



## Stop An Heir War

In Hollywood movies, when a patriarch or matriarch dies, the relatives gather to find out what money or valuables they've inherited. Then, someone gets greedy and causes an all-out family squabble. In real life, however, the dramas that erupt around inheritance are surprisingly often not about the money.

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Instead, it's the personal items left behind by the family member that can have the most potential to trigger hurt feelings between siblings or heirs.

Take the case of film legend Audrey Hepburn. Like many parents, she left instructions for her worldly possessions to be divided equally between her two sons after her death. Unfortunately, she didn't foresee that her children would be unable to agree who would get which of the memorabilia items, including the scarves, hats, and gloves that Hepburn had worn with such inimitable glamour.

More than 20 years later, a treasure trove of her costumes and other belongings remained in a storage locker as her sons battled it out in court, according to press reports.

After a parent's death, family tempers can flare over beloved objects even when all parties are satisfied with the distribution of the financial assets. It's often the case that "so much of the estate planning is focused on the large financial assets," says Richard Orlando, Ph.D., founder and legacy consultant at Legacy Capitals and the author of *Legacy: The Hidden Keys to Optimizing Your Family Wealth Decisions*.



## Lasting Legacy Winter 2022

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When a parent or grandparent leaves no clear plan for personal assets that carry a great deal of family history and meaning, a rift can be all the more likely. That's because decisions about distributing them will then have to be made once someone has passed away— when emotions are high.

What happens if more than one person feels attached to, say, the piano that was used for childhood



lessons and family celebrations, and the parent is no longer around to referee? Families take great care in making sure wills and estate plans account for Dad's individual retirement account, real estate investments, or family business holdings. Yet many neglect to spell out a parent's final wishes for personal or household belongings.

Too often, families just never get around to discussing the distribution of personal items like a special jewelry box, a favorite jacket, or the holiday ornaments that were used year after year. Sentimental items may have little or no monetary value, so they're not included in a will. Yet they may be loaded with memories and tremendous emotional significance and have the potential to cause family discord. "If not talked about ahead of time, then it could cause unnecessary stress in relationships," says Orlando.

No parent or grandparent wants strife and legal fees to be their legacy. That's why it's worth setting aside some time to consider your own personal items and how you would want them distributed after you're gone. It's a favor to your heirs to make decisions about personal property ahead of time. Here are some steps to consider in planning for distributing personal assets.

## **Plan a Family Conversation**

Find a time to have a family conversation about which items the next generation might be interested in, whether that's a collection of baseball cards or a piece of artwork. Don't assume you know who wants what. "Some family members might be interested in the sentimental value of jewelry that has been passed down, or the grandfather clock, and others are focused more on the monetary value of items," says Orlando.

To start with, let your kids and relatives know that it is just an initial discussion. "Everything doesn't need to be worked out to every item having a sticker on it saying, 'This will go to John,'" Orlando says. Instead, the goal is more to establish your baseline intentions and perhaps set the scene for future conversations as your family grows and changes over the years.

"Even if the parents make the final decisions, it's typically a good idea to at least get the pulse of their rising generation's hopes and questions," says Orlando. "If the family believes it will be helpful, a third party can facilitate the conversation and process for the family, culminating with it being codified via an attorney."

## **Use a Personal Property Memorandum**

One way to codify your wishes is through a *personal property memorandum*. While you can certainly make specific bequests in your will—like leaving a vintage dollhouse to your niece—it can be a good idea to create a separate document if you have many special belongings that you want to give instructions for. This memorandum is simply a list of things with the people you want to receive them. By spelling out which child or family member gets which items, you save your heirs from having to negotiate among themselves.

For example, you might list particular pieces of furniture, art, photos, or household items with the



name of the desired recipient. You would not list financial assets, such as money, stocks, bonds, or real estate, in this type of document.

When making the list, it's fine to type it and print it or just write it out by hand. Be careful to describe the items in enough detail to avoid any confusion. Also, don't contradict instructions you've left in your will. Your list needn't account for every single item, but overall wishes and intentions should be captured, says Orlando.

In about 30 states, you can then make the personal property memorandum legally binding by specifically mentioning it in your will. Be sure to sign and date the list, because if you end up changing it later, the document with the latest date will be the one that's used. Keep this document together with your will.

## **Write a Letter of Instruction**

Unlike a will or a personal property memorandum, a *letter of instruction* is not a formal legal document. It's a personal letter expressing your wishes. You can use one to clarify what you want done with specific items. While not legally binding, it allows your heirs to understand exactly which heirlooms or property should go to which relative.

In addition to specifying the distribution of personal property, your letter of instruction can include many other types of preferences and information. You can spell out your hopes for how your children will spend their inheritance, what you want done with your social media accounts, or what your cherished values and beliefs are that you'd like to pass down to your heirs. You can also include directions for the care of your pets or the charities you'd like to support. This is a personal letter to your family, so feel free to include any messages you want to convey.

## **Gift Items During Your Lifetime**



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Another popular strategy is to gradually give your personal items or financial assets to your children so they can enjoy them during your lifetime—and you get to witness their pleasure. For example, pass on jewelry, furniture, or a portion of financial assets as a wedding gift, or give some items to each child every year on their birthday. Doing so also gives you an opportunity to test the waters.

You can present a certain amount of assets to your kids as a way to see how they will steward them.



“It might point out how ready and mature an adult child is, or maybe that they need a little more mentoring and education. Or maybe it goes sideways, and the parent has time to update their estate plans accordingly,” says Orlando.

If you make such gifts, be aware of the potential tax consequences for items of value. The federal gift tax exclusion is \$16,000 in 2022.

It's important to plan for your financial assets in your estate plan and will, but that's not the only area where you should make your preferences known. By making the effort to organize your wishes for your personal belongings, valuable or not, you might be providing your heirs with another gift—that of family harmony, long after you're gone.

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