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Welcome to the NEWSLETTER of Fisher's Law Office, providing you with legal information you can use in your everyday life. Gathering information about your rights will help you. If you have any questions about any of the articles in this newsletter please don't hesitate to contact us.

The year 2011 is the year you should update your last will and testament:

1. You should write a will, especially if you are in a second marriage and have children by a first marriage.

2. To write your will, you need to know what you own, the names of your "natural heirs" and whom you want to give your property to when you die.

3. All wills should have the following elements:

♣ A "specific device" clause by which you give specific property or money

♣ A "residuary" clause by which you give any other property

♣ Your will should name a "personal representative" who can handle your affairs upon your death

♣ Lastly, the will must be signed before *two* witnesses and a *notary*. (Remember to put the driver's license number of the witnesses and person writing the will on the notary section.)

♣ There are other requirements of a properly written Will in Florida. See an attorney if you have questions.

What else should you do to protect your heirs?

Here are some other suggestions:

Make an "inventory" listing all your property and assets and keep the list with your will.

Make a list of all of your passwords to your email accounts and web pages so that heirs can shut down these web-sites and email accounts for you upon your death.

Consider writing a "living will", a "health care surrogate" and durable family power of attorney. These documents allow for medical treatment and termination of life support and access to bank accounts. (See a lawyer before you sign these documents).

Many attorneys recommend that their clients write a *letter* to their children, spouse or others that explains the reasons a will was written a certain way.

In 2011 be ready for big changes in social security!

The "normal" retirement age for most workers will soon be age 67.

Starting May 1, 2011, the social security administration will *not* send out paper checks for new beneficiaries. Instead beneficiaries will have to provide an account number where funds can be direct deposited.

Many workers take "early retirement" and accept a reduced social security benefit at age 62. Until recently, such workers could *pay back* their social security benefits in order to receive a larger benefit at the age of 70. In 2011 this ended and buyouts will no longer be allowed.

In general it is always better to wait to receive social security benefits. For Example: if a worker is to receive \$800.00 a month in social security at age 62 he could receive over \$1,500.00 a month by waiting until the age of 70 to receive benefits.

How can you stop paying alimony?

Florida law has recently changed to allow persons paying alimony to seek relief from the court *if* their former spouse is in a “supportive relationship” with another person. (The relationship does not have to be romantic but instead is based on *economic interdependence*.)

For example, if a client is paying \$1,000.00 in alimony and his ex-wife moves in with her boyfriend and shares the costs of rent, utilities and vacations, the client has a good chance of showing that there is a supportive relationship with the new man. This could result in the court lowering or eliminating the alimony.

What can a man do when he finds out he is paying child-support for a child that isn't his?

Before a recent change in Florida law, the old legal concept of “res judicata” prevented a man from going back to court and showing that he was not the father of a child.

But, under F.S. section 742.18, a man who discovers *new* evidence that he is *not* the real father can petition the court to undo the Judgment. The typical case has the following elements:

- a) The man discovers new evidence he isn't the father.
- b) The man is current on his child support or has a good excuse for not paying child support.
- c) The man can show through a scientific test he isn't the real father and files an affidavit saying so.
- d) There are other requirements under the law.

If you are a man paying child support and discover new evidence you are not the father of a child you are supporting, see a lawyer.

How can you save for retirement? This is a question that many clients ask. The answer varies depending on who you are and what your financial situation is.

For example, if you expect to receive a pension upon retirement, you may not need to save as much in as a person that does not have a pension.

Most experts agree that you should save 25 times as much as you need to live on every year. For example, if you save a million dollars you can afford to take out \$40,000.00 a year from your savings in retirement.

The problem is getting started. Remember the following:

1. Pay yourself first.
2. Consult a financial advisor.
3. Don't be afraid to take some risks in the stock market as this may be the only way to beat inflation.
4. Even if can't save as much as you need; save as much as you can. This is better than doing nothing.

IRA rules have changed in the last few years.

An individual retirement arrangement (IRA) is an account that builds tax-free and not subject to the claim of creditors until the money is taken out.

Under the IRA law, workers can contribute up to \$5,000.00 a year and take a deduction from taxable income for the amount of the contribution. (Workers over 50 years old can contribute \$6,000.00 a year.)

IRA's come in two varieties, regular IRAs and “Roth” IRAs. The Roth IRA is an IRA that is *not deductible* at the time of contribution but which grows tax-free. Also, with a Roth, income taken out is *not taxable* to the participant.

Whatever type of IRA you chose to open you should consider an IRA as a part of your retirement plan.

The “great recession” ended in 2009. Yet workers are still struggling with high unemployment and low wages.

For workers out of work one solution might be to *work for free* in order to prove what you can do for a company. Other ideas for getting back into the work force are to network and to use your personal contacts to find a job. Even a temporary job is better than no job at all. Many are working from home and opening up small businesses.

What about inheritance taxes? Should I worry about money I inherit?

For the vast majority of Americans, the estate tax has been effectively repealed at least for the next two years. The new tax law exempts the first *five million dollars* of your estate from tax. After this the estate tax is 35%.

Warning: This law expires on January 1, 2013. If you die after that date, the estate tax will revert to 55% on any amounts in an estate greater than \$1,000,000.

What should a man do if he is an expectant father and he is not married?

Answer: In order to secure his rights to visitation and other parental rights, a man must first go on line register with the *Florida Putative Father Registry*.

Here are some things to consider if you believe you may be a father of a child out of wedlock:

- a) Every expectant father is required to register with the Department of Health in the “Florida Putative Father Registry” (See F.S. section 63.054).
- b) If a man fails to register, his parental rights can be taken away and he is prevented from suing under F.S. chapter 742 for custody and visitation.
- c) Consider consulting an attorney who can prepare an agreement between both parents by which that the father is acknowledged. Once that the child is acknowledged in writing the agreement can be presented to a judge who can sign and Order

declaring who the father and the mother of the child are. Issues of visitation are much easier when the child has a court order declaring parentage.

d) Tax credits and other benefits are much easier to obtain once a child has a social security number. Also, consider getting a passport for the child so you can always prove that your child is a U.S. citizen.

e) Lastly, parents should work together with a goal of raising a child in a way that it is in the child's best interest even if it requires sacrifice from the parents. In the end a healthy happy child will become a productive citizen.

Case of the month.

Our client was sued by a credit union for not paying his mortgage. The client did investigation and found that another company called Fannie Mae owned his mortgage and not the credit union that was suing him. As a result, the case may be dismissed because the credit union isn't the true owner of the loan

Moral to the story: In most foreclosure cases, "standing" to sue is the biggest issue. Under the law, the bank suing has to show that it owns the loan itself or that it has the legal authority to sue on behalf of the loan's owner.

What is a “lost note” case in foreclosure actions?

Banks often lose the promissory note the homeowner signed. The problem is that the homeowner can be legally sued twice for the same debt if someone else finds the note. This has actually happened.

This is why “lost note” cases are very dangerous for homeowners.

As a result, Florida law requires judges make sure that the homeowner is adequately protected against loss in case another person finds the note and files a lawsuit against the homeowner after the first lawsuit is completed. Most of the time the bank must post security with the clerk in case another person finds and sues on the note.

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Memberships:

- Florida Bar Association www.flabar.org
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