorist attacks who never had a  
chance to say good-bye



## F O R E W O R D

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So many books focus on how to create wealth when we are young, accumulate more wealth as we grow older, and pass on that wealth to our families when we die. With all of this focus on wealth, we can easily lose sight of other important things. The fact is that no matter how much wealth we accumulate, we still need to have the foresight to pass along our values and ideals to our loved ones. What good is our money if we are not responsible with it? What have we really given our children if we have not taught them to handle their financial resources responsibly?

The book you are holding is the result of lessons and insights that my coauthor, Colleen Barney, and I began to discover in our practices. Clients and colleagues shared their stories of best-laid plans that didn't work out the way they had intended. In most cases, it wasn't a lack of planning or procrastination that was the culprit. Indeed, in some cases, elaborate estate plans were made only to find out later that the players central to the plans didn't get along. We noticed that it is a lot easier to make plans about how to pass on the tangible parts of our lives—stocks, bonds, cash, and property—than it is to pass on the intangible values of hopes and dreams.

Although Colleen and I come from two different professions—estate planning versus financial planning and investment management—the common thread is that we both help clients express their needs and goals and then work with them to accomplish what they want. I like to think of my work as helping clients meet goals during life, while Colleen's is about ensuring those and other goals continue to be met after life.

A driving force for this book were the stories we heard from clients and colleagues about the best intentions people have for what they want (or don't want) for their heirs, and then what

really happens. We knew we had to somehow capture those stories and “tease out” the patterns and the lessons. It was challenging but enjoyable. We shared many a lunch listening to CPAs, financial advisors, clients, and others recount their stories. The pages of the book began to fill with heartwarming, often poignant, sometimes sad, but always captivating stories of real people facing real situations.

During the process of writing, which Colleen shouldered to a great extent, we shared our own stories from different stages in our lives. We bring the different perspectives of age, but we were struck by a strong common denominator: Colleen is passionate about what she wants to share with her two young daughters, Julia and Rachel. I feel equally passionate about my eight grandchildren: Morgan, David, Alex, Derek, Timothy, Audrey, Daniel, and Liam. I want them to be financially responsible, to make family and friends a priority, and to value their education and their country. I also want them to be considerate and sensitive to others and to help those who are less fortunate. For me, philanthropy is important, and I’d like them to have an interest no matter what their level of wealth turns out to be. As you read this book, you’ll find many examples of how estate planning can ensure such values get passed on.

One of the things my husband David and I always tried to instill in our five children was that they needed to make their way in this world without needing to rely on us. We were able to pass on to them the lessons of hard work, and they were able to take those lessons and learn from them. In this book, we’ve included many examples of how we could have instilled those values and taught those lessons even if we were not here to do it ourselves.

You’ll also see several of our roles reflected in our writing: mother, grandmother, stepmother, wife, and busy professional. Sometimes, meeting the demands of our different roles feels like we’re being pulled in several directions at the same time. Men are no strangers to this feeling, either. It’s a lot tougher today to pass on values when children are bombarded with multiple and

often mixed messages from parents who may be single, married, divorced, widowed, or remarried. Many children have a mother, father, stepmother, stepfather, siblings, and stepsiblings—no wonder there’s confusion. It’s hard enough to pass on values when we can model them day-by-day, but imagine estate planning in these complex situations.

I believe that now, even more than ever before, we in this country need to focus on what is really important to us. It is not the wealth we accumulate, but it is what we do with that wealth. It would be wonderful if we could take the time during our lives to pass on the lessons we have learned to our loved ones—lessons about being self-sufficient, responsible, thrifty, caring, and so many other values. Unfortunately, not everyone gets the chance to instill all the ideals they would like. Some people die early or unexpectedly. Some ignore the fact that death is inevitable. And some get so caught up in the tools and techniques of passing wealth that they forget about the wisdom they also have to share.

*Best Intentions* encourages us to look inside ourselves, to identify what is important to us, and to see our estate plan from the perspective of those who come after us. We hope this book prompts thoughtful reflection, meaningful dialogue, and estate planning that does just what you want it to do.

—Victoria Collins, Ph.D., CFP



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## P R E F A C E

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It's funny how we think about things. When we raise our families, we spend countless hours teaching our children all sorts of lessons. We subtly or sometimes not so subtly pass on to them our desires about college education and about being contributing members of society. We make sure that they understand we do not condone drug abuse or violence against others. Although the lessons may change, we continue to pass on the wisdom of age to our children even after they grow up. We give advice regarding careers and parenting. We talk to our children about the appropriateness of their choices for mates, lifestyles, and behaviors. Why do we stop at death? We are not talking about séances and other similar types of communication after death, but about the greatest legacy we can give our families: to continue passing the wisdom we have acquired through the last written documents we leave them—our estate plan.

Children are not our only concern when designing our estate plans. Some of us don't have children, and others of us have more than just our children to think about. Do we feel any less strongly that our nieces and nephews have a college education than our children? Not at all. Do we worry about giving something to one sibling and not to another? Of course. If we are providing for our parents while we are alive, would they no longer need the help just because we have died? Certainly not.

We know many clients, friends, and others who focus only on probate avoidance or estate tax reduction when preparing their estate plans. We would like to challenge them—and you—to think about what your estate plan says to your family. Does your estate plan pass on the wisdom and lessons you would if you were still here? How can you pass on your estate in a way that ensures you

have provided more than just cash to your loved ones? How do you transfer your visions and ideals, values and morals, work ethic and guidance, and most important, your love?

In this book, you will find stories and letters from and about real people, people just like you who, despite their best intentions, did not pass on what they intended—their own special messages and lessons. This book will challenge you to develop special messages to pass to your loved ones and then find ways to communicate those messages even after your death.

Before you start reading this book, sit down and answer these three simple questions:

1. If you died today, do you still have lessons left to teach your loved ones?
2. If you could see what you left behind, what would cause you the greatest disappointment? The greatest pride? The greatest sense of accomplishment?
3. What unintended messages may be sent to your loved ones in your current plan? By your lack of a plan?

Once you have the answers to these questions, then read about others who, though having the best of intentions, didn't pass the life lessons they wanted.

This book will not explain how to avoid probate or minimize taxes. This book will not teach you when a QTIP trust is better than an A-B trust. This book will not tell you when a springing power of attorney is better than an immediate power of attorney. This book is about you and the most important lessons you want to pass on to others. It will help you make sure that your estate plan not only does what the law says it should do, but actually does what *you* want it to do. It will help you take your best intentions and make them a reality.

—Colleen Barney, Esq.

## A C K N O W L E D G M E N T S

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This book could never have been written without the heartfelt stories from so many dear clients. They shared their hopes and dreams, fears and frustrations, in a sincere effort to pass both wealth and wisdom to those they care about. It is always a privilege and a pleasure to work with such clients.

Our professional friends and colleagues provided valuable input as we worked to gather relevant concepts and “tease out” the major themes. We especially thank Jeffrey Hipshman, Marilyn Millare, and Barbara Clark at HMWC, CPAs and Business Advisors in Tustin, California; and Darliene Evans at First American Trust Corporation in Santa Ana, California, who shared her extensive expertise in trusts and provided valuable insights for this book.

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Deep appreciation goes to our husbands and children, Jonathan Barney and daughters Rachel and Julia Barney, and David Collins. Our families have a special understanding for the time and energy it takes to write a book such as this, and we thank them for their never-failing support and encouragement.

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## C H A P T E R

# 1

# Failing to Plan Is Planning to Fail

## JANINE'S STORY

When Bruce and I got married, we promised to love, honor, and cherish each other. We promised to take care of each other in sickness and in health. And even though we said 'til death do us part, I never really thought that our obligation to each other ended at death. I was barely 22 when we got married. Bruce was 28 and had been married once before. He had a three-year-old daughter from his first marriage. It wasn't until our son was born two years later that I started to think about our own mortality. I would get nervous every time we got on a plane. If something happened to us, what would happen to the children?

I started asking Bruce about doing a will. He would laugh and tell me that I was being silly. We were only in our 20s and early 30s, why would we possibly need a will? Sometimes the discussions would turn into fights, because I didn't feel he took my concerns seriously. He was

a good father and a good husband in so many ways that I just couldn't understand why he was so stubborn on this point. Didn't he care what would happen to the children if something happened to us? The issue would come up around vacation time but would be forgotten throughout the rest of the year.

Then Aunt June died and we went to her funeral. Aunt June was 82 and had lived a good long life. During the service, the minister talked about the great life Aunt June had led. He told us she knew at the end that her time left on earth was short and that it was an incredible opportunity for her to tie up loose ends—to say her good-byes, to finish any unfinished business, and to show everyone the love she had for her family. Then he asked us to think about our lives and whether we had unfinished business to take care of. He told us that we may not all have the blessing that Aunt June had of knowing when her time was coming to an end. He reminded us that we could die that day, the next day, or the next week. He encouraged us to make sure that we showed our families how much we loved them by not leaving them with our unfinished business.

On the way home, I told Bruce that I thought the minister really made a good point about getting our affairs in order, because we never know when our time might come. Bruce laughed and said I was too emotional. We barely spoke the rest of the night.

The next day, Bruce's boss called me from work. There was an accident at the construction site, and Bruce was being flown to the nearest trauma hospital. I frantically raced to the hospital, but by the time I got there, Bruce had already died.

Before I even had time to make all of the funeral arrangements, I got a call from Denise, Bruce's ex-wife. She wanted to know what types of provisions Bruce had made for their daughter, Brianna. When I told her that

Bruce had not made any arrangements, she accused me of lying and told me that she was going to make sure that Brianna received her fair share of Bruce's estate. I kept thinking to myself, What estate? We had a nice home and a few dollars in the bank, but that was it. There was a \$50,000 life insurance policy, but that would just barely help us pay off the mortgage and the burial expenses. I hoped Denise would calm down, so that we could talk about this rationally.

It has been four years since Bruce's death. Denise sued the estate claiming that almost everything Bruce and I had worked for together should go to Brianna. I love Brianna dearly and would have gladly made sure she was provided for, but I also needed to provide for our son and myself. I have had to borrow thousands of dollars from my parents to fight Denise and her lawyers. I have had to prove that there was no will, no trust, nothing indicating how Bruce wanted his estate to be divided. But how do you prove that a father of two, who seemed by all other indications to be a great dad, didn't make provisions for his children in the event of his death? I wonder how Bruce could have cared so little about all of us that he did not make any plans for us.

## **Showing That You Care**

Sometimes saying nothing says a lot to others. The problem is that it probably doesn't say what you really mean. By failing to plan your estate, you cannot come back at a later date and tell your family and friends that you really did care. Failing to plan leaves those you love with the message that you really didn't care enough. You put thought into what you are going to wear each day, where to have lunch, what you will do over the weekend. Why not put some thought into what will happen if you do not