Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information with you.

THE DANGERS OF DO-IT-YOURSELF ESTATE PLANS

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWUAKEE, OAK CREEK & RACINE

Your Asset Protection Law Firm
840 Lake Avenue, Suite 200
Racine, WI 53403
(262) 634-6659

E-mail: tpc@execpc.com
Website: www.TpcLaw.com

Individuals often look for alternative means to plan their estates. Seeking to forego the expense of an attorney, many people attempt to create an estate plan through fill-in-the-blank documents sold at stationary stores. In more recent years, the Internet has become a mecca for both software and Internet-based programs that easily produce inexpensive wills and powers of attorney. But what is the true cost of utilizing these shortcuts?

I am often asked to explain the advantage of consulting with an attorney instead of purchasing cheaper Internet-based documents. The low cost and instantaneous production of these documents are a dead giveaway that they are a less than adequate substitute for an effective estate plan. Online estate planning programs range in cost from $19.95 to about $250. A typical consultation fee with an attorney is more than the most expensive online estate plan. These online estate plans can take as little as 15-30 minutes to complete. A consultation with an estate planning attorney lasts at least an hour, if not two hours. The attorney takes the time to investigate your unique circumstances, and then spends time after your consultation to work out all of the important details of your customized estate plan to ensure that it achieves your goals. Compare this personal attention to some sort of unknown algorithm that produces a one size fits all estate plan within a matter of minutes.

A software or Internet-based program is unable to think for you like a lawyer can. Rather than create custom documents that fit your own unique needs, such programs might possibly be adequate for only an extremely small segment of the population who fits into a standard set of criteria: owns little to no property in one state, has a very small amount of savings or investments, and has a very traditional family tree. Further, even though many people think that they automatically fit into these criteria, an attorney will listen to your story and notice complications you may not even realize exist.

There are multiple reasons why consultation with an attorney is a far superior method of creating an estate plan than a consultation with your computer. First, there are 50 different sets of state laws in this country; each state has its own slightly (or vastly) different requirements for handling estates. Not all online programs take into consideration the state in

which you live or the states in which you may own additional property. Further, states like New Jersey and Pennsylvania operate under what is known as a common law scheme, while a minority of states, including Wisconsin, operate under community property type laws. These are two vastly different property schemes, so a program designed for individuals in community property states will likely prove ineffective for individuals living in common law states.

Relatedly, some software programs may provide all of their users with a living trust, regardless of each individual's circumstances. Living trusts are extremely effective if used appropriately. However, they are not necessary, or even suitable, for a large majority of the population. Living trusts have two important purposes. First, they afford privacy. A living trust is used in tandem with a "pour-over" will, which simply provides that the individual's estate will be disposed of through a living trust. When a will is admitted to probate, it becomes a public document, so a "pour-over" will, which does not detail how and to whom your estate is distributed, affords privacy to the decedent. Then, your living trust, a private document, details the particulars of your estate's disposition. The second reason to have a living trust is if you own property in more than one state. For example, if a vacation home in North Carolina or Florida is owned in your name individually or in you and your spouse's names jointly, your executor must probate your will in each state where you own property. This process is especially time-consuming and knotty in certain states, including Florida, where the probate laws are extremely tedious, and the courts are heavily involved. Titling all of your out-of-state property into a living trust effectively avoids this hassle of probating in multiple states. If neither of these goals, privacy or avoiding probate in multiple states, applies to your situation, then a living trust is likely not appropriate for you. A lawyer can easily make this determination; however, a computer program might not be so savvy.

An online program might not be able to ascertain and deal with the implications of leaving all of your property to your spouse. Estates of a certain size are taxed on both federal and state levels. The federal estate tax threshold is currently $5,120,000; however, if Congress does not act before 2013, the federal exemption will drop to $1,000,000, and the tax rate will increase to 55%. This decrease in the federal tax threshold will potentially affect a much larger portion of the population. It will be important for those affected to create an estate plan that utilizes disclaimer trusts so that, upon the first spouse's death, the survivor can "disclaim" any or all assets of the deceased spouse in order to avoid or lessen the tax burden. However, creating disclaimer trusts is just the first step. To make the disclaimer trusts effective, a couple must retitle certain assets in order to equalize each spouse's estate. It will be important to drastically reduce the amount of assets held jointly. Further, beneficiary designations on life insurance, retirement accounts, etc. may need to be changed in order for disclaimer trusts to work effectively. A computer program will not be able to offer advice on how to retitle assets and change beneficiary designations, and a disclaimer trust will serve no purpose if assets are not titled properly.

Further, many individuals in this society have been married two, or even three, times. They often have children from their prior marriages. Couples in this situation will definitely need to seek the counsel of an attorney to ensure that their plans play out according to their wishes. Most people wish to provide for their spouse upon death, but upon that spouse's death, they may want their remaining estates to be left only to their children from prior marriages, not to their spouse's children. There are many different methods for accomplishing these goals that a computer program will not be able to achieve adequately.

Estate plans for parents of minor children are extremely important. If both spouses die, and all of their assets are left outright to their minor children, instead of to a trust, those assets will be held with the court until the child reaches 18. Further, if a child has special needs, his or her inheritance should be left in a special needs trust, which is a specific, restrictive trust that will ensure that public benefits are not jeopardized.

Moreover, many individuals often choose executors, trustees, and agents under powers of attorney based on irrelevant categories, e.g. the oldest child, the only son, etc. An attorney can provide thought-provoking advice as to the most effective and appropriate choice of agents.

Finally, and most importantly, having an attorney draft your estate plan provides peace of mind that all of your concerns have been taken into consideration, and provisions have been made for many contingencies. You will rest assured that your wishes will be carried out.

"Those Who Plan Ahead Win.
Those Who Don't Plan Ahead Lose."

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board **C**ertified **E**lder **L**aw **A**ttorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

Timothy P. Crawford was invited to join the **Council of **A**dvanced **P**ractitioners (**CAP**) of the **N**ational **A**cademy of **E**lder **L**aw **A**ttorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

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"A majority of text has come from an article prepared by Susan M. Green, Esquire, of the Begley Law Group, friend of Attorney Timothy P. Crawford, is used here with permission."