

## With more blended families, estate planning gets ugly

By Haya El Nasser

USA Today

The couple in their 50s pulled up to the estate lawyer's office in a snazzy sports car. She was dripping in jewelry and carrying a designer bag. He wore an expensive watch. They lived in a swanky part of town.

The veneer of wealth vanished when they laid out their finances. Home equity? Wiped out by their borrowing. Business? Gone bust. Credit cards? A dozen maxed-out and using another to pay minimum balances.

Despite their financial tailspin, the couple didn't look a bit worried, says wills lawyer Les Kotzer. When he asked what the husband did for a living, the wife joyfully answered: "Harry's a waiter." No, not the kind who works in restaurants.

"A 'waiter' because he's waiting for his inheritance," Kotzer says.

It could be a long wait.

Heirs betting on their parents' golden nest eggs are running into harsh demographic realities. Longevity and a slew of changes that have transformed family relationships (ex-spouses, stepkids, stepgrandkids, siblings living thousands of miles apart) are turning the already-prickly matter of inheritances into a gargantuan challenge. Add the gaping generational divide between Depression-era parents, who valued frugality above all else, and their Baby Boomer children, who relish self-reward, and the dynamics can be explosive.

"I see families who never talk to each other again," says Kotzer, a Canadian lawyer who has written several books, with law partner Barry Fish, on fighting over estates (the latest is *Where There's an Inheritance...*). "Family to me is our greatest asset, and we are losing family. ...It's the savers vs. the spenders."

People are living longer. Health care costs for the frailest seniors are eating up family estates. Their reliance on others to feed and care for them and their finances can put more elderly at risk of financial or physical abuse by the caretakers they depend on.

The shaky economy adds to the volatility as more adult children lose their jobs and see their retirement savings and home equities dwindle while debts mount.

Despite the downturn, more than \$20 trillion will be transferred to heirs in the next 50 years — the largest transfer of wealth in [U.S.](#) history, according to the Center on Wealth and Philanthropy at [Boston College](#).

"Boomers took risks, and they have a high lifestyle," Kotzer says. "The housing market went down. The (stock) market went down. A lot of these Boomers have been laid off. Where's the money coming from?"

The prospect of an inheritance stirs a cauldron of emotions — not always heartwarming.

Eileen Zenker, director of client services at SeniorBridge, a national care management company, says

it's common for children who are faced with costly care for their parents to react this way: "I'm watching my inheritance go down the drain."

Bill McGaw wants to make sure his children — not his stepchildren — inherit his assets. "Death does weird things to people," he says. "Especially to those who are still alive."

### **Longevity erodes life savings**

The number of Americans age 65 and over has topped 40 million, or 13% of the U.S. population. That's the most ever, both in sheer numbers and as a percentage, and the number will grow rapidly. It's estimated that the 65-plus population will make up one-fifth of the nation by 2050.

Not only is the share of seniors growing, health care advances are pushing the oldest of the old to even longer lifespans.

The fastest-growing age group among seniors is 85 to 94, jumping 30% to 5.1 million the last decade, according to the [Census Bureau](#). The number of centenarians is projected to exceed 600,000 in 2050. That's good news except for one key factor: Half of those living beyond 85 have Alzheimer's disease, a condition that devastates one's quality of life while requiring costly care that erodes retirees' assets.

"Relatively few people today have money to pass on to the next generation because they consume it in life," says Hendrik Hartog, a professor of family and social history at [Princeton University](#) and author of the recently published *Someday All This Will Be Yours: A History of Inheritance and Old Age*. "It's consumed through retirement communities or through health care."

Miami financial adviser Sandy Jukel says that interest rates are low but cost of care keeps rising. "The end result, if proper planning is not pursued, they inevitably run out of money," he says.

Adult children often mistakenly believe that Medicare and other retiree benefits will pay for their parents' care. In fact, only long-term health insurance will cover custodial care.

"So many children don't expect they'll be responsible for their parents in later life," Hartog says.

The complications of inheritance only intensify when the children must care for an aging parent. If the estate is not clearly divided in a will, for instance, children who took care of aging parents often feel that they should inherit more than the siblings who did little — either by choice or because of geographic considerations, according to estate lawyers. And often, the children who do care for them are tempted to dip into their parents' savings before they die because they figure it's coming to them eventually.

Self-interest works both ways. Often, aging parents dangle the prospect of an inheritance to make sure their children will care for them in their later years, Hartog says. "The best demographic evidence we have suggests most parents distribute assets equally between children," he says, adding that most don't like to play favorites, even if one child did more for them.

### **Tangled family trees**

Family feuds over inheritance are as old as the Bible (Jacob tricked his twin brother Esau out of his birthright and their father's blessing.), and they can multiply in blended families. There are ex-wives and ex-husbands, children and stepchildren, parents and stepparents.

More than half of all first marriages end in divorce and about 75% of divorced people will marry again, according to the National Stepfamily Resource Center. About 65% of these unions will include children

from previous marriages. More than 40% of American adults have at least one step-relative, according to a [Pew Research Center](#) study earlier this year.

Newcomers to the family can heighten tensions.

"The children of the mom might say, 'I never liked my mother's new husband and now I might have to take care of him?' " Zenker says.

Boomers who started families later in life are feeling the pressure. They are dealing with children's college bills "while Mom is 87 and needs care," says Claudia Fine, chief professional officer at SeniorBridge, which has more than tripled the number of its branches in the [USA](#) since 2008 by helping families keep elders in their homes. "It's no longer the sandwich generation; it's the panini generation," she says, referring to the popular pressed sandwich.

McGaw is feeling the squeeze. At 46, he has "only \$40,000" in his 401(k), and he has credit card debt. He is married for the second time. His wife also was married before. They each have two children from their first marriages. Their ex-spouses both remarried to people who were married before. The blending is multiplied.

"The thought of two of the kids (hers) having access to my assets even though they have no interest in accepting me into the family" makes him wince, he says.

McGaw would like everything to go to his children, but that doesn't sit well with his current wife. He says she got upset when he met with an estate attorney without her. McGaw is going ahead with his estate planning on his own to make sure his children get what he thinks they deserve.

"I love my wife, but I would not want to benefit her kids from a previous marriage, especially in a scenario which left my children with nothing," says McGaw, a senior analyst for a medical information systems company in [San Antonio](#). "It's almost morbid and perverse in a way. It's an extremely stressful situation. ... It's a mess."

After his father died, he says his sister ended up with the family house without his knowledge — and that has caused resentment.

### **Even if you don't want it**

Paula Goldie, 57, is a typical Baby Boomer who celebrated her 50th by taking up scuba diving. She plans to learn the rumba for her 60th. Goldie's married and has a 40-year-old stepdaughter, a 25-year-old daughter and 20-year-old granddaughter. Her mother died 16 years ago, but her father, 82, remarried. His wife, 67, has four adult children.

Goldie, a court clerk in the Portland, Ore., suburb of Troutdale, is inheriting something she's not even sure she wants: Her father's house 1,000 miles away in [Southern California](#).

"He has left me on his house title," she says. "My younger brother (who lives in Michigan) opted out, so it's up to me to handle Dad's estate. Honestly, neither of us cares."

One problem: Her dad has a reverse mortgage, and he wants his wife to stay in the house after he dies. Goldie wants to respect her father's wishes but worries that she will be stuck spending money to allow his widow to live there for free.

If the wife stays in the house, "she would have to pay taxes, but her name is not on the house," Goldie says. "Her children have already looked at the furniture in the house and said, 'Gee, I would like that.'"

... The house is pretty much going to be a wreck. If he passes, I still have to deal with it."

As much as she wishes she didn't have to, Goldie sees taking care of the house as her duty and something her late mother would have wanted. In the meantime, she has yet to draw up her own will.

Putting it off is "one of the things so many of us Baby Boomers are facing," she says. "Death in the family brings out the best or the worst in people. There's no gray area."

### **What to do?**

There are no foolproof solutions to the wills problem, but talking the issues out when parents are still alive can help. And planning is crucial.

"If you cherish your family, you've got to plan," says Kotzer, who runs an interactive website to help families deal with wills ([familyfight.com](http://familyfight.com)), even if they're not rich.

"Don't assume that people only fight over money," he says. "Many times people fight over memories. It could be the painting on the wall over the table in the hall."

Edward Gabriel, 67, is married (once) and has three children (all with his wife) in their 30s and 40s. He admits that he put off drafting a will but is finally doing it.

"My children say, 'Hey, it's your money, you do whatever you want with it,'" says Gabriel, a manager at a financial processing firm in Parsippany, N.J., who plans to retire this year. "But the older you get, you want to make sure your children are taken care of."

He is making his daughter the executor of the estate and is trying to divvy up assets equitably, leaving more to the kids who didn't borrow his money. "It has to be done, like it or not," Gabriel says.

Hartog says heirs should remember that they are enjoying the fruits of their parents' hard work long before they die.

"Children are effectively getting their inheritance much earlier — their education, help buying their first business and their first house," he says. "It makes more sense. Who wants to wait until they're in their 70s?"

Advocates for seniors advise families to start planning when older relatives show the first signs of health problems rather than waiting until they have to be put in a care facility.

"Whenever it involves money, someone always feels that they're on the short end of the stick," Jukel says. "There is no mathematical formula for the distribution of wealth."

If there are three heirs, wills lawyer Kotzer suggests parents leave it up to them to take what they want and tell them to resolve disputes this way: When two of them want the same thing, flip a coin; when all three want it, draw names from a hat.

"Everybody needs to plan because we're all going to die," Kotzer says. "It's not if — but when."