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HOW TO HELP YOUR CLIENTS HAVE DIFFICULT ESTATE-PLANNING CONVERSATIONS

Redwood Empire Estate-Planning Council
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WHAT WE'LL TALK ABOUT:

- Common Estate-Related Conflicts & Their Consequences
- Proactive Strategies to Encourage Clients to Have Difficult Conversations
- Tools to Give Your Clients to Plan and Structure Difficult Family Conversations
- The Role of Neutral Third-Party Support

THE PROBLEM OF THE DESK

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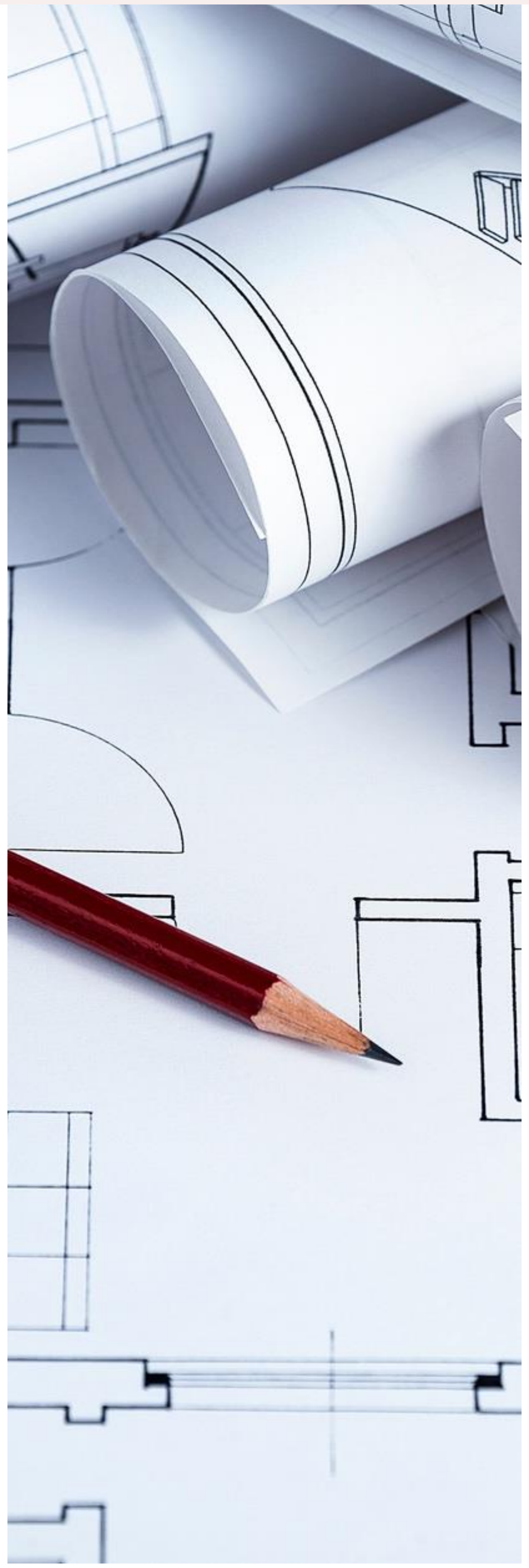
HERE'S THE SCENARIO:

- Father was a famous architect
- He designed and built a one-of-a-kind desk for his home study
- When both parents died, will said, "Divide assets equally."
- Four siblings
- Most of the siblings don't have relationships with each other
- All of the siblings have intense emotional attachment to this desk
- This is the last item in the estate that needs to be decided upon



YOUR TASK:

- Each table is a different version of this family
- You are each a sibling that wants the desk
- Have a conversation where you brainstorm ideas about what should happen with the desk
- You have five minutes to come up with options

WHAT CAN WE DO WITH THE DESK?

WHY THIS MATTERS

- Preventing Future Conflicts
- Ensuring Plans Reflect True Intentions
- Reducing Emotional and Legal Burdens
- Preserving Family Legacy and Relationships

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STATISTICS ON FAMILY CONFLICT & ESTRANGEMENT

- 70% of families lose a portion of their inheritance due to some kind of fight over the estate in which they are inheriting
- **Only 32% of disputes centered around money**
- 44% of estate disputes involve siblings
- Only 46% of executors are aware that they are named in someone's will
- 27% of Americans are estranged from at least one family member, and the term "no contact" is increasingly being used to describe estrangement between adult children and their parents. (Some studies report that 1 of 2 Americans is estranged from a family member.)

What are the most common family dynamics that lead to disputes in estate-planning?

COMMON ESTATE-PLANNING DISPUTE DYNAMICS

- Disagreeing couples: different values, priorities and promises
- Estranged family members
- Siblings with different family roles, rivalries and long-standing resentments
- Step-children and blended family tensions
- Special needs family member and long-term care concerns
- Extensive non-monetary assets (artwork, unique possessions)
- Business partners or co-investors with differing interests

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What happens when disputes aren't resolved?

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POTENTIAL AFTERMATH OF DISPUTES

- Litigation ($$$)
- Family rifts and estrangement in current and future generations
- High stress
- Dissatisfaction with professional representation
- Inability to finalize an estate plan
- Inability to execute an estate plan after death because of disagreements, lengthy probate, etc.

How do many families deal with conflict?

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HOW FAMILIES TRY TO AVOID CONFLICT

Everyone will want what's fair.

They'll figure it out.

Sign and pray

It would be too painful for me to tell them about my decisions.

It will be their problem.

What happens when families avoid tough conversations hoping to avoid conflict?

THE CONSEQUENCES OF LOW-TO-NO COMMUNICATION TO AVOID CONFLICT

- **Conflict** between family members after death around estate plan surprises, fairness and equity:
  - Executor decisions
  - Asset allocation
  - Personal possessions
- **Financial costs**:
  - Litigation
- **Emotional costs**:
  - Family estrangement not just for this generation but next
  - Children can have profound sadness around re-writing their relationship with their parents after they die
  - Lack of clarity, increased fear

HOW PROFESSIONALS CAN HELP CLIENTS IDENTIFY & ADDRESS THESE RISKS

- Reality-testing client assumptions
- Encouraging honest conversations early
- Normalizing conflict
- Advising on planning and preparing for family conversations to minimize conflict

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3 STEPS TO TURN CONFLICT INTO CONVERSATION:

Slow Down

Understand

Problem-Solve

UNDERSTANDING DOESN'T MEAN AGREEING

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CONVERSATION STARTERS WITH CLIENTS

"Have you thought about how your decisions might impact family relationships down the road?"

"Have you discussed your wishes with your family? Would you like support in having those conversations?"

"Are there any unresolved tensions or sensitive topics within your family that could affect your estate plan?"

"What happens if two family members disagree on a decision—how would you like those conflicts to be resolved?"

What are the conversations estate-planning clients should be having with their families now, not later?

CONVERSATIONS CLIENTS NEED TO HAVE WITH FAMILY MEMBERS

Let people know their roles

Asset allocation (titled and *non-titled* possessions)

The why and how of the decision-making process

Get information from offspring/family members about their expectations and wishes

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FIRST QUESTION TO ASK CLIENTS PREPARING FOR FAMILY CONVERSATION:

Do you want a family collaboration, or do you want to just deliver information?

Answers could be:

- message delivery
- collaboration
- *combination*

MESSAGE DELIVERY CONVERSATIONS

LET FAMILY MEMBERS/AFFECTED PARTIES KNOW:

THEIR ROLES

ASSET ALLOCATION (TITLED AND NON-TITLED)

THE WHY AND HOW OF THE DECISION-MAKING PROCESS

COLLABORATIVE DECISION-MAKING

Proactively soliciting their family members' wishes

Involving their family members in deciding what the decision-making process should look like

What does "fair" look like in their family?

"Equal?"

"Equitable?"

Brainstorming creative options that honor competing interests

Deciding one or more outcomes as a family

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QUESTIONS TO ASK CLIENTS BEFORE THEY HAVE THESE CONVERSATIONS

- Who will be invited into family collaboration?
  - Spouses? Unmarried partners?
  - Step-children?
- What do they predict are the likely sources of conflict?
- What would the best timing be?
- Everyone together in person or over zoom?
- Are they aware of different processes to make these decisions? (family auction, draft, ranking system, random draw, etc.)
- Do they have any fears about inviting collaboration?
- Do they need support to prepare for or hold these conversations?

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SETTING AN AGENDA FOR THE FAMILY CONVERSATION

Clear outline of the areas that need to be decided

Decide on relevant information they're comfortable sharing

Should they start with the easy items first and work their way up to difficult ones, or vice versa?

Do you want to lead the conversation? Would having a third party neutral present to structure and manage the conversation be helpful?

Instead of planning just one conversation, they might plan a series of structured conversations

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ESTATE-PLANNING CONVERSATION SERIES

The "How" Conversation

The "What" Conversation

The Decision Conversation

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THE "HOW" CONVERSATION

1. Explanation of what needs to be decided
2. Discussion of process
3. Answering participants' questions for clarity and understanding of the reality they're facing

THE "WHAT" CONVERSATION

1. Ask participants about their expectations, hopes, fears
2. Hear from all participants about their wishes/ideas
3. Generate options

THE DECISION CONVERSATION (finally)

1. Evaluating options compared to participants' interests
2. What has been agreed upon
3. What hasn't been agreed upon
4. Next steps, if any
5. Future meetings?

How can you support clients that don't feel up to having these family discussions?

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OPTIONS TO SUPPORT FAMILY CONVERSATIONS

- Coaching your clients on how you might approach the conversation
- Helping write an agenda for the conversation
- Talk about the potential consequences you worry about or have seen when clients avoid these conversations
- Ask them for specifics about what their challenges are in approaching these conversations
  - What are their “stuck” spots?
- Suggest a neutral party to facilitate

3 STEPS TO TURN CONFLICT INTO CONVERSATION:

Slow Down

Understand

Problem-Solve

UNDERSTANDING DOESN'T MEAN AGREEING

KEY BENEFITS OF A NEUTRAL THIRD PARTY

- Allows for structured, emotionally safe discussions.
- Mitigates power imbalances and unproductive conflict.
- Supports seniors in making their own estate decisions while considering family input.
- Resource for family members at each stage of the process.
- Saves time and costs compared to litigation (or even pre-litigation)
- Helps craft tailored solutions that legal/financial documents may not fully address
- Ensuring all key professionals (attorneys, fiduciaries, financial planners) are looped in.

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HOW FACILITATORS/MEDIATORS CAN ASSIST AT EACH STAGE

Pre-Planning Stage:

- Facilitating discussions around wills and inheritances
- Addressing succession planning concerns

During the Planning Process:

- Surfacing disagreements
- Minimizing decision fatigue to reach informed conclusions
- Mitigating power imbalances

Post-Death Resolution:

- Handling will contests and disputes over asset distribution
- Clarifying ambiguous provisions
- Repairing rifts

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CLIENT DYNAMICS THAT OFTEN BENEFIT FROM MEDIATION

- Clients that are stuck in the process where co-decision-making is necessary.
- Guardianship, healthcare proxies, and long-term care plans.
- Special needs planning: Lifelong care discussions.
- Blended families and differing perspectives between spouses.
- Co-owners of businesses or investments navigating succession plans.

FINAL THOUGHTS

- Having difficult conversations now can prevent lasting damage later.
- Estate-planning professionals play a key role in guiding clients toward relationship-preservation strategies, in addition to financial and legal protection.
- If getting in the thick of tricky family dynamics is interesting to you, you can get specialized training to support your clients have these discussions.

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TRAINING
- Facilitating difficult conversations
- Conflict skills

MEDIATION/FACILIATION:
- Estate-planning
- Divorce
- Co-parent

WORKPLACE
- Conflict skills training
- Conflict coaching
- Mediation

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WORKSHEETS + HANDOUTS

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Sign up for my mailing list to receive cheat sheets:

- For Estate-Planning Professionals:
  - Conversation guide to use with your clients
- For Your Clients:
  - How to start conversations with your family about personal possessions
  - Roadmap for collaboration for families in the estate-planning process
  - Every Treasure Tells a Story Worksheet
  - Passing It On: A Worksheet for Family Members to Share Their Wishes
  - Who Gets What? Mapping Out Your Wishes Worksheet
  - How a mediator/facilitator can support the estate-planning process

QUESTIONS?