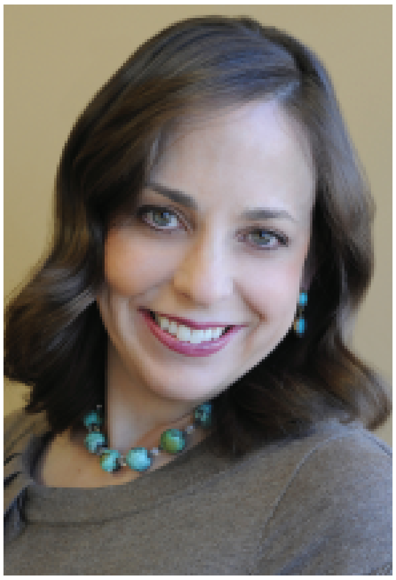
THE Estate Planner's STORYBOOK OF Everyday Tales and UNEXPECTED Endings



BY JANE FRANKEL SIMS

CHAPTER 1: The Busy Doctor and her Devoted Daughter

DR. MONICA GREEN WAS becoming increasingly busy managing her burgeoning practice in the face of cumbersome and ever-changing Medicare, Medicaid and insurance regulations. She sometimes neglected to check her mailbox and feared overlooking a bill or missing a credit card payment and incurring penalties. When a teller at the branch of her local bank suggested adding her daughter's name to her bank accounts so that her daughter, Cindy, could help her manage her finances, Dr. Green thought this was a perfect idea, a welcome relief.

As she approached retirement, Dr. Green began worrying about where her assets would go upon her death. She had three wonderful children, Cindy, John and Delia. Lucky for Dr. Green, Cindy lived close by, and Dr. Green depended on her for help with financial matters. When Dr. Green contacted her lawyer, Ralph Barnes, to see if her will needed to be updated, Mr. Barnes assured her that her will divided everything equally among her three children. Confident that her affairs were in order, Dr. Green turned her attention back to her hectic medical practice.

Cindy had the time to focus on her mother's affairs because her husband, Greg, supported Cindy and took care of the couple's finances. Greg was a serial entrepreneur and though none of his businesses ever took off, he managed to make a comfortable living.

When Dr. Green died suddenly at the age of 64, it came as a shock to Cindy and her siblings. Greg, however, was secretly relieved. He was counting on a substantial inheritance from Dr. Green as he had been funding his latest venture on his personal credit card and the bills were mounting. Dr. Green's bank statements had been coming to their address these past few years and Greg took notice of the fact that his wife's name was listed on the account.

When Cindy alerted Ralph Barnes of her mother's passing, he informed her that she was named personal representative of her mother's estate and asked her to make a list of her mother's assets and gather statements of her various accounts. When Cindy presented Mr. Barnes with a recent statement of her mother's bank account, he was surprised to see Cindy's name next to her mother's on the account title.

"Well, Cindy," Mr. Barnes stated, "it looks like the bulk of the assets are already owned by you."

Cindy looked confused.

"The only assets that pass pursuant to your mother's will are those owned solely in her name at the time of her death. Because the bank accounts were owned jointly with you, they passed to you by title automatically at your mother's death."

"Do you mean John and Delia don't get anything other than a few sticks of furniture? Mom thought everything would be divided equally among my siblings and me. This is not at all what she would have wanted."

"Cindy, don't worry. Even though the bank accounts are legally yours, you can write checks to each of your siblings for their shares."

Thankful that the situation could be ameliorated, Cindy went home. Over dinner she informed Greg of the joint bank account situation and her intention to write a check for ⅓ of the value of the accounts to each of her siblings first thing in the morning. Normally calm and slow to speak up, Greg surprised Cindy with the alacrity of his response: "No, that's not at all a good idea."

"What do you mean?" Cindy asked, in deference to Greg's experience in financial matters. "Am I doing something wrong?"

This was not the way Greg had envisioned breaking the news to Cindy of their financial straits but the prospect of losing this windfall frightened him into action. "Cindy, we're in trouble. A few big deals I was counting on fell through. It's impossible to get business loans these days and we have maxed out the equity in our house. I have been purchasing business equipment on my personal credit card and taking cash advances on the card to pay rent and salaries. The interest alone is killing me."

Cindy was silent.

"These joint bank accounts from your Mom are a godsend. We can get back on our feet again."

"But what about John and Delia? Mom wanted them to be treated equally, and they have kids to put through school."

"Cindy, you took care of your mother's finances for years. Don't you think you deserve a little extra as compensation? John and Delia will be fine. They don't need this money like we do."

Overwhelmed and more fearful of disappointing her husband across the table than her siblings across the country, Cindy acquiesced. "Well," she said. "I suppose we could give John and Delia their shares in a few months once we get our finances in order."

MORAL OF THE STORY: Titles trump wills! Do not add someone's name to your bank account as a co-owner as this could significantly disrupt your estate plan and unintentionally disinherit children or other family members. Instead, add the person to the account "for convenience purposes" only. Alternatively, sign a power of attorney allowing someone to manage your finances for you.

Be wary of relying on the generous nature of your devoted child. Accounts titled jointly with one child are often not shared with siblings due to gift tax exemption limitations or pressures from third parties like spouses and creditors. Having a will with the proper terms is not sufficient. You need to inform your estate planning attorney of how each and every asset you own is titled. Remember, that assets pass by title before they pass by will.

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