

WHAT HAPPENED TO YOU AT CAMP LEJEUNE?

VETERANS LIKE YOU ARE BEING FLOODED WITH "CAMP LEJEUNE" JUNK MAIL, TV COMMERCIALS, RADIO SPOTS, AND INTERNET ADS. IT IS OVERWHELMING. WHICH ONE IS THE SCAM? ARE SOME JUST "OK"? WHO WILL PROTECT ME AND MY FAMILY THE BEST? SO MUCH NOISE!

YOU ONLY GET ONE SHOT AT THIS. AND THE CLOCK IS RUNNING. WHY NOT CUT THROUGH THE CLUTTER WITH A FELLOW VET? SEVERAL VETS CALLED. THEY WANTED TO KNOW WHAT THIS CAMP LEJEUNE STUFF WAS ALL ABOUT. SO I LOOKED INTO IT. FOUND EXCELLENT ATTORNEYS WITH OVERWHELMING TRACK RECORD OF SUCCESS.

CALL US 888-954-3375

WHY NOT MAKE SURE THAT YOU GET EVERY NICKEL YOU DESERVE?

GET ANSWERS TO YOUR QUESTIONS:

How do I protect my health, home, lifesavings, family and legacy?

Why is an outdated will worse than no plan at all?

How can I be sure people I trust will make medical and financial decisions for me, if I cannot?

How can I control the care I get (and do not get) in a medical emergency?

How can I protect my kids' inheritance from divorce, bankruptcy, and their own poor decisions?

How do I avoid heavy taxes from the new law on my retirement plans (like my IRA or 401k)?

Come to the LifePlan™ Workshop!

Get Answers at Our Live, In-Person, Group Workshops!

Grand Rapids

Thursday, March 16
6pm

(616) 361-8400
4965 East Beltline Ave NE
Grand Rapids, MI

Holland

Saturday, April 1
10am

(616) 796-9600
12330 James Suites B10
Holland, MI

www.DavidCarrierLaw.com
email: David@DavidCarrierLaw.com

The Michigan Elder Law Reporter™

MARCH 2023

33 Years Serving Michigan Seniors

VOLUME 33, ISSUE 3.1

LET'S LEARN FROM THE MISFORTUNES OF OTHERS!

SPRINGTIME FOR LETTERS!

STILL NOT CORRECTING SPELLING OR GRAMMATICAL ERRORS (DUBIOUS ANALYSIS, GRATUITOUS EFFLUVIUM, STILL NOT LEGAL ADVICE!)

How can condo be given/transferred to sister while protecting it from a step-sister who wants to have a claim against it?

My parents in their early 80's, have a condo, but my mom was the one who spent all her savings to buy the condo as my dad never had a work ethic to keep a job.

We have a stepsister via my dad, who we don't really know as she comes and goes in my dad's life. Through other family members, we learned that this step-sister has been inquiring about how she can claim the condo once parents pass away. Not even sure if that's possible, but my mom would like to give the condo to my sister as she lives in the area and she has been taking care of their health for the last few years, and she doesn't want any legal problems from my step-sister.

The bank that my mom makes payments to, suggested my mom can have my dad do a quit claim deed and that way my dad is off the deed. Now, my dad has been diagnosed with early signs of dementia and parkinson's and he has trouble moving so taking him to the bank to do this is very unlikely. Even if he goes, his response is always, ask my wife.

What can be done to make sure that the condo goes to my sister and that my step sister makes no claim against it?

IT IS A TALE

TOLD BY AN [ORDINARY PERSON], FULL OF SOUND AND FURY SIGNIFYING NOTHING.

MACBETH (ACT 5, SCENE 5)

SOME THINGS MATTER, OTHER THINGS DO NOT

Legal consequences usually flow from a few facts. Human life, as Shakespeare (and Macbeth) observed, is full of irrelevant "sound and fury signifying nothing." Our job: filter out the emotional turmoil. Focus on the facts. Get the desired result. Don't screw up everything else.

Remember, the unintended consequences of our actions often (usually) exceed the intended consequences.

Things that do not matter:

1. Mom spent her savings to buy the condo. Dad never had a "work ethic." So what? Dad owns the condo with Mom.
2. Stepsister is a stranger who "comes and goes." Irrelevant. Blood is thicker than water. And counts in probate.
3. Bank advises action that would cause Mom and Dad to default on mortgage.

Things that matter:

1. Condo is mortgaged.
2. Mom and Dad both own the condo.
3. Stepsister is a blood relation.
4. Mom and Dad are older, in their 80's. Dad already diagnosed with dementia and Parkinson's.
5. Mom wants condo to go to one family member, disinheriting all others.
6. Dad defers decisions to Mom.

Is it possible to forge a solution from these facts? But of course!

FIRST, DO NOT DO STUPID STUFF AVOID ILL-ADVISED ACTIONS

Somebody at the bank says that Dad should "do a quit claim deed." Yikes. This will trigger a cascade of unfortunate consequences and repercussions.

1. Bank/Finance Problem #1. If Dad deeds the condo to anyone, he triggers the standard "Due On Sale" clause in the mortgage. That means that the entire amount of the mortgage will be due and payable. Right Now. Mom and Dad will have defaulted on their promissory note and mortgage. Will the bank come screaming after Mom and Dad to foreclose? Highly unlikely. But if Mom and Dad have a low, low interest rate and the interest rates continue spiking upwards? Does it matter that Mom and Dad were acting on the bank employee's advice? Do you think

the bank employee will admit to giving that advice? Did you get it in writing? Do you think brightly colored eggs come from a large bunny rabbit?

2. Medicaid Problem. Dad deeds the house to Good Daughter.
 - a. Medicaid calls this "Divestment". As far as Medicaid is concerned, Dad gave away his half of the condo.
 - b. Mom or Dad needs long-term care. Mom and Dad cannot afford the \$12,000-15,000 per month cost of a skilled nursing facility. So, they take the less costly alternative, an assisted living facility. Assisted living is only \$7000-\$9000 per month. Cheap! Should Mom and Dad pay for care from an agency? Sure... that's only \$30-\$60 per hour; \$240 - \$480 for an 8-hour shift.
 - c. Mom and Dad quickly spend their lifesavings. Then they apply for Medicaid and the fun begins.
 - d. Thanks to quit claim deeding Dad's share to Good Daughter, Medicaid will assess a Penalty Period before paying a nickel.
 - e. The Penalty Period is calculated as follows:
 - i. Condo is worth \$200,000.
 - ii. Dad's share of the condo is worth \$100,000.
 - iii. Dad gave away (divested) \$100,000 by deeding his half of the condo to Good Daughter.
 - iv. Medicaid does not care about giving stuff away, until Mom or Dad is otherwise eligible for Medicaid. Medicaid eligible means being flat busted broke. And needing long-term care.
 - v. When Mom or Dad is Medicaid eligible (flat busted broke) then Medicaid assesses the Penalty Period.
 - vi. For every \$10,000 that was given away, Medicaid will not pay for a month of care.
 - vii. Medicaid will not pay for the first ten (10) months of care for Mom or Dad. After Mom or Dad is "otherwise eligible" for Medicaid.
 - viii. So the long-term care facility will not get paid for the first 10 months of Mom or Dad's care.
 - f. Business Office Managers at long-term care facilities like to pay their staff, nurses, administrators, laundry people, grocery bills, utilities, and other expenses. Is it easy to pay others when you do not get paid yourself? That's why the Business Office Manager will sue Mom, Dad, and Good Daughter. And win. And there goes the condo.
3. Medicaid Non-problem. Dad deeds condo to Mom. Transfers between spouses are not divestment. Dad deeding to Mom still violates the Due on Sale clause, but it would not be a Medicaid problem.
4. Probate Problem. Dad deeds condo to Mom. Mom establishes will to give condo to Good Daughter. Mom dies first. Who gets condo? But Dad still has rights to his marital allowances in probate. Dad still gets his marital share. And he is still on the mortgage.

But he has dementia and Parkinson's. Stepsister shows up in probate court asking to be appointed Guardian and Conservator for Dad. Maybe she wins because it looks like Mom, Son, and Good Daughter were trying to take Dad's share of the condo away from him. Maybe the judge is convinced. And now Stepsister is in charge. And Dad does a new Will. Uh-oh.

5. Bank/Finance Problem #2. Mom dies. Then Dad dies. Stepsister remains out of the picture. Condo goes to Good Daughter, subject to the existing mortgage. Usually, Good Daughter could continue to make payments on the mortgage and keep Mom and Dad's low interest rate. But. Because the "Due On Sale" clause was violated by Dad's quit claim deed, the bank forecloses and Good Sister must refinance.

AVOID NURSING HOME POVERTY

You can get long-term care benefits without going broke. Medicaid wants you broke. But you do not have to accept what Medicaid wants. You can protect what you have earned. Here's how:

HOW MEDICAID WORKS

WHAT IF YOU GIVE AWAY YOUR STUFF?

What if you give away your stuff and then apply for Medicaid benefits? Medicaid will say, "We will not help you. You had stuff and gave it away. And so we will not pay." This is called the "Penalty Period." Medicaid will excuse itself for a period of time. The more you gave away, the longer Medicaid will not pay. Right now, for every \$10,000 you give away, Medicaid will not pay for a month. Give away \$120,000, Medicaid will not pay for an entire year! But then Medicaid will pay.

In the meantime, while Medicaid is not paying, the nursing home is suing you. And your kids. And your friends. And your first-grade teacher. And anyone else you gave stuff to. You thought you could keep the house? Ha-ha. You thought you could keep an automobile. Yuk-yuk. Whoops!

Funny thing, though. What if you gave away your stuff more than five (5) years ago? What if sixty-one (61) months ago you gave all that stuff away? Then you applied for Medicaid? Things are different. Now Medicaid does not care that you ever had that stuff at all. Does not matter.

So perhaps you should give all your stuff away. Right now. To the kids. Your neighbors. Your first-grade teacher. Then wait for five (5) years. And if you ever need long-term care after that, no problem! Medicaid does not care that you had that stuff and gave it away. Great Plan! By now, the sharpest knives in the drawer have spotted the problem with this brilliant approach, right? If you give your stuff away, then you have no stuff. And you like your stuff. What to do?

WHAT IF YOU GIVE AWAY YOUR STUFF WITHOUT GIVING AWAY YOUR STUFF?

How can you give away your stuff without giving away your stuff? By using a particular kind of trust, that's how. For Medicaid purposes, you gave your stuff away. For federal tax purposes, state tax purposes, common sense purposes, you did not give your stuff away.

WHY DON'T YOU DESERVE A LITTLE PAYBACK FOR ALL THE TAXES YOU PAID IN?

WHY DO YOU WANT TO SPEND YOUR LAST NICKEL ON LONG-TERM CARE?

WHY SHOULDN'T THE GOVERNMENT SPEND YOUR MONEY FOR YOU?

Traditional estate planning is concerned with avoiding probate, saving taxes, and dumping your leftover stuff on your beneficiaries. After you die. Nobody cares what happens to you while you are alive. How does that help anyone? Stupid.

Traditional estate planning fails because the overwhelming majority of us will need long-term skilled care. 70% of us. For an average of 3 years. And we will go broke paying for it.

Is it surprising that thousands of recreation properties: cottages, cabins, hunting land, are lost to pay for long-term care? Why is your estate planner hurting you and your family? It is evil intent? Or stupidity?

LifePlanning™ defeats Nursing Home Poverty. Keep your stuff. Get the care you have already paid for. Good for you. Good for your family. Good example for society,

When my mother suffered from the dementia which led to her death, over 10 years ago, their estate plan preserved their lifesavings. Mom's months in the nursing home did not mean Dad's impoverishment. Dad spent the last years with security and peace of mind.

IS NOW A BAD TIME FOR A REAL SOLUTION?

Perhaps you think you already have an answer to this problem. Maybe you do not see this as a problem at all. It is possible that you do not believe in the passage of time or its effects on you.

Peace of mind and financial security are waiting for everyone who practices LifePlanning™. You know that peace only begins with financial security. Are legal documents the most important? Is avoiding probate the best you can do for yourself or your loved ones? Is family about inheritance? Or are these things only significant to support the foundation of your family?

Do you think finding the best care is easy? Do you want to get lost in the overwhelming flood of claims and promises? Or would you like straight answers?

Well, here you are. Now you know. No excuses. Get information, insight, inspiration. It is your turn. Ignore the message? Invite poverty? Or get the freely offered information. To make wise decisions. For you. For your loved ones.

The LifePlan™ Workshop has been the first step on the path to security and peace for thousands of families. Why not your family?

NO POVERTY. NO CHARITY. NO WASTE.
It is not chance. It is choice. Your choice.
Get Information Now.
800-317-2812

THE LAW OFFICES OF

DAVID L. CARRIER, P.C.

ESTATE PLANNING & ELDER LAW

Your Family's Personal Attorney.

Grand Rapids

4965 East Beltline Ave NE
Grand Rapids, MI
(616) 361-8400



Portage

3275 Cooley Ct.
Portage, MI
(269) 350-2323

Norton Shores

131 S. Seaway Drive
Norton Shores, MI
(616) 361-8400

ATTORNEY

DAVID L. CARRIER

40 Years Practicing Law

BA, Notre Dame; JD, Boston University Law
Master of Laws, Tax, Georgetown University Law
Captain, US Army, JAGC (Veteran)



Holland

12330 James Suite B10
Holland, MI
(616) 796-9600