

Business

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STEPHEN CANTRELL/staff photographer

Certified appraiser Banylou Mearin owns White Elephant Antiques, a firm that has been disposing of estates since 1940. The entire contents of this Birmingham home were sold,

including a sports car purchased six months before the owner died. She had left all her possessions to an assortment of relatives and friends who preferred cash to personal items.

Disposal of personal items can split family

By Janice Brunson
staff writer

When Pearl Thiry died at age 69 on Jan. 4, her family was certain she had known that death was imminent.

Christmas, Pearl's favorite time of year, was bigger and better than ever before. Pearl showered her five children and four grandchildren with gifts. And just days before dying, she called each of them, professing her love, sharing nuggets of Pearl-styled wisdom and recalling warm memories.

But Pearl's greatest legacy is quite possibly the manner in which she distributed her most cherished personal items before dying.

"She wanted to come to your house so she could see her things and watch you enjoy them while she was alive," said granddaughter Bridget Moran, whose Canton home contains pieces of Pearl's bric-a-brac and furniture.

It is Pearl's charm bracelet that best signifies a sense of family unity and harmony. The bracelet, containing charms gathered through the years, reflects family history. Pearl dismantled it charm by charm, giving the most appropriate to each member of the family.

Moran, for example, an office receptionist in Plymouth, received a miniature golden typewriter. Moran's brother, Michael Lucas of Canton, received a watch fob with a treasure chest. Lucas is a business major at Eastern Michigan University.

But Pearl's way is not necessarily the way of all families. While many may have wills for disposing of major assets, few think of personal possessions that often contain little value other than emotional meaning.

"IT DREW BLOOD," said Bloomfield Hills attorney Patricia Donaldson of a second-hand, three-speed bicycle valued at \$25. The bike was part of an estate she recently helped settle.

Donaldson, a public administrator since 1970 for estates without heirs or in dispute over distribution of personal goods, said it required five hours of group discussion to resolve ownership of the bike. It was donated to charity, a home for juveniles in Oakland County.

"What should go to whom is very similar to divorce. It produces the same deep-seated feelings," Donaldson said. "My job is to attempt to solve problems with as little bloodshed as possible. To do that, everybody has to give a little," she said.

Southfield attorney Steven Malach, who has specialized in probate law for 11 years, said family photographs are known to trigger bitter family battles.

"Pictures can be a real thorn, much more so than say furniture, jewelry or other real property," Malach said. He was one of three attorneys recently retained by different generations of a single family to resolve such a dispute that was settled only after a series of meetings between family members and attorneys.

Robert Waddell of Bloomfield Hills, chair of the Oakland Bar Association's probate committee, said the majority of battles he has witnessed involve "a second wife and kids from the first wife." In these instances, solutions are especially difficult to come by.

"WHEN PROBLEMS arise over grandma's handmade quilt or the cup and saucer 'that grandmother gave mother that I should have be-

cause I was grandmother's favorite," we play Monopoly," Donaldson said.

A separate card lists each disputed item. Cards are placed face down on a table. Participants draw straws. The person with the longest straw chooses first. Whatever is picked is kept. No exchanges. No questions.

Malach said the dispute over family photos was resolved by a "loss of the coin. Heads went first. Tails second." Certain photos were reproduced, with reproduction costs paid for by the estate.

A toss of a coin to determine who has first choice is a common way to distribute personal items, many of which have little or no resale value. A West Bloomfield man and four brothers in California peacefully distributed contents of their recently deceased father's garage by such a method. They also agreed their only sister, divorced and less well off than the brothers, should receive the family home and its furnishings.

Compromise in such instances is essential. Otherwise, the cost of settlement likely far exceeds the value of disputed items.

"Generally speaking, values don't even come close to attorney and appraisal fees. And if push comes to shove, such things can be admitted to (probate) court," Malach said.

Such costs are not paid by the estate.

"I TELL THEM, 'You're talking principle. If you have the financial resources to bear the cost of putting this \$5 item in your hands, then let's go after it.' But when I tell them there is probably going to be a substantial legal cost, and the estate does not pay for it, most back off," Donaldson said.

In fact, such disputes are rare, occurring in less than 1 percent of all

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Control assets with a will

Three out of four Americans die without a will. But consider this: If you die without a will, you do something that you would probably never have done while alive. You relinquish control over your assets and your survivors to the government.

According to the Farmington Hills-based Michigan Association of CPAs, if you want to have a say over what happens to your family, your home and your financial assets after your death, you need a will.

If you still have doubts, consider what can happen if you die without one. The state will name an executor for your estate, appoint a guardian for your children if necessary, draw on your estate to pay creditors and taxes, and distribute the rest of your estate according to state laws. As a result, your child could end up being raised by a family member you distrust, your spouse could be saddled with exorbitant fees and taxes, and if your spouse remarries, someone else, or someone else's children, could inherit your estate.

A carefully planned will, which most lawyers can draw up after one meeting, can prevent the state from enforcing decisions about your estate that you would never have made. For persons who do not wish to consult a lawyer, but want to follow a structured form, the state of Michigan provides for a statutory will.

Before you decide to write a will, take an inventory of your assets and decide how you want them distributed. Remember to think in percentages rather than dollar amounts.

Consider the implications of each provision of your will. Do you want to divide your assets equally between your two children if one of them has five children and the other none? Who would be able and willing to raise your children with values similar to yours if both you and your spouse died in an accident? Should your children have full access to their inheritance as early as age 18? Do you want to incorporate safeguards against the consequences of a spouse's future remarriage into your will?

ONE OF THE MOST critical decisions you can make about your estate is the selection of a personal representative, formerly called an executor. As overseer of your estate, he or she will have to inventory all of your assets, collect all money owed you, pay outstanding debts, no-

practically speaking

tify insurance companies and collect the proceeds, arrange for your immediate family's living expenses, liquidate your assets, prepare and file all tax returns and distribute your estate.

Besides insuring that your estate is distributed according to your wishes, a will can also reduce the financial burden placed on your heirs. Tax claims on an estate can also be substantial. Under the federal estate tax law, you do have a degree of protection. If the gross estate, including the value of all lifetime taxable gifts, is under \$500,000, filing a federal estate tax return is not required. But if assets exceed \$500,000 even after deducting administrator's fees, funeral expenses, outstanding debts and personal representative's fees, the federal estate tax rate kicks in at 37 percent and goes as high as 55 percent.

There is one major exception to this rule. Under the unlimited marital deduction, you can leave your entire estate to your spouse without incurring federal gift or estate tax — regardless of your estate's worth.

List can aid survivors

The death of a family member brings a whirlwind of anguish and grief. Never is this more true than with the death of a spouse. Survivors are often ill-equipped to deal with the consequences of a spouse's death; pressing financial and practical matters seem both insignificant and overwhelming.

The Michigan Association of CPAs suggests that you prepare for the possibility of a spouse's death when your wills — and your spouse — are still with you. Your first priority should be writing a will. (See accompanying story.)

Funeral arrangements may be the hardest topic to discuss with your spouse, but an open discussion and mutually arrived at decisions can save a spouse from having to rapidly plan funeral arrangements in the earliest period of mourning when grief and time pressures are most debilitating.

But when your surviving spouse dies, tax will be charged against your estate and your spouse's combined, thus placing a potentially tremendous tax load on other heirs.

If your estate is substantially higher than \$500,000, you can minimize the tax burden on future heirs by dividing your estate between your spouse and a credit-shelter or bypass trust, which can provide your spouse and children income for life and enable you to take full advantage of the unified tax credit. Another option is to divide assets equally between you and your spouse prior to death. Or you can make tax-exempt gifts of up to \$10,000 (or \$20,000 with your spouse's consent) per year per person. You can even consider educational or nursing home bills as gifts if you pay the bills directly. If minimizing the tax burden on survivors is a primary concern of yours, consult a tax professional or attorney about these procedures.

Keep your will up to date. Revise a will after a marriage or divorce, or when tax laws change. Keep your will in a central location with a copy of all other essential records.

Careful planning with a tax adviser and an attorney will enable you to create a will that provides for the well being of your family and insures your peace of mind in the here and now.

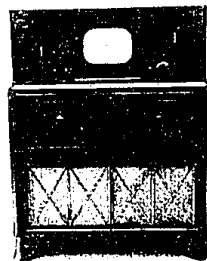
You should also draw up a letter of instructions — a simple list of information related to an individual's financial and legal status. Include telephone numbers of lawyers, accountants and doctors. Document employee, veteran and Social Security benefits; pension and profit-sharing plans; insurance policies and their beneficiaries; union membership; savings and checking accounts; investment holdings such as IRA accounts or mutual funds; and any valuable collectibles.

List all potential creditors, including credit cards, the bank issuing your mortgage, and the issuers of any other outstanding loans. Note the location of such important items as your birth certificate, marriage certificate, divorce papers, Social Security card, safe deposit keys, income tax returns and the will. If you have bought a cemetery plot, list the amount paid and the deed number.

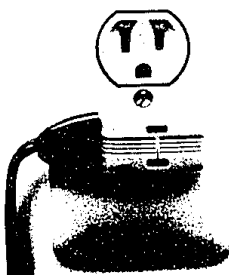
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