



# A Parent's **Wish**

Let the children fight over what's left.

By Kristen M. Jackson, Attorney

**F**rom an older generation, we often hear the words, “I don’t need a last will and testament. Just as I had to earn my own way, my children can earn their own way, and if I have anything left over when I die, they can fight over it.” Estate plan attorneys hear this all the time. Older generations have developed quite an arsenal of myths and misinformation built on hearsay acquired throughout their lives from misinformed relatives, friends, neighbors and other acquaintances.

Such misguided myths and misinformation magnify false beliefs that when someone dies, regardless of the law, his/her immediate family automatically receives his/her assets. Or, “The state won’t deprive my family of my assets when I die nor interfere following my death.” Or, “Because I raised my children to love one another there will be no dispute among them over asset distribution after I die.” Myths such as these have led to loss of property, sibling wars, family division, hatred, despair and even death. The unfortunate truth is that most families encounter the impact of probate when someone owning assets dies. Only a small percentage of parents prepare a last will or trust to ensure their assets are properly managed after their death.

## What is probate?

In Florida, it is the legal requirement that beneficiaries hire an attorney to assist in the distribution of assets of someone who died having assets valued over \$7,000. Probate can be easily managed

or avoided through proper estate planning including a last will or a revocable trust to create a comfortable transfer of assets to your children.

Think about this example. Joseph and Alice owned a business, a home, a truck, a car, bank accounts, investments and insurance policies. They believed they didn’t need a last will or trust and that their children could simply split their assets upon their death. Joseph lost his wife and a few years later, Joseph died. Upon his death, none of his children were financially established due to an economic recession. All of them could benefit from their father’s assets valued at over \$950,000. There was an immediate sibling war over who gets what. But the real shocker surfaced when they learned about probate. Because the children couldn’t afford to hire an attorney to open a probate, Dad’s assets waned. Property taxes went unpaid. A tax lien was placed on both the business and the home and both were lost to the tax lien holders. The truck and car had substantial equity, but were repossessed because the children couldn’t make the payments. The bank accounts and investments remain unattainable until someone opens a probate.

Well, Mom and Dad got their wish. The children are making their own way and still trying to figure out how to afford probate and fight over what’s left of the family fortune. Don’t be like Joseph and Alice. Think about the effect on your family after your death and see an estate planning attorney today. **L**



**Kristen M. Jackson** is founding partner of Jackson Montoya Law Firm (407-363-9020). In practice 29 years, her practice of estate planning, business law and real estate law, has earned an AV rating by Martindale Hubble, signifying the highest level of professional excellence as obtained through opinions from members of the bar and judiciary.