

## You Decide - Burial or Cremation

All too often, when a loved one dies, family members consult with their attorney to resolve the question as to who will make the ultimate decision whether a loved one's body is to be buried or cremated. Unfortunately, without understanding existing legal rights, a funeral home can worsen an already emotional difficult time by delaying a memorial or burial, or even cost you unnecessary expenses.

### Burial or Cremation

In recent years trust and estate attorneys have offered their clients documents which plan for the proper disposition of one's body after death through burial or cremation. Although a decision ultimately will be made, sometimes people planning their estate will choose to make no decision at all, leave the decision to their family, execute a Cremation Directive, or direct an Agent under a Health Care Power of Attorney to make the decision on the person's behalf after they have died. And, one might reasonably think that after the decision for disposition of one's body has been made, cause for concern is gone. If only this were true.

### A Funeral Home's Duties and VA Benefits

In Arizona, a funeral home is obligated regardless of its internal policy, to respect without question a deceased person's burial and cremation directives under A.R.S. §36-831 and A.R.S. §32-1365.01. If a funeral home fails to act according to a burial or cremation directive, then the funeral home can be open to both civil and criminal liability, as well as being fined by the Arizona State Board of Funeral Directors and Embalmers or the Federal Trade Commission under the Funeral Rule (see 16 CFR Part 453).

But, difficulties arise when funeral plans are left to an Agent under a Health Care Power of Attorney for a friend or loved one who recently died. Sometimes, an Agent must authorize a burial wish and may not have to consult with other family members such as children who are still living. In cases like these, if the deceased person had no living spouse, but has children, and the Agent under the Power of Attorney is directed to make disposition of the deceased's body, a funeral home will be obligated by law to follow the Agent's directive. A.R.S. §36-831, 36-831.01. Even though this rarely occurs, it is important to remember that the funeral home must be told what the deceased person wanted by being shown all appropriate legal forms and directives. In the event the funeral home fails to respond, legal action in the form of court orders and lawsuits for damages are the only remedies one may then have. And, the funeral home will not be able to claim protection from a civil lawsuit because the funeral home will have been put on notice of the decedent's wishes and the individual(s) who then have the authority to make the final decision regarding burial or cremation. (see A.R.S. §36-831-831.01)

Regardless of whether a person is going to be buried or cremated, a family should remember to seek out United State Department of Veteran's Affairs if the deceased person was a US Veteran. In most circumstances, death benefits will

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include up to \$600 in funeral costs (including placed in a mausoleum) for non-service related deaths, a United States Flag, and in some cases a burial plot at a national or private cemetery.

If you are interested in scheduling an appointment with one of our attorneys to discuss these issues or other concerns regarding estate planning, call (928) 783-4575.

## 70% of Adult Americans Do Not Have a Will or Trust!

*The Problem is... if you die without a proper estate plan in place, you leave your family with unneeded confusion at a difficult time.*

Traditional Estate Planning is summed up:

- Divide
- Distribute
- Dissipate

Attend this seminar and take a deeper look at the impacts of disability for either spouse, and protection for beneficiaries from divorce, lawsuits, creditor problems, re-marriage and what about mama's pie plate?

### Attend our Free Seminar and learn more:

Thursday, May 14th at 9:30am, 2pm and 6:30pm

Pivot Point Conference Center

310 N. Madison Avenue

(next to the Hilton Garden)

**Reserve your seats: 783-4575**

**Trust Administration** is the process people often find themselves in unexpectedly, after the death of a spouse or parent who created the trust prior to passing on. It comes during a very emotional time, and often brings with it difficult and complex financial and family issues. The task of reviewing the trust and finding and valuing the assets of a recently deceased family member can be daunting, as can be the complexities of estate tax law. What is important to remember for anyone administering a trust is that there is a definite process to follow, and resources to assist you as you assume this new role. For more information or a free report on Trust Administration please call: 783-4575. Estate Planning... It's What We Do!



Larry Deason and Robert Way are members of the American Academy of Estate Planning Attorneys. The AAEPA is a member organization serving the

needs of legal professionals concentrating on estate planning. Through the Academy's comprehensive training and education programs on state-of-the-art estate planning law techniques, it fosters excellence in estate planning among its members and helps them deliver the highest possible service to their clients.



## Estate Planning Review Appointment

If you are a client of the Deason Law Firm and it has been more than 3 years since we've assisted you with your estate planning documents then you need to call today and schedule an appointment.

### 7 Reasons To Review Your Plan:

1. Second Families
2. Heirs with Creditor Problems
3. Disabled Heirs
4. Control Issues
  - Irresponsible children
  - Irresponsible in-laws
5. Stale Documents
6. Changes in the Law
7. Funeral Decisions

Call (928) 783-4575 today to schedule a complimentary consultation with one of our attorneys. At the Deason Law Firm, we are dedicated to helping our clients achieve their estate planning goals. Visit us online: [www.deasonlaw.com](http://www.deasonlaw.com). **Estate Planning... It's What We Do!**

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

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