

Ladies, Wake Up!

By Kristen M. Jackson, Attorney At Law

Ladies, wake up and become active in your financial future.

According to the U.S. Department of Labor, today, women control 70 percent of the total personal wealth in the U.S., fill 52 percent of the jobs and account for 38 percent of those self-employed. While this may be good news for women, on the other hand, women have a 75 percent chance that they will become widows at some point in their lives. Unbelievably, the average age of a woman when she becomes a widow is 55, so you can guess who the caregivers will be when it comes time to care for a spouse. (Women are three times more likely than men to become the caregiver.)

After a spouse's death or incapacity, women must restructure their financial lives. Although women control 70 percent of the wealth and inherit 75 percent of all the estates, regardless of their overwhelming control of wealth and alarming caregiver statistics, women are less likely than men to protect their assets with estate planning. What all of these statistics demonstrate is that it is essential for women to take a more active role in the estate planning process by learning basic planning needs and becoming more educated about financial issues.

Basic estate planning documents that are recommended for married couples are a revocable living trust, pour over wills, durable powers of attorney for finances and advance health care directives and living wills. Without such documents, what happens when a husband becomes incapacitated and is unable to sign necessary documents to sell a house, refinance a mortgage or create a trust? The wife may have to go to court to have her husband declared incompetent and request she be appointed as her husband's guardian, which can become costly, stressful, emotional and, sometimes, a very lengthy process. Subsequently, should something happen to her, estate planning becomes an even more convoluted mess.

Take Lucille's plight, for example. Lucille is 77 and a widow. She has two adult children, Daniel and Christine. Daniel lives a few miles away but travels extensively while Christine lives in another state. Lucille owns a home, still drives her own car and has a bank account and financial investments. She has no will or other estate planning or lifetime protection devices in place even though, at the time her late husband first fell ill, she had already experienced the impact of having to hire an attorney to petition the court to name her as his guardian. This was necessary in order for her

to make health care decisions and obtain control over assets owned individually by him.

After managing her husband's care for nearly 15 years before his passing, Lucille fell and broke her hip while cleaning her house. She went into the hospital, and, while there, she suffered a stroke that left her mentally unable to take care of herself and her affairs. Upon her recovery from the broken hip, since neither Daniel nor Christine could take care of her, they felt it was best to move Lucille to a nursing home.

Daniel and Christine attempted to take over management of Lucille's finances and health care decisions. However, when they went to the bank to take charge of Lucille's checking account so her bills could be paid, the bank refused to give them any information. The same was true of her investment accounts. Nor would Lucille's doctors let them make her health care decisions. Daniel and Christine discovered that they had no legal authority to handle Lucille's financial or physical needs and that one of them needed to be appointed as her legal guardian.

Since he lived closest to Lucille, it was decided to have Daniel appointed as her guardian. He hired an attorney to handle the legal proceeding. The guardianship process was both costly and time consuming. Daniel soon learned he had to apply to the court, through his attorney, for approval of each and every action and expenditure he made on his mother's behalf.

If Lucille put in place some lifetime protection devices while she was competent, a guardianship would not have been necessary to give Daniel the authority to manage his mother's assets and make health care decisions for her. By establishing a Living Trust and advance directives, including a Durable Power of Attorney and Designation of Health Care Surrogate, Lucille could have named Daniel or Christine to handle her affairs. Either of them could have merely stepped into Lucille's shoes and handled her financial and health care needs upon her incapacity without the time and expense of attorneys' fees and court proceedings.

So ladies, wake up. It is time that you become more involved in protecting your financial future as you control or own the majority of the wealth of our nation. If you do not already have a trust or a will, contact an attorney experienced in estate and asset preservation planning. **L**



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Kristen M. Jackson, attorney and founding partner of the Jackson Montoya Law Firm (407-363-9020), has over 29 years of experience in estate planning, business, real estate and family law. She has earned an AV rating from Martindale Hubbell signifying the highest level of professional excellence as obtained through opinions from members of the Bar and Judiciary.