



WALT SHURDEN LAW

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Helpful Advice or Artful Contrivances?

By Walt Shurden

Deciding who will get your money when you die can be difficult. Some children become confidantes while others drift away. Should you reward the child that remains focused on your needs or does your love of family mean everyone receives an equal share?

Whatever your decision, you will want your Will or Trust to be upheld by the Courts. So be mindful of how you approach your estate plan. My hope is that the remainder of this article will help you and your family steer clear of certain actions that look like fraud to Florida Courts.

The Scenario

Roger is 84 and has hearing and vision problems. Roger's son lives in the neighborhood and handles his checkbook, reads his mail to him, makes most of his appointments, and coordinates maintenance on his home. Roger's daughter lives in Chicago and comes to Florida to visit for a couple of days in late October on her way to and from Fantasy Fest in Key West. She does, however, call her brother to get monthly reports on her father and to ask that he tell her father that she loves him. She finds it difficult to communicate on the phone with her father because of his hearing impairment, but she does send him letters. Roger becomes upset with his daughter's lack of attention and complains to his son. His son artfully feigns disagreement but subtly enforces his father's negative feelings about his sister. His son intentionally fails to fully communicate his sister's phone messages and letters to his father. Roger, hurt and moved to action, now asks his son to call a lawyer so he can change his Will and leave everything to his son.



Protection from Undue Influence

If Roger makes a new Will or Trust and increases his son's share of his estate, Roger's daughter may be able to invalidate the Will if she can show Roger's own free agency and will power was removed by over-persuasion, duress, and the artful and fraudulent contrivances of his son. Florida law identifies the following "badges" of undue influence, which is a form of fraud:

- 1) Presence of the beneficiary at the execution of the will;
- 2) Presence of the beneficiary on those occasions when the testator expressed a desire to make a will;
- 3) Recommendation by the attorney to draw the will;

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Our Goal

To provide exceptional legal service to our clients.

Thank you Malisa for helping get school supplies to needy kids again this year!



Just before school started in Safety Harbor, Malisa Jernigan, Community Relations Director at our office, joined other volunteers at the Mattie Williams Neighborhood Family Center to provide lunch to low income students and their families as they came to pick up backpacks filled with needed school supplies.

If you have time and a desire to make a difference, the Neighborhood Family Center can always use another volunteer. (phone 727-791-8255)

We would love to hear about the volunteer work you do. Please call our office or drop us a note letting us know how you help.

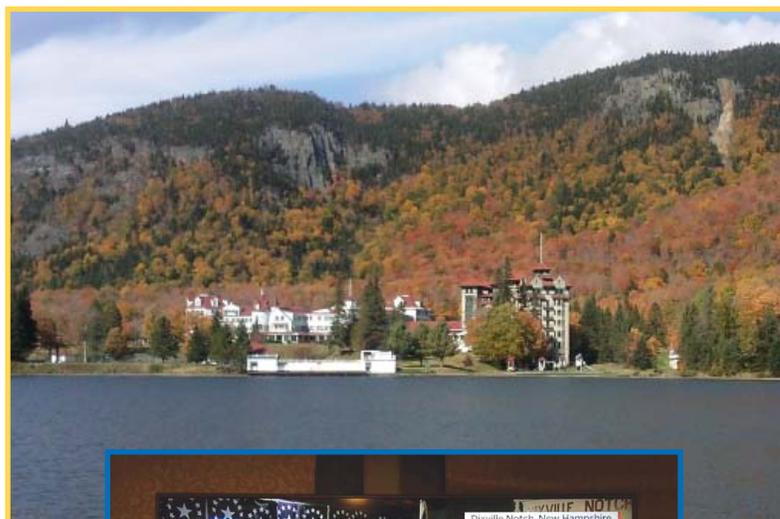
Long Term Care Maintenance Program

If we prepared your Medicaid long term care application, did you opt for our Client Maintenance Program? It is not too late. We will handle your annual review with the Department of Children and Families and answer your eligibility related questions throughout that year for \$600.

Please call our office for more information or to sign up. 727-443-2708 or email jennifer@shurden.net.

Who does the most watched primary predict to be our next President?

Early in the morning on the day of the first primary voting for president in the United States, you might hear the results of voting in Dixville Notch. Why is that? New Hampshire, by law, holds the first primary in the United States. Dixville Notch is an unincorporated community in the far northern part of New Hampshire. According to the United States Census Bureau, the 2010 census showed there were 12 residents in Dixville Notch. They had 10 registered voters. Since 1960 the polls have opened at The Balsams Grand Hotel ballroom at midnight the day voting starts. When all registered voters have cast their ballots, the polls are closed and the results are broadcast across the United States as the first official primary results, sometimes this takes less than five minutes. Residents brag that a majority of voters have selected the winning candidate five out of the last seven elections. Maybe not this year though. February 2016 Dixville Notch primary results showed our next president to be... Democrats – Bernie Sanders or Republicans – John Kasich.

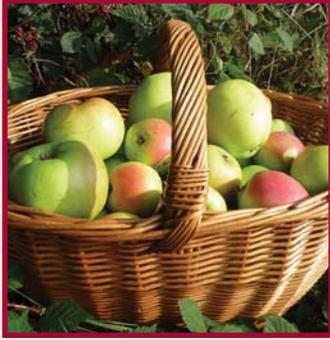


Nothing says Autumn like Apples

Slow Cooker Apple Crisp

Ingredients:

- 1 cup flour
- ½ cup light brown sugar
- ½ cup white sugar
- ½ tsp ground cinnamon
- ¼ tsp ground nutmeg
- A pinch of salt
- ½ cup butter cut into pieces
- 1 cup chopped walnuts (or pecans)
- 1/3 cup white sugar (or to taste)
- 1 TBSP cornstarch
- ½ tsp ground ginger (optional)
- ½ tsp ground cinnamon
- 6 cups apples – peeled, cored and chopped, diced or sliced
- 1 TBSP lemon juice



Directions:

Mix flour, brown sugar, ½ cup of white sugar, ½ tsp cinnamon, nutmeg, and salt together in a bowl. Combine butter with the flour mixture until coarse crumbs form. Stir in walnuts and set aside.

Whisk together 1/3 cup sugar, cornstarch, ginger, and ½ tsp cinnamon. Place the apples in a slow cooker, stir in the cornstarch mixture; toss with lemon juice. Sprinkle the walnut crumb topping on top. Cover and cook on high for 2 hours or low for 4 hours, until apples are tender. Uncover the slow cooker to allow the topping to harden, about 1 hour.

Are You Ready for Some Football (quotes)?!!

“When you win, nothing hurts.”

Joe Namath/Alabama

“Football is NOT a contact sport, it is a collision sport. Dancing IS a contact sport.”

Duffy Daugherty/Michigan State

Helpful Advice ... Continued from page 1

- 4) Knowledge of the contents of the will by the beneficiary;
- 5) Giving of instructions on preparation of the will by the beneficiary to the attorney drawing the will;
- 6) Securing of witnesses to the will by the beneficiary;
- 7) Safekeeping of the will by the beneficiary subsequent to execution;
- 8) Isolating the testator and disparaging family members;
- 9) Mental inequality between the decedent and the beneficiary; and
- 10) The reasonableness of the will or trust provisions.

Eliminating the Appearance of Undue Influence

So when it is time to change your Will or Trust, go solo! Call the Attorney's office yourself to set the appointment. Arrange your own transportation or ask the Attorney's office to arrange for a taxi. Don't bring anyone else's notes to the appointment. Don't bring your children as an "extra set of ears," or "to help you understand what the Attorney is saying." Keep your own documents for safekeeping. Recognize undue influence by caregivers or others when you see it! And then enjoy knowing that your estate plan is solid.

IN OUR EAR

How do I qualify for Home Care?

I'm often asked by clients how they can get more help in the home and many of them look to Medicaid to provide that help. Unfortunately, Medicaid has long waiting lists for home and community based services. And, once you are on that waiting list, it's hard to know where you stand because it's not managed in a first come first served basis. Instead, each person on the list is rated for certain risk factors to see who needs help most. So, it can be time consuming and you don't really know where you stand.

Please log on to www.waltshurdanlaw.com and click on the video link on the home page titled, Qualifying for Home Care for My Spouse or Parents to see Walt's strategy for getting past the waiting lists.



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Legal Term of the Month

Alien – A foreign born person who has not qualified as a citizen of the country; but an “alien” is a person, within the meaning of the Fourteenth Amendment due process clause of the U.S. Constitution, to the same extent as a citizen. – Galan v. Press, 347 US 522

How to get off the Newsletter List

If you would like to have your name removed from our newsletter list, please email your request to jennifer@shurden.net or call our office at 727-443-2708.

New Hampshire, where Bette grew up, in the Fall



Thank you to Bette's brother, Tim Hanson of hansonstudio.com, for the pictures.