

NOYACK <> Meredith - Video Interview - 2024/11/23

Transcript

Attendees

CJ Follini, Meredith Maller, Noyack Wealth Weekly

Transcript

CJ Follini: Here we are with Meredith Mer. we're marital law and estate planning expert and attorney at Bernstein Shurer out of Austin and Portland, Maine. Meredith, thank you for being with us today to provide your subject matter expertise in this interview. Great sound. Now we got our technical difficulties taken care of. So, we're this edition, you may have read, is we're calling it part two, beneficiaries, trustees and executives. However, I think it's part four. We got lost somewhere in our year of our estate planning series. So, without further ado, first question. General Barn burner. Why is estate planning so misunderstood?

CJ Follini: And why is it so important?

Meredith Maller:

Meredith Maller: I think it's misunderstood because there's a lot of gatekeeping around it. It's sort of these really bloated documents with a lot of shalls and shoods and your audience are used to experience it from sort of their grandparents or parents in a way that's overly complicated. it doesn't necessarily have to be that way. and I think the reason it's so vital is that the law, if you pass away without a will, which we call dying in testate, it defaults to beneficiaries and distribution you wouldn't necessarily want. So, particularly for someone who is unmarried and has children, if you were to pass away, it would benefit your parents rather than perhaps your partner. So, after you work so hard to build wealth,...

CJ Follini:

Meredith Maller: you can sort of see that disappear. as part of that process.

CJ Follini: So a lot of times people your clients don't even know you did a great job...

CJ Follini: until something goes bad until something goes wrong.

Meredith Maller: Yeah.

Meredith Maller: Yeah. I mean I yeah.

CJ Follini: So when you do great,...

CJ Follini: the fact that nothing happens, that's good. But no, you don't really get that big thank you.

Meredith Maller: I mean there's a reason we have the highest liability insurance and it's because it can be decades down the line and knock on wood I've never had an issue but's also when things go I also don't hear from them because it has been so smooth and that is another reason why estate planning is so

crucial is that in a time of terrific grief it's somewhat of a relief to have things be spelled out and be very clear Even if really really simple.

CJ Follini:

Meredith Maller:

CJ Follini: So given that you have a near perfect and...

CJ Follini: a perfect record can you share and...

Meredith Maller: Knock on wood.

CJ Follini: knock I don't have any wood I have for micica here so I don't know if I'm gonna there's some wood can you share an example of a situation with a family of that saved significant legal and...

Meredith Maller: Okay, perfect. right.

CJ Follini: financial challenges. And of course, we don't need to know their name. Okay.

Meredith Maller: So, I teach a lot of trust and estates and I like rock and roll. So, these were not clients, but I think this is a great example. and so I'm going to give you a bad and a good. So, Jim Morrison of the Doors,...

CJ Follini:

Meredith Maller: he has a simple will, passes away at 27, leaves everything to his girlfriend Pamela. So we're talking copyright, publishing image, everything like that.

CJ Follini: Wow.

Meredith Maller: Yeah. Leaves it to his girlfriend Pamela Corson. Two years later, passes away. Pamela has no will. So the publishing,...

CJ Follini: My gosh.

Meredith Maller: copyright, image, everything goes to the Corson family. And so at that point,...

Meredith Maller: Jim Morrison's family sues. And now they're still splitting it The royalties from the doors go 50/50 to the Corson and the Morrison family. Okay. bad example,...

CJ Follini: So the questions that now own Tampa Bay Devil Rays.

Meredith Maller: I would assume. So, yeah, they own a lot of stuff at this point. So, that's kind of a really good example of you wouldn't think Jim Morrison,...

CJ Follini: Wow.

Meredith Maller: 27, makes the will. At that point, the doors weren't even that big, but Pamela's family went on to do very well by it. so now I have a good example. how did you like The Catcher and...

CJ Follini:

Meredith Maller: the Ryan movie?

CJ Follini: I'm not sure it was for me,...

CJ Follini: but I'd love the book.

Meredith Maller: That's a good question.

Meredith Maller: It didn't exist. And that is good estate planning. So JD Salinger Yeah.

CJ Follini: What? ...

Meredith Maller: There's never been one.

CJ Follini: that's right. Yes, he is.

Meredith Maller: Yeah. I never allowed it.

CJ Follini: He has never allow you caught me. Wow.

Meredith Maller: And so when he passed away, his literary agent the rights to Catcher in the Rye are in a trust and no one knows who the trustees are. And there's never been a Catcher in the Rye movie. That is very good estate planning. so that kind of legacy is when you have a really seamless transition. Anytime you have an estate like Michael Jackson or you have Prince or something or even Artha Franklin, someone who passed away with what's called a holographic will, a handwritten will, she had maybe half a dozen that were found behind couch cushions and stuff like that. It ties up estates like it took forever to make a biopic about her.

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Meredith Maller: So that is really sort of the worst case scenario. and so when you hear about it, it's gone poorly. And when it goes it is incredibly sad, but a private sort of efficient transfer of wealth.

CJ Follini:

Meredith Maller: One of I have a four-year-old, but the saddest way to put him through college is on the back of probate litigation and somebody who passes away without a will. we actually don't know...

CJ Follini: Very interesting.

CJ Follini: So that lens then that I'm thinking of that example of JD Salinger's executive. Isn't would that be his executive that's in trust? So the literary agent is not the trustee.

Meredith Maller: who the trustees are. So they did such a good job. It says literary agent who came out and said there will never be a movie. and literary agents not the trustee. We don't even know who the trustees are.

CJ Follini: No. Right.

Meredith Maller: So no one is knocking at their doors. And the urban legend is Michael Eisner wants to make a catcher in the ry with German shepherds.

CJ Follini: German shepherds.

Meredith Maller: German shepherds. Yeah. ...

CJ Follini: Really? is it interesting?

Meredith Maller: there you go.

CJ Follini: Okay.

CJ Follini: So, I was using that as a springboard to say what qualities for, should someone look for in an executive or a trustee.

Meredith Maller: That's a great question. and those are really two different roles. So when we're talking about an executive,...

CJ Follini: Let's explain that right now.

Meredith Maller: absolutely. So an executive is someone or a personal representative depending on the state you're in. They're the person when you pass away ensures that your assets make it to the right place. So they would be like signing an agreement with a real estate agent to sell your home. If there was a painting, if they were making sure your funeral expenses get paid, they sign your final tax return. It is a really shortterm post and a lot of times firms like mine are hired to do everything from we can be the ones to sign it if they delegate it. So it's sort of that and it's I would suggest someone who's pretty organized because sort of from the moment of passing you're asking them to collect of somebody's mail to ensure that their vehicles are retitled in the name of the estate their home.

Meredith Maller: one of another I sort of live for these anecdotes but a guy's ex-wife burned down his house the day after he died and yeah I don't know why he waited till after he died but she did it the way day after he died and so because the home hadn't been titled in the name of the estate there was absolutely no insurance proceeds so that's something like you sort of need a personal representative...

CJ Follini: Mhm. right?

Meredith Maller: who has their finger on the beat of stuff like that but their job ends And so it's about a year if they have to go through full A trustee however is someone who trusts are sort of hard to explain other than think of them as a special purpose bank account and a bank account that says money can be spent for health, education, maintenance and support which is lawyers speak for everything and nothing.

Meredith Maller: This is the person who writes the checks from the bank account and says what qualifies and what doesn't qualify. And in the case of someone like me who has a four-year-old, I'd be looking at a trustee that could be serving through preschool,

CJ Follini:

Meredith Maller: the dinosaur obsession, as we move into Matchbox cars and then real big car. as a father of boys,...

CJ Follini: Yes. So the trustee is basically the CEO.

Meredith Maller: then the cars become bigger and more expensive. and you go into college and stuff like that. And so it could be quite a long time. And so I'm sort of thinking about two jobs. The first is, and I don't want to wander into your world, is a trust making money. This is an investment account. A banking house, kind of a poor way to describe it, but an investment account. And do they know my values and what I want for my son well enough that when they write those checks, they have confidence. Yes. That's a great analogy.

CJ Follini: Got Thank you. And by the way, in all I guess I should have disclosed the fact that Meredith is actually my estate planning attorney and I'm going through this right now.

CJ Follini:

CJ Follini: at my age, 57, two sons, four and two years old and I'm trying to figure out who I can trust. luckily I have some dear friends who are very trustworthy, very smart, and all CEOs. So, I think I'm in good shape. In fact, my sons will probably be in better shape with them than with me. But they got me. So, they're going to have to live with that.

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Meredith Maller: Yeah, I think my son has chosen ...

CJ Follini: his guardians.

Meredith Maller: T-Rex or Indiana Jones to be his guardian at this point. So, yeah,...

CJ Follini: I should ask my sons.

Meredith Maller: I'm trying to see if Indiana Jones can be trustee.

CJ Follini: Yeah. ...

Meredith Maller: So Yep.

CJ Follini: speaking of another segue moment. update updating beneficiaries seems to be a recurring theme. I mean, we've talked about it from my plan. now that I have beneficiaries or at least, children.

CJ Follini: what should prompt that beneficiary update? What life events? What do you see as the things that trigger a review of beneficiaries?

Meredith Maller: will an IRA, a transfer on death account, anything like that, or even like a digital like who you name as your custodian, they're not revisited enough. And in some states, even if you get legally divorced, an expouse can still benefit if they're still listed as a beneficiary. So, amazing question. So, I actually have a really nice sort of I don't know if it's a pneumonic, but I call it the five Bs, which is diagnosis, divorce, death, and it could be death of a partner, death of a parent, death of a grandparent, death of a child, so what I say diagnosis, divorce, death, departure, meaning if you move to another state, if you

Meredith Maller: get property in another state. and then I think decade is a bit long. a decade is when you should call your attorney to check in because it's really sort of an iterative process, but I like to say duo,...

CJ Follini:

Meredith Maller: meaning every couple years just kind of take a look and go, is this still what I want? But decade,...

CJ Follini: Interesting. Wait,...

Meredith Maller: I mean, it depends on the client. I tend to be an attorney who likes to see people once a year check in take talk about how things have changed and...

CJ Follini: wait, wait,...

Meredith Maller: in a decade.

CJ Follini: wait. How often do people check in on their estate plan? Once a year.

Meredith Maller: You CJ I'm going to see quarterly. No, I'm kidding.

CJ Follini: Yeah, No, too often.

Meredith Maller: No. ...

CJ Follini: way too often.

Meredith Maller: no. It depends on It really is those events like people have big years where things will sort of stabilize, where you have minor children and...

CJ Follini: Okay,...

Meredith Maller: then the kids hit 18 and things change and then they sort of go out in the world.

CJ Follini: that makes sense.

Meredith Maller: So, it's like those 10 years are kind of good prompts of and that's the changes I see and it's not necessarily a whole cloth or redoing an entire plan. I would also say under death we're talking about also liquidation events. May it be, an inheritance or you're exiting a company or you're starting a company. part of my intro, I do a lot of business succession planning with startups of the day they start, I'm there in the room talking about what does your LLC say and do you have a proxy? What happens if you're incapacitated? Let's get that stuff in place. and so it could be all these different versions of that. You're leaving one job and heading to another job.

Meredith Maller:

Meredith Maller: What do those people sort of don't not necessarily think they have wealth right now, but do you have the ability under the LLC agreement if you're in a startup or an operating agreement to leave those interests to a partner to a child? Yeah. Yeah.

CJ Follini:

CJ Follini: as you were speaking, I don't think our LLC's and all of our funds have a proxy in terms of what if I'm capacitated. Frankly, I think I'm living forever. So, I'm not sure it's really needed. I'm not sure. In fact, I think this whole conversation is moot in my case because yeah, I am Moses. but...

Meredith Maller: So that's a mistake that I think that you're going to live forever.

CJ Follini: but that would be one of them?

Meredith Maller: I listen, I'm not offering you anytime soon, but I'm going to live forever. And I genuinely hope that's the case is I say to people may your last check bounce and most of this stuff you don't need. It's like an insurance policy. But I've seen when you talk about a worst case scenario, it's something like you and a partner have a going business whether or not it's profitable or not. One person becomes incapacitated or passes away and the surviving partner unwittingly is now in business with somebody's 20-year-old kid or...

CJ Follini: Mhm.

Meredith Maller: a spouse who's I'm going to pull money out of the business or because they don't have a will, it's locked up in probate for 6 to 12 months and there's literally nobody who can speak on behalf of the deceased partner. There's nothing they can do. You don't have a power of attorney. You don't have a personal representative. So, you are killing companies like that. We hate to see a fire sale. and those a proxy the documents in some ways that I find the most impactful are the cheapest and easiest to do. A power of attorney, a proxy, a healthcare directive and a living will. because things can be slowed down so much and particularly when there's not clarity.

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Meredith Maller: it's really easy to plan for married couples who have one kid. And the same is true for LGBTQ plus couples if you're married with one kid. Really clear things are a lot more difficult and even sort of at the time when you're building wealth and you're younger and it doesn't feel like you can afford documents. You're also at risk. So like I say, for your living will or healthcare directive, your best friend, whomever in your life might be the best person to decide what you want to occur if you're in a persistent vegetative state. But instead, under the law, if you don't identify someone, you're going to have your parents step in. And for a lot of people, maybe they're not the people who really know their values or maybe they're dead. Exactly.

Meredith Maller: And so, And so, right, and at that point, you are sitting in a hospital and the hospital is going to their legal board and then they're going to the courts and they're trying to find someone to get appointed. So again, it's not the mistakes, but those are things that are really easy documents to do that will smooth things over and help in a situation when time is of the essence because when you need those, you need to act quickly.

CJ Follini: Here's I guess a mistake in understanding in perception. Many young adults younger and definitely younger than me think estate planning as I talk to them and giving classes and talking to university students all over the country they think it's not for them. They say, "Yeah, I have 30 years to worry about that." and I keep saying, "no you don't." and it's not getting through. How do you address this misconception? Because you're the expert. I'm just maybe a peer or an older peer who is telling them what to do like okay boomer by the way everyone here I'm not a boo I'm not a boomer so they just say that...

Meredith Maller: Yeah.

CJ Follini: because it does hurt my feelings and they want to how do you address the misconception that estate planning is not for the young

Meredith Maller: That's a great question. And besides, I'm a bajillion old 40 blah lah blah blah. so I'm with you there. yeah, it's really hard because it is a luxury product and I absolutely appreciate that when you're looking at a budget that it's hard to justify it. what I will say is that it is I sort of lay out the worst examples of do you want the people do you want law to take over and here's a great thing that I've had to address even this past Friday we've been thinking a lot about is my firm Burns sure we have a family formation practice it's not a family law practice

Meredith Maller: is family formation, which is IVF, gender confirmation, adoption, sperm donor contracts, stuff like that. And what comes with that is you're having a baby and you're thinking, I need a state planning. And because of the recent election, we've seen this enormous influx of individuals going, " my gosh, the law is going to change." So,...

CJ Follini: Interesting.

Meredith Maller: we're looking for a way to make it affordable and efficient. And rather than in the past there's sort of bloated shall blah blah blah documents, we've been able to strip them down. So I have stuff like my documents have no gender in them. it's partner, stuff like that where you can have things be a lot more straightforward. also there's a lot more technical savvy. The things that drove up costs in the past were I hope I don't speak out of turn but our ability to collaborate on an external site.

Meredith Maller: I may be in the boot born in the 80some but I do still know how to do a SharePoint collaborative site. We learned through co that we can do a zoom people don't need to come into the office. and I can have questionnaires that are really a lot more I don't want to say plugandplay...

CJ Follini:

Meredith Maller: but I can do almost set pricing at this point for this influx.

CJ Follini: Mhm.

Meredith Maller: So, it's about creativity and I don't think there's any need to gatekeep it. And so, I would, but it's not as ownorous of a process sometimes as I think that it used to be. And I think something like this is so crucial because making it feel more approachable, more tangible,...

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CJ Follini: more accessible.

Meredith Maller: taking out stuff,...

CJ Follini: More accessible.

Meredith Maller: more accessible, having the language.

CJ Follini: Yeah. ...

Meredith Maller: Even the thing like in the past all documents were third person, mine are first person.

CJ Follini: I'm sure you lose a lot of the younger audience as soon as you say persistent vegetative state.

CJ Follini:

CJ Follini: I am like I'm out.

Meredith Maller: Yeah.

CJ Follini: I'm out.

Meredith Maller: Yeah. Right.

CJ Follini: Don't want to hear about vegetation. I don't want to hear about being a vegetable.

Meredith Maller: Yanking the plug, something like that. and...

CJ Follini: Yeah. Yeah.

Meredith Maller: that's and...

CJ Follini: So.

Meredith Maller: that's something like approaching that document is one way where I don't even have people do it. sitting in a lawyer's office and telling me what do you want to happen for your funeral? I say go home, have a glass of wine, beer, tea, whatever your poison is, and just talk about it and then come back to me.

CJ Follini: All so I'm going to try and do a quicky little last question. what is I I was going to ask you how you feel about the online services, but yeah, we'll leave that to another time.

Meredith Maller: No, I can absolutely speak to that.

CJ Follini: Quickly

Meredith Maller: I think for certain documents, I think they're really great. and I think that I would be foolish not to integrate some of it into my practice because it can make it more affordable. It can make it more efficient.

CJ Follini:

Meredith Maller: However, sort of online drafting programs, they're so sort of over lawyered that I find the documents tend to be about a 100 pages. I can bring mine down to 10. I still need to have a conversation with you.

CJ Follini: Gotcha. Mhm.

Meredith Maller: And so I can say perhaps there are really sort of basic straightforward documents but there are ones that we should have a conversation about it and it doesn't have to be at whatever hundreds of dollars an hour in my office. Let's do a Zoom let's do when it makes sense and get you out the door with that.

CJ Follini: So simple is still possible.

Meredith Maller: So absolutely absolutely.

CJ Follini: I mean Jim Morrison, you just said bringing back the Jim Morrison example. He wrote what he wrote on one piece of paper and the Corsons are now billionaires with a half a paragraph.

Meredith Maller: Yeah. mean mean that's sort of right. So it's sort of like even if you do some great planning you got to think about the next generation. So I think that that is the intersection I'm thinking a lot about is and again it is because I'm not asking clients to fill out handwritten questionnaires. They're going online. They're filling it out. They're uploading. We're able to provide that type of security.

Meredith Maller:

CJ Follini:

CJ Follini: questionnaire fill out that doesn't really give the context and the color of light because what you estate planning is you're doing a memoir basically. you're dictating a memoir to an attorney...

Meredith Maller: Yeah, that's exactly right.

CJ Follini: who is going to draft from that memoir. So filling out a questionnaire is not what anyone wants to do. All last question. What's step one?

Meredith Maller: Yes. step one is the why.

CJ Follini: What is very I mean other than go see Meredith, what is step one? like that.

Meredith Maller: And it is that why does it matter to you to protect your legacy and what you want? Because I have 99 year olds, I have 19 year olds, I have 57 year olds, and I have 42 year olds. And my first question I ask when anybody comes to my office is why estate planning now and it's generally a horror story, a diagnosis, a death, something like that. but engagement in the process and having that conversation we talked about as an hour about I'm learning about your values and that's where the legal ease come in. You can count on me to be when you talk about what is important to you.

Meredith Maller: What are your values? If god forbid, knock away, something were to happen to you, that your children can carry on the things that helped you build your business,...

CJ Follini:

Meredith Maller: helped your family build your business,...

CJ Follini: Interesting.

Meredith Maller: that they have those that carry forward. That is what I can help you do. So, it's like the why. And you come in with that questionnaire filled out and we will zoom right there and we'll make it efficient. if I'm dragging you through the process and you don't want to be there or you don't think it's worthwhile, like I get it, but if it's collaborative, and that's always the thing I think and it's also right fit. that's also something that I always say is that when you get to...

CJ Follini:

Meredith Maller: why you want to do it and you find attorney, don't be afraid to fire an attorney. I don't actually start billing until after the first meeting because I say this is about us working together and it's about us finding the right fit and if you don't feel comfortable with me that's okay.

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CJ Follini:

Meredith Maller: I'm not offended. I'm not going to charge you. So that's also the thing is it hits for you and you feel like you can trust this person. Yeah.

CJ Follini: Step one,...

CJ Follini: find your why. for me, again, transparent, it was legacy and I love my family. I want help. I want their future to be as good as great as my present. And legacy, I don't want to be forgotten. I'm very egotistical that way. I don't want to be sin blowing in the wind.

Meredith Maller: No, you're not. No, you're not.

CJ Follini:

CJ Follini: Come on,...

Meredith Maller: No, it has an awesome

CJ Follini: give me a plaque or something for God's sakes. thank you very much. This has been awesome. we're going to close on identifying your why. I think that is a great great first step.

CJ Follini: And if anyone takes any takeaway from this, that's it, And the fact that the Corson are really wealthy from Jim Morrison's music, they're doing great.

Meredith Maller: I say the courses are doing really well.

Meredith Maller: Yeah. I can only hope my partner goes and...

CJ Follini: Yeah. Yeah.

Meredith Maller: does some cool rock and roll s*. Sorry, Anar.

CJ Follini: And...

Meredith Maller: You can edit that.

CJ Follini: and then include That's okay. by this time I'm sure we lost a lot of the watches. So I might...

Meredith Maller: right.

CJ Follini: but we're gonna social media post out.

Meredith Maller: Absolute pleasure.

CJ Follini: We're going to post about the identifying your why. I love that takeaway as a beginning. Thank you again Meritt especially on a Saturday taking your time.

Meredith Maller: Always pleasure.

CJ Follini: We'll see you soon. Thanks. Bye now.

Meredith Maller: Good to see you, CJ. Thank you so much. Bye everyone.

Meeting ended after 00:26:36 🙌

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