



## OLD NORTH STATE TRUST, LLC

### **Don't Neglect to Leave Instructions about Your 'Stuff'**

When the phrase “estate planning” comes up, we tend to think about the major financial assets: money, investment accounts and the like, as well as real estate. But in our experience, it’s how a person’s other possessions—their physical “stuff”—gets disposed of that often creates the biggest problems.

It’s not too hard to understand why that is.

Those possessions that formed the background for a person’s upbringing will often carry emotional weight far out of proportion to their actual value. When children and grandchildren are faced with how to divide up the familiar artifacts from their childhood and youth, it can easily lead to conflict.

More than once we have been required to step in and mediate in these situations. The heirs of our clients just can’t agree on what to do with these items that have such sentimental value to them.

It’s far better if only to help maintain family harmony, if the estate’s owner makes these decisions while still living.

This doesn’t have to be a complicated process. It can start with a simple walk through the house with a notepad and pencil, making a basic inventory. While making note of items, ideally by category, think about what might be especially important for individual relatives. Did one child especially love playing “dress-up” with certain jewelry as a child? Has a grandchild ever expressed admiration for a particular work of art? Does a piece of furniture have special meaning for one member of the family?

In the same spirit, it might be worthwhile to designate whole categories of possessions to be disposed of in other ways. A collector of rare books might want to have them sold and the proceeds donated to a favorite charity, for example, thus avoiding the chance of conflicts among the heirs.

Once you’ve decided what you want to leave and to whom, the next step is to write it down in the form of a memorandum. If this is done correctly, it’s a huge help to people like us who are tasked with settling the estate. Of course, it also helps the heirs if they know exactly what your wishes were.

It’s important that this memorandum be in your handwriting, so there’s no question that you wrote it. Give it the title “memorandum,” and leave it with your other most important papers. This should **NOT** be labeled as a will, or use the word “will” anywhere in its title. That could cause this wish-list to be considered a holographic will that could supersede the actual will during the probate process.

Doing it wrong could be worse than not doing it at all!

Of course, many people find it hard to think about this step. Deciding who will get your possessions does require thinking about your own mortality. And it's precisely because of the emotional value of a lifetime's accumulated property that some people prefer not to make these decisions.

The consequence can be that children fight over the possessions more than they would over money! Often those fights are about things that aren't even worth anything, or at least wouldn't have any value for an outsider.

Once we had to play referee among four adult children, all of them in their 60s or older, who couldn't agree on how to split up their parents' personal property. The parents had steadily downsized, eventually living in a nursing home, so they had only a modest amount of property left in a small apartment. But even though they had so little to divvy up, their heirs had to call on us to intervene.

Our solution was to have the four of them draw straws to see who would go first, then administered a round-robin for each to go through the apartment and choose from the few furnishings left. That included costume jewelry, which consisted of such low-value items as a pair of powder-blue earrings from the 1970s! By the time this was done, we worried that there might be a couple more estates to settle, and possibly bail to be set.

Needless to say, it was not a pleasant experience for us or for those directly concerned.

That is why we make such a point to urge all clients to think ahead, and designate how their property is to be divided, so it doesn't become a point of contention among their survivors.

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