

## **Spring Cleaning Time!**

**By Danny S. Foster**

Well even though the snow has been falling (finally) and most of us are still skiing and enjoying other winter activities, it is definitely time to start thinking about springtime and the ubiquitous spring cleaning. Of course spring cleaning doesn't just mean hosing down the garage and scrubbing the patio furniture, it means getting your life organized! Taking care of some of those things that we constantly put off doing despite the fact that we know they are important. You know those TO-DO list items that always seem to be on the backburner.

Well springtime means no more stalling, put these on your TO DO LIST:

- 1) Get a Will: Probably one of the easiest and most important things you can do that most people don't do. A will outlines what happens to your money, your property and most importantly your children when you die. It doesn't have to be a long and expensive document, but it needs to be carefully thought through. In cases where people die and don't have a will (intestate) state law will dictate who gets your cash (gulp) and who gets your children (double gulp). Your estate planning shouldn't stop with a will. Consider a medical directive (commonly known as a living will) and powers of attorney (which are effective upon your incapacity) as well.

I was one of those procrastinators who had kids, a house, a law practice, but I didn't have a will. What was I thinking? I would constantly harp to my friends about the importance of getting a will drafted but I simply didn't do it myself. Then the Terri Schiavo case hit the news.

Remember this poor woman who during a cardiac arrest suffered massive brain damage due to lack of oxygen, and after a 2 ½ year coma was diagnosed to be in a permanent vegetative state? Her husband fought to have her feeding tube removed, and her parents fought to keep her alive. The court didn't have a medical directive from Terri, so the families suffered through years of litigation to determine what should happen to her. Eventually the court ruled in favor of disconnecting the feeding tube. All of that fighting would have been unnecessary had there been a brief medical directive indicating what SHE would have wanted, not what someone else wanted.

Pretty soon thereafter my wife and I had wills drafted, trusts established for our children with guardians selected to care for them if we both died before they were adults, as well medical directives outlined with appropriate powers of attorney. It was painless, quick and best of all it put our mind at ease. We have since updated this document to account for another child, but it is a MUST-DO! If your net worth is high enough you may need more specific estate work completed to ensure Uncle Sam takes as little of your money as possible when you pass on.

- 2) Get an Operating Agreement for your Business: Believe it or not sometimes businesses fail (note my shocked expression). Sometimes friends who start a small business think that nothing will ever go wrong and that everything can be resolved by a handshake and an unspoken bond of camaraderie. Well guess again! When Bob Graham and I first started our law firm in 1999 we met numerous clients who were going through nasty business divorces. The main problem with many of these business disputes was that no one had an agreement in place to explain what happens if there is a problem. Shareholder, partnership or operating agreements lay out the framework for the operation of the business as well as the rules for what happens if things go

south. Bob and I would explain how important an agreement was and that it should be the first thing you put together when starting a business, otherwise you could end up in much more complicated and expensive litigation if things fall apart.

Once the clients would leave the office we would look at each other and laugh at our own hypocrisy. We didn't have a partnership agreement drafted until 2007! Here we are a bunch of lawyers cruising right along without anything other than a handshake and an unspoken bond of camaraderie. We were fortunate (and still are) that our 2 man partnership in 1999 survived without a partnership agreement for so long. Now that we have over 40 attorneys and support staff we are practicing what we have preached for so long. A partnership agreement can be as short or detailed as desired, but they are critically important for a successful business.

- 3) Get that auto insurance upgraded: I have been preaching this for a long time and maybe someone, somewhere is listening (or reading). Your auto insurance is critical in case you are ever in an accident. Maximize your under-insured/uninsured coverage ("UIM"). In case some yahoo is out there driving irresponsibly and hurts you or a family member, and said yahoo is also driving around on minimal amounts of coverage, your own insurance can protect you and compensate you for these injuries. I have represented a lot of people who were seriously injured in car accidents, and some walked away with significant financial compensation because they were fortunate to have good UIM policies. It has also worked the other way where we obtained every dollar available, but due to the lack of insurance they didn't receive as much money as they could have.

So max it out and if you have an umbrella policy for your house, make sure the umbrella covers your UIM policy.

There you go, three easy and important spring chores you don't want to put off any more. So while you are planting your petunias, or putting away the winter coats, spend a little time on fixing your legal health. All the attorneys and staff at Foster, Graham, Milstein & Calisher, LLP wish you a happy springtime and look forward to seeing you all burning some calories at the Cherry Creek Sneak!

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*Danny is one of the managing partners of Foster, Graham, Milstein & Calisher (FGMC). His practice focuses on criminal defense and personal injury. The law firm of FGMC, located in Cherry Creek, is a full service law firm focusing on: personal injury, tax/estate planning, wills, criminal defense, divorce, real estate, litigation, liquor licensing, construction law, bankruptcy and zoning. This article does not create an attorney-client relationship and is for informational use only (what do you expect from an attorney!).*