

# Parents should ask: ‘Will my children be talking after I die?’

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Issues around second marriages are notorious for causing heartache after the estate is settled as are simple glitches in the will, poorly worded phrases and assumptions.

The court battle was bad enough. The man fought his six siblings over their deceased father’s valuable farm. But then his victory turned sour as his siblings sought revenge.

His boss, his closest friend and his fiancé all received letters accusing him of being a liar and a cheat. Each letter included secrets he had confided in his family before the troubles started and each letter was signed from “a sibling” without a specific name. The man never found out which of his brothers and sisters wrote them. He was put on probation at work until the offences were proven false, but he lost his friend and fiancé.

That’s one of the worst cases of sibling rivalry that wills and estates lawyer Les Kotzer has seen, and he’s witnessed some doozies. So many that he and partner Barry Fish have written their fourth book, *The Wills Lawyers: Their Stories of Money, Inheritance, Greed, Family and Betrayal*.

And it’s not just jealous siblings who spark inheritance wars. Issues around second marriages are also notorious for causing heartache after the estate is settled as are simple glitches in the will, poorly worded phrases and assumptions.

“Sometimes parents themselves set the seeds of destruction of their own family by not doing proper planning,” says Thornhill lawyer Kotzer. “Some parents keep their heads in the sand.”

Often parents think that dividing the inheritance equally among the children is the fair thing to do. “But

equality isn't always fairness and doesn't mean the kids won't fight," says Kotzer, whose book is available for purchase or download at [thewillslawyers.com](http://thewillslawyers.com). He tells the story of one childless man who figured his father had spent \$100,000 on his sister's children – a nanny, private school education, gifts – and thought he deserved an extra \$100,000 from the will. The father refused.

Parents should do what they want with their money, says Kotzer, but they should also think of the consequences. "Will my children be talking after I die?"

Wills may contain vague wording, what the authors call "ticking time bombs." One woman left her "antiques" to her daughter. "What qualifies as an antique? Does that include the woman's Elvis Presley collection?" points out Kotzer. "One word can destroy a family."

They may also not be specific enough about the deceased's intentions. Kotzer tells the story of one rich man who was very close to his only grandchild. They spent a lot of time together and he promised her that one day she would benefit from his hard-earned wealth. He explained that he was leaving his estate to his only child, her mother, who would eventually pass it on to her.

The plan was on track. When he died, the girl's mother inherited everything. But shortly afterwards, she died suddenly. The inheritance went to her husband, the girl's father, who remarried a few years later.

That's where things went awry. The girl, now an adult, asked her father for some of her grandfather's money so she could start a business. He refused, saying he needed the money to buy a big house for his new wife and stepchildren and to pay for their educations.

She argued that her grandfather had promised her the money, but the father refused to budge, insisting, "It's my money now." That was the last time the girl ever spoke to her father.

If the rich grandfather had truly wanted his granddaughter to benefit, he should have left part of his money to her, says Kotzer. He could have set up a trust fund for her.

A trust is often used as a way to control the money. If a child has drug or alcohol problems, parents might leave the inheritance in a trust that pays an income through the child's life rather than having them get one lump sum.

"If parents didn't like their son-in-law, they could set up a trust for their daughter's inheritance specifying that when she died, the money goes to their grandchildren," says Kotzer.

In drawing up a will, Kotzer suggests including the "family law clause," which protects the income generated from an inheritance should the child later separate or divorce. If the inheritance has been kept in the child's name, not in a joint account with the spouse, then it is safe, but the money earned from it is not. "This can cause so much grief, accounting for all the money made from the inheritance and giving half to the spouse," says the lawyer. "The family law clause protects against that."

Kotzer, who does free will reviews, is sometimes shocked at what he sees. At a friend's insistence, one elderly woman brought in a homemade will. After reading the lengthy document, Kotzer confirmed with her that she intended to leave everything to her son, Frank.

The woman was aghast – no, everything was to be divided equally among her three children. It turned out, Frank typed up the homemade will, and the woman hadn't scrutinized it.

Sometimes couples don't agree on what should be inherited when. One wealthy couple in their seventies planned to leave everything to each other, then divide the estate equally among their children after both of them had died. But Kotzer says that when he asked about grandchildren, the couple started bickering.

The husband wanted to give the three grandchildren, hard-working twenty-somethings, a good sum, about

\$25,000 each, now to help them out.

The wife strongly disagreed, saying that would spoil them. They should get it later in the will.

Eventually, the husband won by arguing that if they gave the grandchildren the money now, they would see how it benefits them and feel the appreciation. "The wife agreed," recalls Kotzer. "She said, 'Now we get hugs and kisses, later we get nothing.'"