

# Firm Opinions™

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Lori & Gary

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# Inheritance...

## A RIGHT OR A PRIVILEGE?

by: Lori Ashmore Peters

**A**s attorneys, we are often faced with the challenges that are presented with the variety of family dynamics that exist in today's world of Trusts and Estates.

With this in mind, it is always important to have a complete understanding of our client's true intentions when trying to determine how to distribute their estates without causing family conflict.

There are even times as practitioners we have to have difficult conversations with our clients for them to determine their true intentions as it relates to the distribution of their estate after passing. As a parent or stepparent, it is natural to not want to create conflict with your kids, no matter how old they are. We find in many instances parents leave a child a certain distribution in order to keep peace and avoid family conflict.

While we understand this approach, we often must remind our clients that THEIR estate plan is exactly that. They have worked hard to accumulate their assets, and it is theirs to decide where it goes.

The other side of the coin is our conversations with "the kids." The story with the kids typically goes something like this:

Mom and Dad have been married for 45 years. Mom passed away a few months ago and now Dad has a new girlfriend. After taking care of Mom for the last few years, Dad has now begun taking more vacations with his new girlfriend, buying nicer cars, and spending more money in general. This is usually the point when we receive a call from his children concerned that Dad is spending their inheritance.

So, I will ask again, is inheritance a right or a privilege? With either one of the above scenarios, whether we are speaking to the parents or the kids, our answer is still the same. Inheritance is a privilege, NOT a right.

While we understand the reason to avoid family conflict at any and all cost, clients need to understand that their estate plan is theirs to do with what they want, not what their kids want. Kids need to understand this as well, with ONE exception.

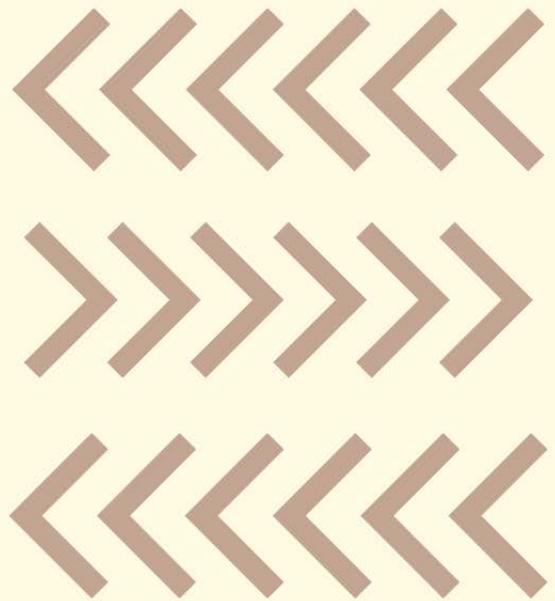
The exception is the financial exploitation of an elderly individual. There are often times when there is a fine line between financial exploitation and the privilege of receiving an inheritance. While I mention this one exception now, it is an article for another newsletter. But just remember, inheritance should be considered a PRIVILEGE, NOT a right.



# TO TRUST *or* NOT TO TRUST...

## TRUSTS FOR VACATION HOMES OUTSIDE OF TEXAS

BY LORI ASHMORE PETERS



**W**e get many calls from potential clients immediately asking us to set up a Trust. My next response is to ask them why they want a Trust. Because, as far as I am concerned the bottom line is that not everyone needs a Trust.

If you have looked at our previous videos or articles, you will see we have discussed why a Trust is not needed in every Estate Plan. In Texas, there are a few specific reasons to have a Trust. I'd like to discuss the importance of having a Trust if you own a vacation home in another state.

### Property Outside of Texas

Did you know that even if you are a resident of the State of Texas when you die, if you own real estate outside of the State of Texas, your loved ones need to go through the probate process in EVERY state where property is owned?

### Personal or Real Property

When your assets are being defined, if an asset is not real property, it is considered personal property. An example of personal property are bank accounts and personal items. So, vacation homes are considered real property. Therefore, if you died a resident of Dallas County, your loved ones would need to go

through the probate process here in Dallas County. However, if you owned a vacation home in Colorado, upon your death, your loved ones would need to retain an attorney in the county and state where the property is located and go through the probate process there as well.

### How to Avoid Probate in Another State

To avoid the time, effort, and cost of going through probate in Texas AND in another state, we recommend to our clients that have vacation homes or real estate outside of Texas to create a Revocable Living Trust (RLT). An RLT aims to eliminate the need and hassle to go through the probate process in the state where the vacation home is located.

### The Problem with Going Through Probate in Another State

While the probate process in some states may be somewhat smooth, there are other states where this is not the case. There are many states where the probate process can be very costly, confusing, and time-consuming.

So, in order to protect your vacation home or real estate outside of Texas, we recommend considering the benefits of a Revocable Living Trust.

*Congratulations!*

**CASSIDY  
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# Firm Events

We attended the Ruby Care "Sock Hop" Event at Belmont Village to collect socks for seniors in need.



## Meet the Team



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Managing Attorney



**Lori Ashmore Peters**  
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**Sheppard Sands**  
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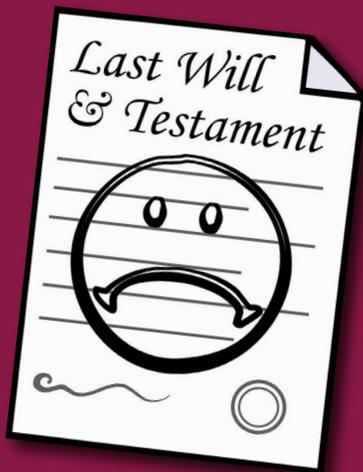
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# The *Lonely* Last Will & Testament



*The Will thought it was just a piece of paper that had words on it that nobody understood...*

It was tucked away in a drawer gathering dust for years. When finally, one day the drawer opened and someone the Will did not recognize reached inside and carefully took it out. The person lightly brushed off the dust and read the title, "Last Will and Testament of Joe Smith".

The Will knew that Joe Smith was its owner. The Will was then treated with great respect and tenderness. The owner's children came from far away to see the Will. While many tears fell as the words on the page were read, the Will finally understood its purpose in life and for the first time was *happy*.