
Get Practical and Personal with Estate Planning—It Is Not Just the Money That Matters

By Mark Colgan

Mark Colgan discusses legacy planning and outlines a strategy for introducing your clients to this historic and meaningful planning opportunity.

Technically speaking, traditional estate planning involves arranging your affairs to provide for the orderly management and disposition of the client's property after death. From a value-added standpoint, the real purpose of estate planning is to properly protect the client's loved ones and help ease the burden they will face in the aftermath of death. With this in mind, a good estate plan must address much more than a client's material assets. It should involve passing on what matters most: values and life lessons, final wishes, most prized personal possessions, words of wisdom. These are the things too valuable to risk losing. By addressing these more practical and personal details, your estate plan provides survivors with more of the knowledge they need and want.

While a thorough documentation of a person's practical and personal matters is somewhat extraordinary, it can be invaluable to survivors. I know this all too well from personal experience. I lost my wife, Joanne, when she was just 28-years old. She passed away on September 4, 2001, just a week

before the tragic events of 9/11. Our wonderful life ended abruptly and my life was suddenly changed forever. It went from fairytale bliss to tremendous, unbearable pain. I walked a path of introspection and solitude and carried on an internal debate about my purpose in life.

Practical Matters

During this most difficult time, I also had to address unwelcome, yet necessary, details. Within hours of her death, I was writing an obituary and planning the details of her funeral. Within six hours, I had gone from waking up with my wife to beginning the process of burying her. I also had to deal with a mountain of financial details that sprung up quickly. Unfortunately, these practical matters are not thoroughly addressed in traditional financial or estate planning. People typically consult with attorneys to create a will, healthcare proxy, and power of attorney. They may even consult with a financial planner to better understand how to preserve their funds for future generations. But typically, there are many significant details that are often left unsaid, unplanned, and open to guesswork after one's death.

Some might think that for a Certified Financial Planner™ professional like me, such details would not have been difficult. But my emotions left little room for my normal logical and practical thinking. I

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remember asking myself, “If this is difficult for me, a financial advisor, how does the average person even begin to deal with this?”

Personal Matters

Joanne’s will also left another void, one that was even more disconcerting. Joanne’s memories, values, and lessons that defined her life were never documented. This was because her “top-notch” estate plan only focused on her material possessions and neglected to share what mattered most.

The desire to pass on one’s values is shared by many. In a landmark survey, The American Legacies Study discovered that when defining a legacy, people believe there are four pillars that must be represented:

- Values and life lessons
- Instructions and wishes
- Personal possessions of emotional value
- Financial assets or real estate

The study also uncovered that those in the baby boom generation and their parents feel that the non-financial things an individual leaves behind are 10 times more important to them than who gets the IRA or the stocks. Family members want to cover the really important issues such as how someone wants to be remembered, lessons they learned in life, how their beloved pet is to be taken care of, and who should receive their most personal belongings. In short, they are taking stock of their lives and looking for clarity and control. Findings also showed that passing along “values and life lessons” was overwhelmingly considered (by over 75 percent) the most important element of a legacy.

This study has helped attorneys gain awareness of what their clients find important to pass on to future generations. Clearly, financial assets are important, but to the extent that an attorney can include more of those intangible aspects of the client’s legacy, the attorney can significantly enhance his or her relationships with clients.

The Precursor to Legacy Planning: Ethical Wills

You have probably heard of ethical wills. This concept is said to date back 3,000 years to the

Hebrew Bible, and references to this tradition are also found in the Christian Bible, the Talmud, the Quran, and other cultures. Some versions of ethical wills are relatively new, like the “ending notes” that are gaining popularity among the elderly in Japan. This tradition began orally but over time ethical wills evolved into written documents and were attached to legal wills, which distribute material possessions. Medieval ethical wills are said to have contained fathers’ directions to their children or elder teachers’ advice to their disciples. They were normally written in old age, but not immediately before death, so they were clear revelations of the author’s innermost feelings and values. While we do not have a lot of examples of ethical wills from the eleventh and twelfth centuries, these documents gained popularity in the thirteenth century onwards. From the sixteenth through eighteenth centuries, these wills became more elaborate and scholarly. They also gained popularity among women. Barry Baines, a hospice director in Minneapolis and author of the book *ETHICAL WILLS*, cites the memoir of Gluckel of Hameln, written in the 1690s and born out of Gluckel’s lack of power as a woman, as a prototype of the modern ethical will. “Women couldn’t bequeath valuables, so they bequeathed values,” says Baines. (citation)

Today’s ethical wills are not legal documents. They are prepared as complements to a will or living will. Unlike in years past, they are most often shared with family members while the author of the ethical will is still alive. These documents have been referred to

Ethical wills help articulate and communicate family traditions and values across the miles.

in different ways such as a spiritual will, a family mission statement, or even a family love letter. Ethical wills reflect the unique qualities of the author. It presents an excellent opportunity to express thoughts on life and directions regarding any matters that are important but are not covered in the last will and testament.

One reason for the growing popularity of ethical wills is the geographic diversity of our population. Children grow up and move away. Grandchildren do not always grow up near their aunts, uncles, or grandparents anymore. Ethical wills help articulate and communicate family traditions and values across the miles.

A Comprehensive Legacy Plan Brings It Together

To be effective the legacy plan must include, at the very least, a journal of vital information, an ethical will component, and a proven delivery method.

This is how we explain it to our clients:

- The journal of vital information should record important information about the author's life, including family, medical history, instructions on how to raise children, funeral and burial arrangements, organ donation, pet and home care, locations of key documents, and more.
- The ethical will component allows the author to share more personal matters with generations to come. It presents the opportunity to share intimate thoughts about life, love, and spirituality. It preserves the life story, values, and precious memories. When ethical wills first came into use, it was common for people to draft two wills: a legal will to handle material possessions and an ethical will to document the family's values and religious beliefs. Today, ethical wills are an invaluable part of a personal legacy plan.
- Lastly, it is important to ensure that there is a proven delivery method so that your legacy is shared with your intended recipients and future generations. The legacy plan has no value if it is inadvertently left in the bottom of a drawer. To ensure proper and timely delivery, assign a plan administrator to the legacy plan. Much like an executor is to a will, a plan administrator is an individual selected to carry out the legacy plan after death. At the least, the plan administrator should have responsibility for informing family and friends of your wishes and the existence of the document. As a first step, the plan administrator should communicate any predetermined funeral

arrangements and inform the medical community about any expressed wish regarding organ donation. Beyond simple announcements, many administrators will also help with arrangements to ensure the stated wishes are implemented. Eventually, the plan administrator shares the legacy plan with the intended recipients.

To enhance a client's legacy plan, you may consider offering services such as helping the client create a wish list, memorable messages, or online memorials. The wish list is a collection of goals to inspire the client in life. It could include things the client has always dreamed of doing or short term goals.

Memorable messages are letters to the client's loved ones to be delivered after the client's death. This beautiful gift may bring tremendous love and relief to the survivors and it will reaffirm the client's love for his family and friends and reflect on wonderful memories of a life shared. There is also the possibility of creating an online memorial. These testaments usually include information that the client wishes to share such as biographical information, photos, video clips, and audio files. Some online memorials can also support your charities of choice by allowing visitors to make donations in your honor.

Integrating Legacy Planning Into Your Process

Legacy planning is commonly a service that is extended to clients upon completion of their wills. After reviewing the client's will, providing the opportunity to create a legacy plan is intuitive. The client is already in the right frame of mind and is often more than willing to move forward.

Here is a template for a proven five-step process to initiate this legacy planning:

Table 1.

Legal Details	Financial Details	Practical Details	Personal Details
Will	Assets	Names of key contacts	Funeral and burial plans
Living will	Insurance	Location of documents, policies, and assets	Distribution of personal assets
Healthcare proxy & power of attorney	Employee benefits and pension	Checklists for survivors	Final messages to survivors
Estate plan	Social security death benefits		Naming favorite charities
Guardianship issues			
Estate Plan	Financial Plan	Legacy Plan	Legacy Plan

Introduce your client to the concept of legacy planning.

- Define legacy planning and how it differs from estate planning.
- Show your client a sample and explain the process that you can guide them through.
- Disclose your fee schedule for these services
- Consider providing your client with a copy of the film *The Ultimate Gift*, as an example of the kind of planning and introspection that you would like to explore with your client.

Engage your client in the process.

- Ask if the client is interested in making a commitment to do a legacy plan.
- Provide a questionnaire and give them a target completion date.

Motivate your client to move forward.

- Reward any progress your client has made.
- Address any issues, concerns, or questions.
- Reinforce the deadline for completion by scheduling your next appointment.

Process the “paperwork” and prepare the plan.

- Collect the questionnaire and create the plan.
- Print a completed plan for review during your next meeting.
- Review and discuss the legacy plan.
- Present the completed legacy plan.
- Educate your client on how to facilitate a family discussion.
- Underscore the importance of notifying the appropriate people about the legacy plan.

Encourage the client to review the legacy plan annually.

- The client should share his plan with his loved ones, individually or as a group. An ideal time for this meeting may be when the family is already together (the Friday after Thanksgiving is always a good idea).

The Benefits of Offering This Unique Service

While highly popular by those who have undertaken this commitment, planning one’s personal legacy is not yet offered by many attorneys. This presents a unique business development opportunity. Clients value the opportunity to explore and document the elements of life that they consider most important. Your ability to guide them through this process presents a welcome opportunity for them. Specific reasons to engage in legacy planning include:

It’s said that part of living a good life is being prepared for its end. That’s the lesson offered by Eugene O’Kelly, former CEO of the accounting firm KPMG. In May 2005, O’Kelly was diagnosed with terminal brain cancer. In the last four months of his life, he wrote *Chasing Daylight: How My Forthcoming Death Transformed My Life*, in which he urges everyone to spend time reflecting on their own mortality—before it’s too late: “If how we die is one of the most important decisions we can make, then why do most people abrogate this responsibility? For those considering taking the time someday to plan their final weeks and months, three words of advice: Move it up.”

An opportunity to differentiate yourself from the competition. As an attorney, your business success rests on your expertise and ability to relate to and provide value to your clients. Legacy planning presents an additional opportunity to serve your clients in a unique way.

Strengthen client relationships and loyalty. Legacy planning often results in multi-generational loyalty and strong family relationships. In the process of legacy planning, you may discover other planning needs of your client or their family. The ability to provide full service to the family presents additional opportunities.

Make a difference in your client’s life. Beyond the strategic benefits, the gratification of helping someone leave a meaningful legacy makes the work more personally fulfilling.

To Whom Do You Offer Legacy Planning?

Offer legacy planning to everyone and let them decide if it is something they wish to do. To determine your client’s interest in this kind of planning, you may explore the following questions:

If you were to lose your spouse or partner, what aspects of his or her legacy would you treasure the most?

- Childhood memories
- Collectables
- Family values
- Final wishes (funeral arrangements)
- Financial assets (stocks, CDs, savings)

- Knowledge of managing finances
- Knowledge of managing the household
- Life insurance proceeds
- Life lessons
- Parenting techniques
- Personal history
- Personal property
- Personal stories
- Real estate
- Spiritual beliefs

Do you believe that your spouse or partner would treasure these same aspects of your legacy? How many of the above attributes are thoroughly communicated in your legal will or otherwise formally documented? Would you be interested in learning about a simple solution that enables you to document all of the above information so you could leave your loved ones a meaningful legacy?

Not surprisingly, most people will qualify themselves for a legacy plan. You may ask your client to consider how they would like to be remembered if they learned that they had a limited time to live. Would this knowledge motivate the client to:

- Prepare for death?
- Organize his or her affairs?
- Reflect on the values developed in his or her life?
- Communicate with loved ones, assuring them of your love and fond memories?
- Ensure the family's access to important documents and information?
- Clarify burial decisions or distribution of belongings?
- Attempt in some small way to reduce the burdens on grieving loved ones as he or she awaited the inevitable separation from them?

These introspective questions will provide the answer to whether the client wants to create a legacy plan.

Illustrating the Need for Legacy Planning

While some people think that only wealthy or famous people leave legacies, we believe that everyone will benefit from legacy planning. There are untold stories of those who died with no plans

in place. Often one partner or spouse controls the finances and neglects to inform the other party of the financial details or where to find that information. Frequently, in a family business, there is no business succession plan in place. Proper planning benefits the survivors, those who must deal not only with the loss of a loved one but also the business and financial details of keeping their life on track.

Planning a legacy alleviates some suffering of the surviving families.

Why Should Your Clients Plan Their Legacies?

These are the top 10 reasons we give clients for planning their own personal legacy:

- Influence the lives of children and grandchildren by passing on what matters most: values, life lessons and final wishes
- Protect the spouse or partner by organizing the details so that the client's loved ones can grieve without the stress of all the unplanned details
- Plan and record the client's legacy exactly while the client is thinking clearly and has the time to consider all the important aspects of his life.
- Encourage the client to make his wishes known bringing comfort and peace to the client and his family.
- Relieve some of the administrative details by recording the location of critical documents (health care proxy, last will, birth and marriage certificates, military papers, deeds, titles, insurance policies, tax returns, and account statements).
- Avoid family disputes by encouraging the client to make his wishes known so that

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the client leaves a legacy of fond memories, not problems.

- Explain important personal and medical history details with the surviving loved ones.
- Discuss thoughts on end-of-life celebrations and memorials.
- Ensure family traditions and values are passed on for generations.
- A final chance to express the client's lasting reaffirmation of his love, shared memories and life's milestones.

The True Meaning of Life and Legacy Planning

What personal legacy will you help your clients leave behind? Will it be money or something far more valuable? Through my personal experiences, I decided to channel my energy into helping others by writing *THE SURVIVOR ASSISTANCE HANDBOOK*, touring the country as a key-note speaker, and rededicating my practice toward guiding as many people as I can through the process of legacy planning. The work has given me a new sense of purpose in the wake of a tremendous loss. For many years, my life was consumed with the day-to-day details of my wife Joanne's death and I will never completely recover from her loss,

but I have learned to accept it and continue on with my life. After going through the long, complex, and extremely difficult process of grieving, I have now created a new life for myself, one that involves helping others create personal legacies.

In the words of the legacy pioneer, Scott Fithian, "Who will you be to the great-great-grandkids: the relative with all the money, or the soul who embraced charity even when his own luck was down?" In a world that frequently focuses on material possessions, we need to stop and think about how much we can give and how our life will impact others. If you can make a difference in the lives of those you love and ultimately, the larger world, then you can proudly say that your life has had meaning.

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