

Successful Farming[®]

MANAGING FOR
THE FUTURE



EXPERT ADVICE
AND STRATEGIES
FOR PLANNING A
FARM TRANSITION

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Excerpts from 20 years of "Can Their Problem Be Solved" columns, winner of **min's 2014 "Best Personal Advice Column"**

As a family business adviser and columnist for *Successful Farming* magazine, Dr. Don Jonovic was privy to the confidences of its readers. His carefully nuanced responses on the pages of the magazine required him to assume the roles of teacher, mediator, consultant, and even family business shrink.

Owners of family farms generally have purposes and objectives broader and deeper than simply making money," he says. "These personal commitments are a major strength, but they also often cause disagreement, conflict, and poor decisions because they're seldom discussed."

For many, the crux of the issue was transitioning the farm to the next generation.

In 1988, he began writing "Can Their Problem Be Solved?"

"I've encouraged family farmers to learn to work together, to make decisions together, to get more formal in the way they communicate with each other, to try to get past what I call the swamp issues that keep dragging them down emotionally," he says.



DR. DONALD J. JONOVIC

Donald J. Jonovic's farm partnership planning tool, "Ag-Planner/IV" (\$68.45), a two-DVD set on farm management and succession (\$48.45), and other books are available at Family Business Management Services, Box 201400, Cleveland, OH 44120.
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THE PROBLEM: WHAT TO DO WHEN COLLEGE IDEAS COME HEAD TO HEAD WITH THE TRIED AND TRUE?

SCOTT'S POINT OF VIEW:

I know we should be running this ranch more like a business. Consultants and advisors have been saying that for years. Everybody on this operation would agree with the idea. And, yet, we just don't do it. My father encouraged me to study business before coming back to the ranch.

"The world is changing," he said. "Somebody around here is going to have to know how to deal with it."

Deal with change? We can't even deal with each other.

As far as I can see, my education is wasted. When I came back to the ranch, I simply went back to work. Now, that's not a problem in itself. I love the work. The problem is that nothing changed. Nothing at all.

Anytime I want to talk about doing things differently, or ask to have a meeting, or want us to analyze some numbers, Dad, or my uncle, or somebody with more authority than me, always has some reason not to do it now.

Later, they say, when there aren't so many fires to put out.

If there are any new ideas around here, they come from me. The response from my Dad, uncles and cousins is almost always critical, sometimes hostile.

I'm the one who goes to outside meetings. Nobody else has time.

Maybe I should just quit.

SCOTT'S FATHER'S POINT OF VIEW:

I don't understand what's happened to Scott. He's hard to get along with, cocky, uncooperative. He doesn't listen to anybody and has a head filled with ideas from that university.

That's not the way he used to be.

We want his ideas, but he should give us a few years of honest work first, get to know the operation and how we do things.

Book ideas are good things, but only if they're glued together by common sense.

THE SOLUTION:

It's remarkable how many unwarranted assumptions are made by family members when they decide to work together.

Scott assumed he was being sent off to school so he could come back and "fix" the ranch. His father mainly wanted him better prepared for that far off someday when it would be his turn to run the operation.

Scott assumed his new job was "change agent." His Dad (and, surely, his uncle and cousins) assumed his new job was the same as his cousins: "apprentice rancher."

They all assumed... a lot. But they never considered discussing



these assumptions to see if they all understood and agreed on what they were intending.

Scott's education, for example, has real potential value to the ranch. But if the intent, as Scott believes, was to add expertise to the ranch, there's another logical step, something that he can do right now.

Rather than return to the ranch, untested degree in hand, it would be far better if he could work outside the operation for a while, maybe for a much larger cattle operation, or agribusiness. Doing that, he'd really gain horsepower to help "fix" the ranch.

More important, he'd return with spurs—proven credibility at another operation.

As it is now, it's obvious that Scott's job on the ranch is not defined—not, at least, in the same way by everybody. If Scott chooses to stick with the family ranch rather than gain some outside experience, they'll have to take some important steps to fix that problem.

If his Dad and the other partners want him to spend time learning, that training period should be outlined, measurable

learning goals set, and an ultimate responsibility (the one he's training for) defined for him.

It's important to remember, too, that Scott is not just a hired hand. He's what I call a "strategic" employee, in that he is (or eventually will be) an owner, too. That means, apprentice or not, he should have input to the owner-level decisions about the ranch.

Such questions as how much leverage or "risk" are we willing to accept or whether to make a large capital investment are "investor" questions. As an "investor," he has a right to be involved in those decisions. That involvement would make him feel more appropriately "connected" to the operation during his learning period.

Whether Scott goes outside for his spurs or works out a plan to gain it on the family ranch, one thing is sure: everyone involved must sign off on the goals and steps to reach them.

An ancient rule of thumb from my Navy days was "never assume anything, except the watch."

It applies well here on land, too. **SLE**

THE PROBLEM: IS FARM TRANSITION POSSIBLE TO BROTHERS WHO REFUSE TO AGREE WITH EACH OTHER?

DAD'S POINT OF VIEW:

I have four hard-working, smart, productive sons. We have a large and diversified grain operation that's managed to grow enough to stay viable.

I'm getting ready to retire—and I mean that. Mary and I have so many things we want to do that we don't know where to begin.

Our estate plan is drawn up, with a schedule for passing the business to the boys and using insurance to take care of our two daughters.

It's the best of all worlds, right?

Not when your sons can't have a discussion without shouting at each other. Not when each of your sons runs his own part of his operation like an emperor, refusing to talk to, cooperate with, or even explain his actions to anyone else.

Especially when each of your sons has told you, over and over, that he will NEVER work for any of his brothers.

We've tried family meetings. They always blow up. We've looked at splitting up the operation. It's not financially sensible.

I even put together an advisory board. The boys act respectful and agreeable during the meetings, then leave the room and do what they want. What they've always done.

Now I'm getting pressure from my wife to do something about all the stress, because she's getting complaints from our daughters-in-law that family life is falling apart.

Even worse, a key man threatened to quit last week because he can't stand all the shouting in the office.

I'm thinking I have to back off for a while—get rid of the board and let the dust settle—unless you have a better idea.

THE SOLUTION:

Dad has another option. He can start acting like the Boss he knows the operation needs. He's eager to retire, but in the short run, he needs to help these quarrelling brothers learn to work together over the long haul.

Many readers will recognize that his situation is so common as to almost qualify as "normal." In this case, the shouting and endless quarrelling might be excessive, but in most family businesses it's rare for capable siblings to agree readily to lose their operating freedom, particularly if they're used to operating that way.

The "dust" will not "settle." Dad must use his natural authority to set up a management structure that will work for his sons when he's gone. And he has to begin now while he's still around to enforce it.

First, he must make a firm decision about his goal. Has he done all he's done simply to assure his sons a job—or is he giving them an opportunity?

Assuming he doesn't have a welfare state in mind, what he can do—as the Boss—is declare a specific time period, say 12 months, or two seasons, during which roles will be defined, and goals will be set and met. After this, he will make a hard decision.

He should publicly define his three real options: select one son as the clear operational leader, bring in a competent senior manager from outside, or sell the farm.

Second, since Dad would like to keep seeing his grandchildren, he can delegate much of the selection burden to the outside members of his advisory board, assuming they're capable people he and his sons all respect.

He can use the board to develop clear performance standards for each son (yes, a "horse race"). During the time period, the board would watch each son's performance—leadership, cooperativeness, and communication—seeking the signs of a good leader. The sons can be

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put in the position of publicly proving their ability to this jury of objective outsiders.

If this seems overly harsh or even naïve, consider a few facts of life:

FACT 1: Problems ignored just get worse.

FACT 2: Employment is a result of building a business, not a goal in itself.

FACT 3: Everybody has a boss; hardly anybody likes it.

FACT 4: Outsiders can help—a lot.

FACT 5: After the explosion, the world usually goes on. **S|E**



THE PROBLEM: HOW LONG SHOULD A SON LIVE IN HOPE THAT HIS DIFFICULT FATHER WILL KEEP IMPLIED PROMISES?

L.M., VIA THE INTERNET:

I'm a part-time farmer who works off-farm. My father did the same for years, on his 60 acres and we rented ground 50-50 shares from neighbors.

We used Dad's equipment, and I supplied the labor on my ground. I bought a place 20 years ago and started to buy equipment. We continued to share as we farmed about 300 acres total.

I got married 10 years ago, and my mom and wife have never seen eye to eye on things. I had an argument with Mom and that started the whole thing.

Dad has now told me to "straighten up" or buy my own equipment. I'm worried that all of a sudden he will decide I haven't been "good enough" and not let me use something.

My wife says to buy what I need, but I hate to buy somebody else's used equipment when I've worked with his for years.

Talking to him goes nowhere.

Do I buy a bigger tractor? Sell off the tillage and go no-till? Buy a splitter planter? Sit down and try to come up with a purchase plan for equipment?

Or, do I just give up?

THE SOLUTION:

The obvious answer for L.M. would be simply to walk away and get on with life. Many have done exactly that. Many of those say, years later, it was the best decision they ever made.

My rule of thumb on joining partnerships with family: Define it or decline it.

But this doesn't solve problems faced by people who share deep loves for their land or operation, or who have spent 10, 20, or 30 years waiting in vain for the defining transition.

These heirs are tied, chained, handcuffed and, sometimes, even hugged solidly to the farm. It's almost impossible to leave and impossible (or so it seems) to change the situation.

They probably still love and respect the difficult parent. And there's a lot to lose. As a farm successor said at Successful Farming magazine's Farm Family Enrichment Conference: "We're afraid to push the issue again. Dad might change his will, and we'd lose the inheritance."

We must recognize reality: we can't change others; we can only change ourselves. L.M. and others in this situation should decide if leaving the farm is an acceptable and workable option.

If so, they can negotiate. A gentle but firm ultimatum to the older generation may be in order and effective.

If leaving is not a practical option, heirs must change their approach to the situation before they can hope to change the situation.

L.M.'s wife and mom have never gotten along. (There's probably more involved than one argument 10 years ago.) It's time to



examine causes, seek conciliation, and approach Mom with a positive attitude. She has big influence on Dad.

KEY QUESTIONS TO ASK

Other questions if they stay: When Dad asks L.M. to "straighten up," is he referring to L.M.'s difficult wife? To L.M.'s own arrogance and lack of cooperation? To the younger couple's social avoidance of the parents?

In these situations, the "kids" are often a big part of the problem. It's very difficult to gift or leave assets to people who seem to dislike or disdain you or, worse, take you for granted.

L.M. and his wife have a sales job if they want the farm. Threat, intimidation, arrogance, silence or rejection won't work. They will have to change themselves and their approach before they can expect any positive change from Mom and Dad. **SL**

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THE PROBLEM: IS IT POSSIBLE FOR A SUCCESSFUL FARMER OF MORE THAN 50 YEARS TO SUCCESSFULLY RETIRE?

BOB'S POINT OF VIEW:

My father keeps threatening to retire, particularly on days when he and I really disagree about something.

He's 68. He's been retiring for almost 10 years. I'm tired of hearing it, because I know it'll never happen.

He and I don't agree on much these days, and his ideas about farming are more out of date every day. His energy is fading. He's making mistakes. I think he's going to get hurt. His hanging around is hurting the farm and causing damage to our relationship.

Lately, whenever he mentions retirement, I call him on it. "Tell me when," I say. "I'll throw you a party."

He gets mad. I get more frustrated. We get nowhere. What can I do?

MOM'S POINT OF VIEW:

I know Bobby's upset with John. The two of them are like gasoline and fire together, and it's getting worse.

John keeps complaining about Bobby's attitude, saying the son he raised is ungrateful and just wants his father out on the trash heap.

It's true Bobby wants him to retire, but I don't think he's ungrateful. Bobby needs to make his own decisions, and it's hard when his father is always around, second-guessing him. John should retire. It's time.

Still, the whole idea of John retiring scares me silly. As my mother used to say, retirement means half the money and twice the husband.

Both are true for us, and it's nothing to laugh at.

DAD'S POINT OF VIEW:

I need to get off this farm. I am tired of fighting with Bobby over everything. I can't stand all of the problems with labor and taxes and environmental and the weather. I could go on and on for hours.

A friend of mine bought himself an RV, and he and his wife travel all over the country. Maybe Betty and I should do the same thing.

THE SOLUTION:

This is one of those frustrating situations when everybody's right – and everybody's wrong. While the specifics differ with each family, there are certain truths about farm transition and retirement that every family facing this issue should consider:

- **We each get in the way eventually.** Every successful person, given enough time, becomes increasingly ineffective at what he or she once did best. This isn't from loss of brain cells. It's from



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knowing too much. Most entrepreneurs make their best decisions when they're blissfully ignorant of what can go wrong. Implication: get out of the way and let the young and blissfully ignorant do what the older generation knows can't be done.

- **Experience and wisdom are valuable nevertheless.** Knowing too much is only destructive when it stands in the way of taking reasonable risks. Wisdom used to train, coach, advise, or apply to new situations and problems is a major asset one generation can give to another.
- **Work is essential to life.** Every person who has spent his or her life in productive work must continue to be productive. Mint juleps and rocking chairs only work in the movies.
- **Retirement should be a renaissance.** We older folks shouldn't quit working. We should find new areas of blissful ignorance where we can use our wealth of experience to accomplish things that turn us on (again).
- **Steady income is always a good thing.** Life is expensive, and the costs don't go away just because our kids are grown, the house is paid for, or we have a car that we expect will outlive us. A financial plan that defines cash needs, as well as a secure source of cash flow, is essential for a renaissance to work.
- **People usually retire as couples.** This is so obvious, yet most couples don't even consider that their individual needs and goals might differ greatly. Negotiation and accommodation are essential to sustaining meaningful roles and marital bliss.

“Half the money and twice the husband” is definitely NOT the mind-set you want to have going into retirement. **SE**

THE PROBLEM: CAN A SUCCESSOR SURVIVE A FATHER WHO IS AN EMOTIONAL BLACK HOLE?

S.K., VIA THE INTERNET:

When I finished college with a degree in ag biology and my wife graduated from vet school in 1995, we decided to return to the family farm. I knew getting along with my parents in a farm partnership would be difficult and challenging, but I had no idea that life could be this miserable.

My father will be 62 years old soon; my mother is 60. They are both reasonably healthy.

Our intention was to stick it out until Dad reached retirement age (about 65), then cash rent his land from him so they had some cash flow. At present, our operations are completely separate. Together we have about 1,500 acres of gravity-irrigated land planted in continuous corn and run 500 cow/calf pairs, of which I own 125. We work hard all year long.

My main problem is poor communication between my father and me. He is so negative that I am afraid to say much of anything to him for fear of his sarcastic reply.

For instance, recently I asked if I should buy a piece of irrigation land or pasture. He said, "Buy farm ground, because the day will come when you want to get rid of the @\$%# cows."

Well, I don't want to get rid of the cows. When I try to dis-

cuss this reasonably with Dad, he just gets more negative, saying there's no money in cattle – even though the dollars and cents facts tell a different story.

We never have had a heart-to-heart discussion of what we want the future to hold for either of us. The only time any talk comes is when Dad starts ranting about how tired he is of working every day for nothing.

Mom tells me to turn a deaf ear to him like she learned to do, or she defends him. I told her if things don't get better, I'm leaving. I also told her the other day I wished that I had never been born because Dad makes me feel like I'm such a burden to him, like I'm the one making him work so hard, like I'm costing him so much money because of all my mistakes.

Maybe Mom is right – that he just needs to complain and blow. But I can't take it anymore. My wife shouldn't have to put up with me after a day of this. Help!

THE SOLUTION:

Who knows what's behind all the onions S.K.'s dad breathes on life and farming and then directs at his son? It could be bitterness at getting older. It could be a defense against more disappointment. It could be an attempt to blame his son for his own failures, real or perceived. He could suffer from clinical depression.

But one thing is clear from S.K.'s e-mail, the negativity is contagious, and S.K. is beginning to breathe onions, too. Whatever Dad's problem, S.K. is wasting his time waiting for his father's attitude to change.

If someone falls out of the boat and starts drowning, the

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best answer isn't to dive in and possibly drown with him. A better choice is to throw a life preserver, tie the line to the boat, and start rowing toward shore. S.K. can try to help his dad out of his bleakness, but he has to save himself first.

YOU ONLY CONTROL YOURSELF

S.K. owns land and cattle and believes there's money in livestock. It's time he focused on building his business and capital without requiring Dad's opinion or approval.

This doesn't mean he should abandon his father. It's possible to respect, love and help a difficult parent without buying into that person's view of life.

S.K., with the help and input of his spouse, should move forward with his farming and ranching plans based on the facts, figures, finances, and energy they have at their disposal. Carry on with a positive attitude. Perhaps with the evidence of success on his side, he'll be able to help his father move positively into the future as well.

But first of all – and above all – S.K. should stop ignoring what is an obvious truth: the only attitude that he can control is his own. **S|E**



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THE PROBLEM: CAN WE DEFINE WHAT IS FAIR WHEN IT COMES TO FARM ESTATE PLANNING?

T.R., VIA THE INTERNET:

I read your articles and usually agree with your advice. I have a comment on your April 2003 column as sent in by A.J.

Some years ago I started chasing down my family tree and learned that my great-grandfather gave each of his sons a farm and each daughter a comparable sum of money when they became adults and/or got married.

Sounded like a nice thing to do. But after speaking to some of my grandfather's sister's kids and grandkids, I found out that the daughters were mad because they had wanted farms, too. This 100-year-old problem has trickled down to today's generation.

I found relatives who were unwilling to speak to me about family because of this long-ago decision. So I think your advice to bring the children together to inform them of the decision was totally correct.

Thanks for your insights into farming and the problems associated with it that you are helping to correct.

THE SOLUTION:

Probably the most common cause of insomnia for business-owner parents is this nagging, difficult issue: How can I be fair to the kids?

By now, most everyone agrees that being fair doesn't always mean being equal. But that knowledge doesn't help much in determining what is, in fact, fair.

As an adviser to farm owners, I've wrestled with the problem and tried a lot of different approaches. Eventually I settled on one. It's closely related to T.R.'s point. What is fair, I believe, can readily be identified if we first determine what is unfair.

For example, T.R.'s great-grandfather, whatever his intentions,

was unfair to his children because his decision created conflict among them and their descendants. He might have prevented this simply by asking his daughters and learning what they considered unfair. Failing to do this, he may have been equal, but not fair.

So, how does this approach help us to make estate and succession decisions? It encourages two actions before finalizing a plan:

1 When considering a distribution of ownership or control, run the clock forward several years and imagine how the situation will work.

Potential disasters become obvious. For example, leaving equal ownership to two siblings – one who will manage the farm and the other intending to become an environmentalist – is probably unfair. The off-farm heir will need and won't be able to get cash from the farm. These two siblings will almost inevitably get into conflict.

2 Even if you think your plan is fair by the above criterion, check your assumptions with your heirs before going ahead.

Those ancestral daughters in T.R.'s family certainly had ideas different from their father's. His decision was fair, based on the assumption that women don't want to farm and that money and equivalent land value were one and the same to his children – an assumption he didn't check out. True, had he talked with his daughters, he still might have decided that the farm assets should go to the sons. But at least he – and they – would have been forced to deal with the disappointments before they turned into a family cancer across generations.

FAIR AND LOVING DECISIONS

Failing to discuss explosive estate issues with children is no less cowardly because it's understandable. Potential disagreements won't just go away because we ignore them.

One could argue that is nonsense, that it's none of their business, that parents have a right to do whatever they want with their assets. Well, that's correct, but only in a legal sense.

Most of us consider our legacies to be much more than just a simple transfer of title. They are an expression of love, too.

And fairness is one of the foremost expressions of that love. **EF**

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THE PROBLEM: ARE FAMILY FARM PARTNERSHIPS NIGHTMARES OR DREAMS?

N.L., VIA EMAIL:

My parents have just purchased a family farm, and asked all of us kids to move with them and help farm. We currently own a small farm together, and I find I'm doing 90% of the work.

My concern is that we'll all move to this new farm, and I will work like crazy to get it going, when in the end it will just be split even between my sister, brother, and myself.

I don't want my family to have to suffer and actually never get paid for the time that we will miss out on. Am I just being selfish? How can I make this work?

M.B., VIA EMAIL:

I've read story after story about how people fail to pass on their farm. Here's how we are doing it:

We incorporated our operation 23 years ago, partly as a tool for involving future generations. I held 51%, my wife 34% and each of the three children 5%.

We taught them how to farm work and they worked for wages toward their college education. After college each was encouraged to find work off the farm. The son loved farming and decided to stay.

Our two daughters chose not to stay, so their shares of stock were transferred to our son. When it became evident that he was serious about his role on the farm we began gifting shares to him so that in 3 years, he will own 51% of the stock.

He has gradually taken on more responsibilities and makes many of the decisions. He is extremely responsible and respected in our town.

If any grandchild chooses to become involved with the farm while my wife and I still have shares, they will receive shares in the same manner. There is no pain involved in this kind of gifting, only joy in watching the next generation earn their way into the operation. We pay wages and benefits for work performed.

The farm corporation does not purchase land, thereby separating the means of making a living from the accumulation of wealth. Our estate plan deals separately with our accumulated assets, remaining shares of corp. stock, land, the home place, etc.

What we are doing is so simple and the result seems so right.

THE SOLUTION:

N.L. and his family are considering the path so many others **N.L.** have walked: the journey of the family farm partnership. It's a happy dream that for too many has turned into a nightmare. N.L.'s concerns are valid and his instincts are right and he should follow them to bedrock.

M.B. and his family are well along the path, but they have survived its most threatening part thanks to common sense, fore-

sight, prudence, active planning, and open involvement of all concerned.

N.L. and others just setting out can learn much from the steps they took:

- Their children were taught farming responsibilities and paid for work performed.
- Their children were encouraged to expose themselves to possibilities outside the farm.
- Once it became clear which of their children were interested, they began ensuring he would have control of his career through controlling ownership in the farm operation.
- They've allowed their successor to grow in skill and responsibility in the business.
- M.B. and his wife retain the flexibility to allow grandchildren to earn their way into the operation, but their son will still have control.
- They have separated wealth assets (land, home place) from operating assets (operating corporation), giving them great flexibility in transferring their wealth.

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— Dr. Donald Jonovic

These steps can serve as a great guide to N.L. and his parents as they set out on a farming future together. As to N.L.'s desire to protect his family, once again I urge: have written agreements about clear understandings that all parties accept. Define roles, responsibilities and compensation. Agree (again, in writing) on how future division of the property will be determined.

While the handshake of the past is a beautiful concept; the legal document of today is a required safeguard. **S.F.**



THE PROBLEM: HOW MUCH SHOULD PARENTS TELL THEIR CHILDREN ABOUT THEIR ESTATE PLAN?

V.B., VIA THE INTERNET:

Although our ranch is not very large, it's big enough for the tax people to notice.

A number of years ago, my husband, Bert, and I worked for over a year with our advisers to set up an estate plan with the least possible estate tax.

When Bert died of a heart attack seven years ago, we had the trusts and insurance in place to help me get through a terrible time.

Now I'm back with the advisers to sort things out for when I die. It's no fun, let me tell you. I can't understand half the things the accountant and lawyer say are important – and I'm far from stupid. The decisions I've had to make are upsetting.

Since Bert died, things have changed quite a lot. The ranch has grown, thanks to my daughter and her husband, and many assets aren't covered in the earlier estate plan. We've added buildings, gone into the retail business, bought more land, all of it in the partnership (I still own half).

My four girls (only one, my youngest, is involved with the ranch) have been asking what I'm planning.

MANY FACTORS TO CONSIDER

My on-farm daughter and her husband don't want the farm assets to go to the other children. I also have a son with special problems who needs professional care, and I need to make sure he's OK. My other daughters would like to get their inheritances now, when they really need them.

To complicate things more, my daughters don't get along with each other, and each worries that I'm being influenced by the others.

My advisers and I have worked long and hard to develop an estate plan that balances all this and won't be unfair.

Now the children are asking to know what the plan is. The advisers say I don't have to tell them, yet the tension is getting



worse in the family.

Some of what I've done won't set well with certain ones. So if I tell them, there are going to be explosions. If I don't, I'm afraid they'll get into a big fight after I'm gone. Any suggestions for an impossible problem?

THE SOLUTION:

Every situation is different, but there are general rules of thumb borne out by experience and that may help with V.B.'s decision:

1 Make sure your advisers know your children and heirs. This will help them give prudent advice and, even more important, should help your heirs feel more comfortable accepting your distribution plans.

2 The decision as to what is fair must be yours, not theirs. This is not because the heirs are inherently greedy or selfish. It's just that, individually, they don't understand the whole group of siblings as well as you do.

3 The decisions you make will affect your children's lives significantly. In short, you shouldn't set up a distribution that is almost certain to pit one child against another. A good test is if you are afraid to tell your heirs about a specific provision. That is an indicator that it is, most likely, unfair. Reexamine it.

4 Tell your heirs at least what they need to know to get on with their lives. On-farm heirs, for example, need to know whether their work and effort will be to their own benefit and whether their lives will be controlled by owners outside the business. Off-farm heirs need to know if they will have extra assets for sending kids to college or for retirement. But they don't need to know everything.

5 Take your time, don't be pressured, and trust your instincts. You're guided by people with considered advice, good intentions, and strong convictions. But in the end, if the advice doesn't feel right, it's probably not. Don't stop the process. Go back to the drawing board, revisit and resolve issues, and commit to a plan.

Finally, remember that the problem you have is actually a gift. Most people on this earth would consider it a blessing to have enough wealth to worry about. **S F**

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THE PROBLEM: HOW DO WE DESIGN A SUCCESSION PLAN FOR AN INTERESTED SON WHEN WE ALSO HAVE OFF-FARM CHILDREN?

A.C., INDIANA:

We currently farm about 2,000 acres and market 5,000 hogs per year.

Now our son wants to join us. He's worked at a seed corn company for three years after graduating from the University of Wisconsin. He had some responsibility and developed some management skills.

He's been married one year, and his wife currently is an assistant bank manager. She has a degree in economics. We have two daughters off-farm and out of college.

We met recently with our FBFM manager and determined we can afford the extra cost to bring our son in. We have met with a lawyer and have our estate plan in place.

Now we want a plan of succession. We think it should include steps for transition, a salary package for our son, a defined way to transfer ownership, and ways to make this transition work for all parties.

Which of your publications would be the most helpful and applicable?

THE SOLUTION:

Ag-Planner/IV should help as you develop a succession plan. It's good you also recognize the need for outside advisers. With such help and planning tools, you have an opportunity to put key steps into a sound plan and implement it.

Consider these early steps:

- 1** Make sure the entire family (your daughter-in-law, too) agrees that succession to your son is the goal.
- 2** Agree, in broad terms, what this succession means (operation, land, or both?). Acknowledge and state current values.
- 3** Establish a broad time frame. Mom and Dad should give a reasonable estimate when they'd like to transfer management control.
- 4** Define the fundamental commitments you want from your son at the outset, such as his time investment and responsibilities.
- 5** Define your son's base pay, any bonuses, prerequisites like fuel or housing, and measurable performance goals.
- 6** Put in writing mutual intents and expectations. An informal document is OK during this trial period.

This starts the process. Focus energy in the first year or two on

carefully and openly involving your son in the operation's management.

During this time he can decide if he enjoys working on the farm and with his parents. Mom and Dad can see if communication of their plans and goals is effective and whether cooperation is possible.

If problems arise on either side, they should be addressed promptly and constructively. A third party (such as your accountant or attorney) can help keep discussions on track. If issues cannot be resolved, it's early enough to separate without destroying the family relationship.

Once things are working well, begin regular (once or twice yearly) meetings with advisers and all the heirs to discuss and decide these three key issues:

- 1** Financial goals for the farm and each family.
- 2** More detailed plans for transferring responsibility and appropriate increases in pay.
- 3** A plan for gradual ownership transition, taking tax law and all heirs into account.

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If issues cannot be resolved, it's early enough to separate without destroying the family relationship.

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— Dr. Donald Jonovic

This process can help assure that any questions are recognized and answered in a timely and constructive way. **S|F**



THE PROBLEM: HOW CAN A FAIR ESTATE DISTRIBUTION BE ASSURED BETWEEN ON-FARM AND OFF-FARM HEIRS?

M.F., VIA THE INTERNET:

We are currently going through estate planning on my parents' behalf and also my own.

I would like to know your thoughts on what we are considering. Some of the points I am uncomfortable with, but they may be our best

option.

To give you a little background, I am unmarried, one of two sons. My brother, Dan, also unmarried, is not involved in the farming operation. The farm is just my dad and I.

My dad is married to my step-mom, who has a daughter and son who also are not involved in our farming operation.

My question is how do we establish what is fair from the farming perspective to my brother and me?

I have proposed to set a company value or net worth at the time I returned to the farm from college, and anything over that value should be included in my portion of the farm at the time of inheritance.

This process is a little shaky because there are a lot of variables.

Also, my stepbrother and stepsister are not to receive anything from my father's assets or company assets. These are to be passed to my brother and me. There's a marital trust for my stepmom.

THE SOLUTION:

M. F. is understandably concerned about fairness from his own point of view, but his brother's viewpoint is important, too.

Assuming that his dad has legally assured that the stepmother and her children have no access to the family assets, the key fairness question is the one M.F. attempts to address: Whether and how to recognize his contribution to the value of the farm in the ultimate estate distribution.

Providing for him to receive something more than half of the estate to compensate for the value he's added over the years is fair in concept, but determining how much more requires consideration of two other relevant factors:

1. Land that was owned before he joined (presuming he didn't add significant improvements) is a family asset and grows value on its own. That increase in land value is as much his brother's as his.

2. Land and equipment acquired after he joined were probably financed out of farm earnings, and M.F. only contributed a portion to those earnings. He can fairly claim a right to some of that added value.

These two factors imply that "fair" means M.F. gets some – but less than all – of the increase in value since he's been on the farm.

Determining future value will be important for fairness, too.



Since this is a working farm, the land value on estate transfer will surely be defined at ag-use levels. In fairness to M.F., he'll need assurance, should Dan want to sell, that he can acquire his land at the same lower than highest-and-best-use value.

For this to be fair to Dan, M.F. shouldn't be able to buy at ag value, then sell at a higher level without Dan benefitting, too.

The first step in defining "fair" is to look for what is potentially unfair in any estate plan (as I did here) and to fix that. The next step is discussing the resulting plan with the heirs.

After all, what is fair – like beauty – is in the eyes of the beholder. ■■

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The first step in defining "fair" is to look for what is potentially unfair in any estate plan (as I did here) and to fix that.

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– Dr. Donald Jonovic

THE PROBLEM: IS THERE AN ART OR A SCIENCE TO COMMUNICATION? OR DOES IT SIMPLY HAPPEN?

L.H., NEBRASKA:

I'm a daughter-in-law on a family farm. Over the years, my husband, Chet, had his difficulties with his parents, and although I observed much, I tried to stay out of the discussions and arguments.

Chet seemed to appreciate my silent loyalty. I helped out at harvest and in a pinch, but mostly I took care of the children and kept our family life on an even keel.

After his dad died three years ago, we took over the farm and most of the ownership. Mom still lives on the homeplace but doesn't interfere.

Chet has gone from employee to employer, and we now work together. Surprisingly, this has left us (or perhaps it's only me) with a new set of problems.

I have taken over the books and other administrative duties. But I think because we never worked together or talked much about the farm in our early years, we aren't doing a good job at teamwork now.

Now the farm is on my mind all the time. There are many things I want to discuss with Chet. But he never has time. When finally, at the end of the evening, I want to bring up my concerns and ideas, he fumes at this kind of pillow talk.

We need to work better together, but how can we begin if we never can discuss the farm?

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When finally, at the end of the evening, I want to bring up my concerns and ideas, he fumes at this kind of pillow talk.

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— L.H., Nebraska

THE SOLUTION:

Their business situation has changed immensely, but they're still operating under the same culture that existed when Dad was alive.

Chet's dad most likely seldom discussed issues with him, made his own decisions, and went his own way. The value was work, getting the job done, not talking about it.

Chet wasn't a real partner to his dad, and now that he has a real partner of his own, he has no experience to help him work with her. After a long day of doing, he recoils at the prospect of a long night of talking.

L.H. is right. As working partners, they need to develop a joint understanding on purpose and direction. It won't happen without words and numbers – both written and spoken.

APPLYING SCIENCE AND ART

Pillow talk is not the answer. Instead, some science must be applied here and some art.

L.H. could start by suggesting a meeting with their accountant to establish a clearer and more objective shared understanding of the facts of the farm operation.

They should use these numbers to outline goals for the next year or two and to develop reports for measuring progress objectively.

They should decide who is responsible for which goal and for which function on the farm. They should set priorities and the how-tos of getting there. That's the science.

The art is harder. They need to open – and walk through – a door to a new culture of communication. Old habits are hard to break.

They must set aside serious time to meet regularly in a business setting away from daily distractions and the bedroom; to focus on facts with open minds; and to commit to leaving emotions at the door by sticking to a business agenda and using advisers to help them do it.

This means talking about the business, just as we do about our children and our marriage. 



THE PROBLEM: IS THERE A WAY TO WORK TOGETHER MORE LIKE BUSINESS ASSOCIATES THAN PARENTS AND CHILDREN?

M.I., ARKANSAS:

My husband, Josh, and I own a poultry farm/contract growing operation founded by his dad. Josh and I ran it together for 10 years after Dad retired. We brought our son, Will, and his wife, Donna, into ownership three years ago.

We have two farms: the original operation and a new farm Josh is developing in Missouri. I do the bookkeeping for both farms.

Will has managed the Arkansas houses mostly on his own because Josh has been focused up north.

It sounds like a perfect family farm, and it should be. But it's not.

We thought that ownership would cement Will and Donna's commitment. It did, but they also got some big ideas. Will and (especially) Donna started resisting and avoiding me almost as soon as we made the ownership change.

Six months ago, we had to decide to either renovate or replace the houses here at the home farm. We approved (3 to 1) a budget to rebuild (I voted against because of the risk). Josh told Will to get the plans and construction started.

At a weekly meeting two months later, I asked Will how the plans were coming, and all I got from him was, "Fine." When I pressed him, he wouldn't reply, as much as saying: "None of your business." I was upset and asked when we, as a board, would see and approve the plans.

Josh said, "We already approved the budget. How the houses are built is Will's job."

I was angry and humiliated. There have been hot times at home.

Doesn't Will need approval from his partners on something as big as building designs? Why won't Josh see my point?

THE SOLUTION:

Confusing family with business roles can mix parent/child and business reporting relationships into a dangerous brew.

Will (and Donna, who surely supports him) is struggling for independence from his parents' "meddling" in his job. To him, even a small opening threatens to turn into a because-we-say-so takeover.

M.I., just as naturally, feels the need to oversee her child's behavior, to protect him and the family, and yes, her own authority.

Josh is trying to run the business and keep family peace. And he's failing at both.

With truth on all sides, it's hard to sort out. But trying to think like unrelated business associates is a start.

KNOW YOUR ROLES

A board member knows a manager must be free to act if he or she is to be responsible for decisions. But a board member never gives up control over major capital expenditures.

A manager knows that it's necessary to keep the boss and the board in the loop to keep their confidence and, ultimately, his or her job. A manager can expect autonomy but not total freedom.

Any CEO knows that it's important not only to keep investors and board members comfortable and informed, but also to protect subordinates from micromanagement.

Separating emotions from business decisions can never be complete. Still, suspending family roles and adopting real business roles when defining reporting relationships helps to douse the flames under the family stewpot. 

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With truth on all sides,
it's hard to sort out.
But trying to think like
unrelated business
associates is a start.

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— Dr. Donald Jonovic



THE PROBLEM: CAN FAMILY FARM HEIRS DO ANYTHING TO HELP THEIR PARENTS MAKE TRANSITION DECISIONS?

W.W., VIA THE INTERNET:

We're stuck at a major roadblock in trying to preserve our four-generation family farm.

I am an off-farm daughter and believe it's very important for my parents and the family to address questions of succession planning and strategic vision for the future.

My parents evade this question, to the point of claiming health problems in order to avoid meetings I try to schedule with advisers.

My brother, who works on the farm with my parents, tells me he agrees with the need to talk about this, but when it comes time to push Mom and Dad to actually have a meeting, he backs down and won't support me.

It's at the point that Dad just walks out of the room if I try to raise any of the questions with him. We now don't talk as freely as we used to. Mom just shrugs.

I can see where all this is going, and the destination is not looking very attractive. There must be some ostrich genes in our family DNA.

Are there advisers who can help us with this? How can I convince the older generation that we have to plan if the farm is going to have a future?

THE SOLUTION:

To answer your first question, yes, competent family business advisers do exist. I have colleagues across the country who, like me, have been working in this area and helping farm families like yours for many years. But getting help from them requires that all family members agree to the process.

Now for your second question. Often, as in your case, convincing the older generation can seem to be an almost hopeless task.

There are many possible reasons for your parents' hesitation (and it's likely both of them are hesitating, not just your dad). Planning transition, for some, is akin to planning for death. The complexity of the process can be daunting, too.

Most likely, though, the biggest stumbling block to making a plan is their worry that they won't do the right thing by their children.

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My parents evade this question, to the point of claiming health problems in order to avoid meetings I try to schedule with advisers.

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— W.W. via the Internet



This is where you and your brother could first try to unite and agree on your goals. As long as your parents worry that they would have to choose between your competing desires, they will continue to resist making any decisions.

If you and your brother can express your shared concerns and combined desire to work out a future that satisfies both generations, you could help to take that burden off their shoulders.

It's important to consider the possibility that your parents are struggling with the fair vs. equal trap. You and your brother could accomplish a lot by telling them that you are both willing to help them work out a good

solution, as well as compromise your own individual sense of what is right and fair in order to settle on a transition plan that works for everyone involved.

If your parents still refuse — which is their right — your options are severely limited, but you'll have tried. Also, your brother should then give strong consideration to his own future and whether he can afford to spend his best years building a future that is undefined and over which he has little or no control. **SE**

THE PROBLEM: CAN LOSS OF TRUST IN A FARM PARTNERSHIP BE MINIMIZED BY PUTTING FAMILY FIRST, NO MATTER WHAT?

F.K., WISCONSIN:

My parents, older brother, and I worked the family farm for many years. For almost as many years, I stewed, simmered, and did a slow boil about how much say was given to my younger brother, who couldn't get away from the farm fast enough. At 17, he joined the military.

Many years later my dad told a neighbor (who later told me) that my dad wanted to give the whole farm to my younger brother.

I could fill an encyclopedia with hurt feelings, but what I gleaned from these trying situations was to always take a step back and look at eternal things, rather than fiscal or emotional things.

What I learned was to put a lot of faith in my life in order to cope with the loss of faith in my family.

I read a bumper sticker once that said, "Whoever dies with the most toys wins."

How many toys is that?

This all taught me that the only thing that matters is family. Don't let toys divide and conquer your family. My question is how do I live with this belief AND stay on the farm?

THE SOLUTION:

Family farm partners often live with stress and disappointment caused by parents who play favorites, by unfair estate plans, or by siblings who won't do their share, yet feel they do more than they should.

Usually, when they talk about their lives, these disappointed partners mention a loss of trust in other family members. F.K. doesn't trust his brother's commitment to the farm, nor does he trust his father to be fair.

Retreating to a focus on family won't address his unhappy day-to-day situation. He remains in a stressful and unrewarding partnership.

Clearly, family is central to F.K., and he wants to stay. To do that in a healthy way, he will have to ask and answer two questions: What caused the broken trust? Can the break be healed?

Here are four ideas to keep in mind about trust.

1 Trust is not the same as love, which can remain even after trust is gone. A loss of trust doesn't have to mean a loss of family.

2 Regaining trust begins with open conversation. For F.K., the only real chance of keeping the family together and his career rewarding is checking his assumptions, establishing a



working understanding with his brother about commitment, and clarifying his dad's plans for the future. He's operating now on impressions and hearsay. What he learns by talking with them may surprise him.

3 Once causes are better known, trust can be regained, but it requires

bracing and support (like a broken bone) to heal. The support needed here is clear agreements and written understandings. Likely, these won't be everything F.K. hopes for, but clarity is still the only path to real agreement among partners.

4 Healing is only possible if we or others don't reopen the wounds. Once addressed, it's critical to let those conflicts van-

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Regaining trust requires group effort. If that effort isn't there, F.K. may have to leave to save the family relationships he loves so much.”

— Dr. Donald Jonovic

ish forever from conversation. Old arguments are a swamp. Turn the focus to structure and give trust the chance to heal.

Regaining trust requires group effort. If that effort isn't there, F.K. may have to leave to save the family relationships he loves so much. Love can prevail through a lot, but trust is fragile. It needs a lot of help from everyone involved. **SF**



THE PROBLEM: HOW CAN A NEW IDEA BE PRESENTED TO PARTNERS SO THEY'RE MORE LIKELY TO LISTEN THAN TO CRITICIZE?

J.P., WISCONSIN:

When I walked out of my family meeting last week, I seriously considered never going back. I've calmed down since, but I'm still asking myself if it's worth all the pain of trying.

Our business meetings are always painful, but now we're attacking each other personally.

I've been pushing for a new farm office for at least a year. And two months ago, Dad told me to put together some alternatives to discuss at last Friday's meeting.

I looked at everything from remodeling to temporary facilities to building something totally new. A local builder even drew up some preliminary designs for a project we could ease into over a few years. It was exciting stuff, from my point of view, and I was looking forward to presenting and discussing what we needed to do.

How foolish I was. When we got around to my part of the agenda, I outlined our three options: status quo (which I pointed out was unacceptable), a temporary solution (basically a waste of money), and the expandable new building (my recommendation).

Almost immediately, Dad made a joke about going to two shifts in the office ("hot-desking it," he called it). My older brother accused me of always wanting to throw away money on projects that don't make money. My sister complained that she didn't remember asking me to do any study about a new office, which we didn't need anyway.

Ten minutes into my presentation, and I was shut down before I could even explain what I was recommending. That's when I threw the drawings across the room and left.

How can we ever make decisions when people refuse to listen?

THE SOLUTION:

Family farm meetings are usually begun reluctantly when "the kids" start taking on real responsibility in the operation. Before that, a few grunts over breakfast are enough to plan the day.

Trouble starts almost immediately. Early meetings are undisciplined – little more than breakfast conversations with more people. That's bad enough, but add family history, parental authority, and sibling rivalries to the lack of meeting structure or procedures, and you wind up with people storming out of rooms and fraying partnerships.

J.P.'s disaster is a good example of the many things that can go wrong.

1 There was no agreement that it was J.P.'s project in the first place. (Dad gave it to her offhandedly, probably out of frustration.) Instead of listening, everyone wondered why she was talking at all.

2 Alternatives weren't predefined. Worse, J.P. came with her own bias: a new building was the only option. If others had ideas, they obviously hadn't had time to study the problem.

3 Information wasn't distributed before the meeting. In essence, everyone except Dad was completely blindsided – not the best road to receptivity and open minds.

4 There was no meeting protocol. Most likely there wasn't even a chairperson to enforce protocol if it existed. It's hard to state your case when you can't even hold the floor.

Having meetings is a start, but without rules and procedures, you've only gone from random noncommunication to scheduled misunderstanding.

How do your meetings stand up? **S|E**

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There was no meeting protocol. Most likely there wasn't even a chairperson to enforce protocol if it existed. It's hard to state your case when you can't even hold the floor.”

– Dr. Donald Jonovic

THE PROBLEM: IS A SON RIGHT TO BE WORRIED WHEN HIS DAD'S PENDING RETIREMENT IS TOTALLY UNPLANNED?

H.W., OHIO:

My father is planning on retiring, as he puts it, “in a couple of years.”

Here is his plan: He’s worked out his estate to transfer a big chunk of the operating LLC’s entity to me now. He’ll stay on as managing member with some income and get lease payments on the land until he dies. After that, control of the operation will be mine, and the land will pass to me and my two sisters.

I’m very worried about how this is going to work. Dad says they’ll travel and be gone most of the time, yet they’re keeping the homeplace. He’s never done anything but work, even when Mom begged him to travel.

My best friend tells me I should be grateful Dad worked it all out and is giving me the farm. I tell him I’m worried – not about what happens after he dies, but what happens while he’s alive. I feel we’re heading into trouble. Am I right? If so, what should I do?

THE SOLUTION:

It’s not that H.W. is being paranoid. His concerns, though more general than specific, are justified. Actually, his dad should be worried as well

We don’t know enough about H.W.’s situation to give specific advice, but experience with a lot of retirees over the years can be summarized in the following Five Uncomfortable Facts of Retirement. They may help H.W. address his fears and provide some ideas for other dads with similar retirement plans.

1 Retirement while keeping control of the operation is a dangerous game with successors as victims. The retiree, in essence, flies the airplane from the ground by remote control. The pilot in the cockpit is at the mercy of ground control – a potentially fatal situation.

2 Retirement that assumes the retiree’s total separation from the business is a waste of wisdom and experience. Simply walking away deprives the next generation of useful knowledge and denies the older generation the opportunity to share hard-won expertise.

3 Retirement funded by income from the business becomes an anchor for everyone. Farming is about taking risks, which is how farms are built and how they grow. But when major retired owners depend on the farm for financial security and have no cushion of their own, they will live in anxiety, fight risk, and cripple management. Everybody’s future is compromised.



4 Retirement that assumes enjoying activities ignored over a lifetime is a self-delusion. Why would the retiree plunge into those in retirement? With nothing to do, the new activity is apt to become meddler-in-chief.

5 Retirement is not a solo act. Career changes usually happen to couples and families – not just to individuals. If harvest years aren’t planned together and mutual expectations and needs aren’t considered, bonds of marriage can become the shackles of imprisonment.

H.W.’s dad’s retirement plan ignores each of these facts of life. He’s keeping control, walking away from the operation, depending on the farm for his income, planning on activities he’s always disdained, and defining the whole plan by himself. H.W. is right to be concerned.

Father and son have probably spent more time planning a grain sale than this retirement. Maybe H.W. should drop these five facts on Dad’s desk for thought and a lot more discussion. **■**

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Retirement is not a solo act. Career changes usually happen to couples and families – not just to individuals.

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– Dr. Donald Jonovic

THE PROBLEM: DOES DAD'S FAILURE TO DISCUSS HIS PRENUPTIAL REQUIREMENT MEAN HE CAN'T BE TRUSTED AS A PARTNER?

S.S., VIA EMAIL:

Your November 2011 column (p. 20) discussed a father's unexpected demand that his son's fiancée sign a prenup agreement. While I totally agree with your answer and I know space is limited, I also noticed that you didn't touch on the wider issue that will be a problem for this couple down the road.

The red flag went up for me as soon as I read that the father had not discussed the prenuptial requirement with his son prior to that young man having to hear it from their lawyer.

Failure to discuss with a son and farm partner something this important and with such huge potential negative impact is a BIG issue.

If father and son are not communicating over something of this magnitude, what else are they not communicating?

Do they talk about how responsibilities will be divided, about who makes the final decisions about finances? Not likely. Less likely is any possibility they have discussed even more charged issues like inheritance, the farm buyout, and retirement.

The parents' desire to have the fiancée sign a prenuptial agreement is something so serious that it should have been put on the table and discussed with the father, mother, brothers, spouses, and hashed it out before it was ever raised with the fiancée.

This is no oversight. In my opinion, the father simply failed to man up on a difficult issue. To me, this means he clearly will do the same on other, equally important issues. I know whereof I speak. I married into a farm family. Can a successor really partner with a father who acts like a coward?

THE SOLUTION:

I don't think S.S. is accusing the father of being a coward – only of acting like one. Still, the act of hiding behind a lawyer does look a lot like cowering in a foxhole to avoid a looming battle.

Nothing unusual in this, as every reader of this column knows as well as S.S. The very human desire to run away from confrontation is so natural anddy farm partnerships manage to survive and succeed in spite of it.

When trying to gather the courage to face a tough issue, it's worth remembering that cowards die a thousand deaths, while heroes die but once. We know from experience that avoiding a battle doesn't end a war – it just makes it that much tougher to fight, let alone win.

Fear can paralyze. It can keep a soldier from fighting for survival. It also can prevent people who love each other from confronting dangerous issues and solving them while that's still possible.

Armies learned centuries ago that even though fear can't be eliminated, training and experience can instill habits that sidestep paralysis and enable action.

It can be the same in families. The straightforward commitment to face and resolve day-to-day disagreements and misunderstandings, particularly the smaller, easier ones, develops the habit of reacting appropriately to issues as they arise.

It's not so complicated. Sweat the small stuff first, day after day. It won't make the big stuff any smaller, but it will make it that much easier to muster the courage for the scary face-to-face discussions S.S. reminds us are so critical. **S F**

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The very human desire to run away from confrontation is so natural that we have to wonder how so many farm partnerships manage to survive.

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– Dr. Donald Jonovic



THE PROBLEM: ARE THERE REASONS FARM FAMILIES SHOULD AVOID PRACTICING ELDEST PREFERENCE IN TRANSITION?

P.W., OHIO:

I found the Mid-February article [page 24] laughable – or maybe I should say cryable.

The eldest son had the opportunity to sow his wild oats and come back to the farm. The younger brother wasn't allowed to do the same. Good old first-born entitlement working strong in the family farm. Sadly, it's too often the norm in most farm families.

I'm married to a middle son born of a farm family, and he has gotten the short end of the stick (emotionally and financially) for the past 50 years (which happens to be how old he is). I'm certain that from the time he came out of the womb, his family treated him in a substandard way.

We're currently trying to get out of the family business he has helped create by his blood, sweat, and tears, and somehow WE are the bad guys.

I just had to express my opinion and bring attention to the fact that the big brother always expects to be treated superior to his younger brother, which is not right, fair, or just. I just wish you had mentioned that in the column.

THE SOLUTION:

Within a week of P.W.'s email, I heard from another daughter-in-law whose own family practiced primogeniture (they called it lineage). She felt her father-in-law should prefer her husband over his sisters. Seems every coin has two sides.

Granted, we don't find many farm transitions today based on primogeniture, but echoes of it – let's call it eldest preference – can be felt in people's lives today, as seen in P.W.'s situation. Its leftover assumptions can drive unwise (and unfair) ownership transition or leadership succession. Consider the potential losers in the family who practice lineage.

It's worth examining four underlying assumptions that have kept eldest preference alive long after feudal times because it can guide us toward more useful interpretations.

1 It keeps the farm together and concentrates control. The modern variation of this assumption is operator preference or never leaving farm assets to off-farm heirs. Sounds good, except that it also separates entire family branches from the farm forever. There are a lot more tools for concentrating control in multiple-owner situations than the feudal lords ever had (LLC operating agreements, for one).

2 It assures that assets go to the heir with the most experience and knowledge. This assumption ignores the fact that heirs can have varied abilities independent of age. It also fails



to consider – and reward – the growing value of off-farm vs. on-farm experience in this complex world.

3 It rewards the longest serving heir for time served. Like union seniority rules, this sounds fair and just until applied to the real world of a business's need for the most competent and energetic people. Time is not a good measure of contribution.

4 It repays self-sacrifice. Usually this is intended to right a wrong committed where the oldest heir had to work long hours with little pay through the farm's difficult years. But why solve a compensation issue, correctable with cash, with equity preference, which is forever?

Eldest preference may be appropriate in some cases, but for the sake of family harmony and a successful farm, it should most judiciously be avoided.

SEF

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Eldest preference may be appropriate in some cases, but for the sake of family harmony and a successful farm, it should most judiciously be avoided.

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– Dr. Donald Jonovic

THE PROBLEM: HOW CAN DISSIMILAR ASSETS BE FAIRLY DIVIDED AMONG HEIRS WITH DIFFERENT DESIRES AND NEEDS?

R.R., VIA EMAIL:

Thought you might be interested in my situation and how I decided to do my estate plan. My wife and I have three sons. The oldest is a minister, the middle son works with me, and the youngest lives 210 miles away on the other side of the state.

The minister will never return to become a full-time farmer, although he does come back to help when he can. The youngest would like to farm with us, but because of his family situation, he just can't. He comes home three or four times a year to help out, though.

Figuring out how to divide it all was a problem, but here's what we did when I developed health problems.

We bought my aunt's old place and moved there. (I already owned ground on three sides of hers, so it was a natural decision.) We have no regrets.

We then put a cash value on everything we owned and divided that number by three to determine how much value each boy would get if all we had was cash. (If it were only that simple.)

The result is that we are leaving the family farm, everything farm-related, and the home place to our second son.

My aunt's place happens to be equal to a third of our number, so we will leave this property to our oldest son, who always wanted to have a place near the home farm. Our third son gets cash and other assets that remain in our estate.

We did some other things, too. Some time ago, we gave our youngest son an 1155 Massey Ferguson. Since our oldest son likes old tractors (he owns a Ferguson T020), we gave him a T030 and a Farmall SM. We gave our farming son a 100-hp. Deere 4000. He uses and maintains all these tractors on the farm.

In the end, two of our sons are pleased, and one, our youngest, is disappointed. But he does understand that it may not be fair, but it does seem logical.

Is it fair?

THE SOLUTION:

You've heard the cliché, "Equal isn't always fair, and fair isn't necessarily equal." What you don't hear is much discussion of why that's true and what it might imply if it is true.

I've concluded that the truth of the cliché is hidden in the difference between the concepts equal and equivalent.

In R.R.'s case, he understood that truly equal distribution was not possible, so he chose to embrace the latter concept and tried to distribute value as equally as he could. He recognized, though, that cash and family land can be perceived quite differently by his sons.

Consider that R.R.'s youngest was probably always last in line

after the older siblings had taken the best stuff. Now, everything with emotional value is going to his brothers. Yet, Dad says his third son understands this unequal division. How can that be?

There's evidence this is a strong family. The boys continued to help on the farm over the years. Dad knew what his sons appreciated, and he gave them treasured gifts. More important, because R.R. can say his youngest understands, it also seems he does something that's very rare on the family farm: He communicates. R.R. knew he couldn't meet all their expectations; he had to explain.

He obviously discussed his logic with each of his sons, and how each bequest had to be different and be as balanced as he could make them.

Perhaps a new cliché should be, "While equal may not always be fair, equivalent can get awfully close." **S|E**

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— Dr. Donald Jonovic



THE PROBLEM: IS IT POSSIBLE FOR PARENTS AND WORKING HEIRS TO PUT IN WRITING THEIR EXPECTATIONS FOR THE DISTANT FUTURE?

E.I., VIA EMAIL:

There is a sentence that I see in your December 2012 article that I have often heard expressed: “It is also my way of paying him for the years he worked with me and took on the lower pay and the risk involved.”

I don’t see you addressing that key concept of the mix. Father and farm son may have an understanding on that, but most often that understanding is not translated into a concrete plan to compensate the farm family in any distinct settlement.

By the time estate settlement comes around, everybody else has mentally discounted that understanding to a lesser – or usually a much lesser – extent.

Maybe the farmer – or better yet both father and son – needs to treat the business as a business and take that farming son into partnership, transferring ownership of some property as the years pass.

Maybe they also need to add as part of that agreement that the farming son will give senior care to his parents at a given ownership rate per year. Many times, senior care is what we see happening anyway, and it’s the child who is close by who takes on the lion’s share of caregiving.

Shouldn’t these understandings also be defined in writing as legal documents?

THE SOLUTION:

We know that written agreements are important and often essential to effective succession on the family farm. E.I. raises a deeper question, though: Shouldn’t we also have legal agreements for transition expectations to be fulfilled many years in the future?

This question gives most of us pause. The distant future is a fog. How can we commit that far ahead? We may have intentions to do something, but we remain far from decided on exactly what and how.

Fortunately, legal documents aren’t the only form of writing that can clarify our assumptions and minimize misunderstandings. I say fortunately, because many times transition agreements begin more as intentions than specific rights or hard numbers.

Consider the following two examples from written documents. The first is from a buy/sell agreement; the second is from a letter signed by a son and his parents:

» “The ‘Purchase price’ shall be one times the ‘book value’ of the Offered Units on the last day of the month most recently ended. . . .”

» “This is our full and current intention for the farm: Sometime prior to 2020, Bruce should have the opportunity to buy the farm

assets from us or our estate at a discount recognizing his less-than-market current pay, assuming Mom and Dad remain secure. We will review this understanding yearly.”

The first is a legally executed contract that creates rights and obligations that can be changed only with difficulty, if at all. The second clarifies an understanding, but it’s hardly a binding contract. It is prelegal, a start down the path to legal agreements and contracts.

These informal, written understandings actually accomplish a lot. What has been promised is defined. What is not defined is presumed not to be promised. Also, both the parents and their heir commit to ongoing discussion as things change and the situation evolves and becomes clearer.

Such documents can also communicate intention early on to the other heirs and, maybe more importantly, the in-laws. Transition agreements are better built stone by stone than discovered by avalanche just after death. **S F**

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THE PROBLEM: WHAT ARE THE 7 KEY CHALLENGES FARM FAMILIES FACE TODAY AND HOW SHOULD THEY BE ADDRESSED?

W.O., VIA EMAIL:

I'm an accountant whose clients are mostly farm family businesses. Their problems don't usually fit on a single magazine page. Their issues are complex.

This is my question: Can their problems (plural) be understood and, therefore, worked on together?

I'm hoping you can provide a single, refrigerator-postable summary of major family farm challenges with your best advice on how to meet them successfully? It would sure help.

THE SOLUTION:

There are seven fundamental causes of avoidable stress on the family farm. I call them The Seven Deadly Dysfunctions. Here they are, with "cures" for mitigating each one:

1 Refusing to talk. Mind reading is the preferred method of communication on the farm, particularly when the subject is a difficult one, like succession or ownership transfer.

Cure: Force conversation through regular meetings, but assure safe boundaries with set agendas.

2 Embracing assumption as truth. "My sister just blew up at me. She hates me." Really? Have your motives and reactions never been misunderstood? **Cure:** Establish a meeting code of conduct that always allows others to explain their goals and concerns before they're judged. Realize you don't know your partners as well as you think you do.

3 Trying to alter the past. Repeating the same mistakes and hoping for different results is a common definition of insanity. You tend to revisit past hurts and harmful actions, trying to get others to agree on your version of what happened and who's to blame.

Cure: Once you have disciplined and safe conversations, it's time for one last look into the family hurt locker. Only this time not to change the contents, but to determine what you can learn and how to do things differently.

4 Shunning the in-laws. Everyone's polite about it, but when the outsiders who marry into your family are resented or mistrusted because they don't fit seamlessly into your culture, that's shunning, and it's devastating. **Cure:** Consider that these outsiders are the parents of your next generation. Can there be a stronger tie? Doesn't this alone warrant them a seat at the discussions about the future?

5 Surrendering to circumstance. Farming is subject to myriad uncontrollable variables, like markets and weather. One variable you can control is how you choose to react. The dysfunction here is using unpredictability as an excuse not to plan.

Cure: Make evolution and adaptation ever-present subjects of your ongoing conversations about the future. You can't elimi-

nate uncertainty, but you can mitigate the impact of known threats.

6 Keeping all options open.

Remember Jonovic's Universal Rule: If an important agreement isn't in writing, it doesn't exist. Written statements of understanding ensure clarity. They only close options if they are irrevocable. **Cure:** Record important intentions and agreements in writing, always with the option to talk, review, and restructure as circumstances change.

7 Going it alone. Since you don't talk or share your problems with each other, much less your advisers, you certainly can't expect outsiders to help you.

Cure: Commit to Cures 1 through 6, and then bring in the advisers you need to maximize their benefit and your resulting better health. **SE**



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MANAGING FOR THE FUTURE

EXPERT ADVICE AND STRATEGIES FOR PLANNING A FARM TRANSITION



THE PROBLEM: IS THERE A WAY TO BRING TOGETHER HEIRS WHO ARE REFUSING TO COOPERATE OR TO EVEN TRY?

M.C., VIA EMAIL:

You might be interested in a letter I sent to my children who are unable to get along. I want to start clarifying responsibilities and pay, but they are resisting. Two of them are actually refusing to help.

"Jealousy, resentment, selfish ambition, dishonesty, assumptions, unreasonableness, condemning, anger, scolding, controlling, antagonism, discord, persecution, gossip, hatred, greed, and countless other such behaviors are evil-doers. Dump them in the swamp! We give our friends more forgiveness and room to be who they are than we give each other as siblings, in-laws, or parents.

"Instead, praise each other's accomplishments, give attaboys and job well dones, show compassion for each other, get the chip off your shoulders, and forgive each other with the full knowledge that no one is perfect, including you. It will surprise you how much better emotionally you feel and grow as a positive person.

"Some of you are parents and some will soon be. May you pass on the foundation of unconditional love of family and extended family to your children. It is a gift to treasure and share.

"Think about people who never get anything from their families, including love. I bet they wish they were you!"

THE SOLUTION:

From M.C.'s perspective, her children are needlessly tearing themselves apart in a world of blessing, opportunity, and plenty.

It's not some evil gene in farm-owning families that drives this common preference for righteousness over common good, however.

The problem is driven much more by the careless blending of economic and emotional life than it is by inbred selfishness or greed.

Like so many farm-owning parents, M.C. and her husband probably mixed the desire to express love for their children with the need to lead a business team. While they did that, they failed to teach four facts of family business life that are critical for heirs (and parents) to understand if the partnership is to work.

Is there a solution for M.C. and her family? Possibly, but she and her husband will have to be willing to apply – and her children to accept – some tough love. These four facts of life may require another letter and lots of straight conversation.

FACT 1: Equality of love does not imply equality of ownership or influence. Future leaders of the business will have to be chosen, and that choice will be based on ability, not our love for you. Distribution of the assets WE built will be based first on what's good for the business and second on our love. Distribution of ownership of what YOU build will be openly discussed and will be fair.

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FACT 2: Gift and compensation are very different concepts. When something is given as an expression of our love, it's a gift. When something is provided as a reward for your effort, it is compensation. We try to be equal with the former. The latter depends on you.

FACT 3: Age does, in fact, make a difference. Older siblings are likely to have more experience, maturity, and skill. Therefore, they are likely to have more responsibility, and this may be a permanent (but not guaranteed) fact. If we grow the business, our younger children will have plenty to do.

FACT 4: Individuals who cannot cooperate and work to settle business differences constructively will be asked to leave the business, but you will always have our love and be a member of our family.

M.C.'s letter is a start at this, but they still face a challenge to fix the problems created by years of confusing family and business values. Still, the longest journey starts with that one, first step. **S.F.**

THE PROBLEM: IS THERE A WAY FOR NONLAWYERS TO BE SURE THEIR ESTATE PLAN IS EXACTLY WHAT THEY WANT AND THE DOCUMENTS ARE WRITTEN CORRECTLY?

SUBMITTED BY E.V., VIA EMAIL

I just ended a two-and-a-half-yearlong fight over my uncle's land. My dad and uncle owned land and farmed together until 2003 when I bought out my father's share and began farming with my uncle. Dad died in 2007, my uncle died in 2010, and my aunt (their sister) died in 2011.

When I bought my dad's share, my uncle changed his trust (originally in Dad's favor) so that I was to inherit his share of the land and machinery. He lived with their sister on my grandfather's homestead (neither of them ever married). My uncle wanted to make sure my aunt was taken care of, so he designed his trust to give her income off the land while she lived. When she died, it was all to go to me. All fair and very straightforward. The other nieces and nephews were to get cash from the estate.

Well, the lawyer never took the time to talk with my aunt and uncle about their individual and shared intentions, and it got all messed up. My aunt originally had a trust (written by the same lawyer) set up so that if she inherited from my uncle, on her death, the land and machinery went to my dad. When Dad retired, they changed her trust, but instead of mirroring my uncle's trust (land and machinery to me), her lawyer wrote it so it went to my cousins if my uncle died first.

Uncle did die first. Everything went directly to my aunt and then, on her death, it was to be distributed to her nieces and nephews. I'm the only farmer in the family; the intent was for me to receive the farm assets. The other nieces and nephews never had anything to do with this farm. If my uncle had died second, there wouldn't have been a fight over the land. He didn't. There was.

Please tell your readers to make sure their estate plans are exactly the way they want them. Even then, how can nonlawyers know if their plans are written right?

THE SOLUTION:

Estate planning often gets little more attention than writing a cake recipe:

Combine 100 acres of this, 50 shares of that, stir in tax efficiency, then store in a file somewhere. Retrieve only on death, follow instructions, set the oven at grief, and bake for the rest of your life.

Nobody thinks it's necessary to test the recipe and check the quality of the cake.

Typical estate planning goals aren't hard to list: a successful farm, children who remain friends, financial security, fairness, minimal tax, and so on. What's hard is ensuring that our written plan (the recipe) really achieves those goals.

With some attention, we can. From the first draft, the recipe



should be test-baked with the adviser. How will the heirs perceive it? Will they want to eat it? Will they be able to digest it? As inevitable discrepancies arise, change the recipe, and redraft. Repeat this process until everyone is comfortable.

E.V.'s uncle knew the outcome he wanted, and he probably even gave the lawyer reasonably correct instructions. The lawyer then took what he thought he heard and likely added a few of his own flavors, such as, "Surely Uncle respects his sister's desire to benefit the other nieces and nephews." Then he wrote the first – and only – draft recipe.

Sure, the document was legal. The lawyer was trusted. Uncle just signed. It was filed, barely read, surely misunderstood, until Aunt's death. That's when the oven was set to grief. No wonder this untested recipe led to lengthy litigation.

E.V.'s lack of involvement in the process was critical. He didn't ask to see the documents. He may have misunderstood Uncle's intention. He didn't review objectives with the lawyer. Doing that and a few test runs of outcomes might have saved a lot of grief, time, and expense.

One last thought: Because players, goals, and advisers change, this test-baking of an estate plan is best repeated every few years. **S|E**

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THE PROBLEM: WHEN DESIGNING OWNERSHIP TRANSFER PLANS FOR A LARGE FAMILY/COMPLEX BUSINESS, HOW CAN AN OWNER DETERMINE THE BEST ENTITY STRUCTURE?

SUBMITTED BY A.Z., VIA EMAIL

My wife, Mary, and I are in our 70s and in good health. I was the only heir in my generation, and we own all of our fourth-generation, 5,000-acre grain farm.

I have four children from my first marriage. After my first wife died, I remarried and adopted Mary's two children. My two oldest, a son and a daughter, are deeply involved in the operation and want to continue farming. The rest of the kids and their families are scattered around the country. I want everyone to be involved in ownership of the farm after Mary and I are gone.

My question is, are LLCs the most tax-wise thing to use for setting up a transition in a situation like mine?

THE SOLUTION:

Tax planning has a role in entity choice, but A.Z.'s more important decision is which operating structure best mitigates the risk of throwing six branches of inexperienced heirs into a complex business "partnership." In the end, tax savings do very little to foster family unity or to protect a business owned by so many people. A.Z. should first develop a functional operating plan that works for his heirs. If that plan meets the four goals below, he's then ready to look for an entity structure that fits them best.

- **EQUIVALENCE.** It's difficult to be mathematically equal with heirs. Yet, without a distribution of assets considered balanced and fair by all, any plan fails at the starting gate. Still, heirs can accept being treated differently if the intent to be balanced is obvious. Leaving growth equity to operators and income property to nonoperators is an example. Another is to include a contractual first option on operating assets for farming heirs when shares are initially left equally to all.

- **BALANCE OF POWER.** A.Z. is planning on creating a business entity with many investor-partners. Not unlike the first 13 states forming the Union, this new structure must skillfully define the delegation and distribution of authority. The power to make strategic and operational decisions should be delegated to management (such as limiting signing authority to elected officers).

Approval of decisions with significant impact on the value of all shares (such as, sale of major assets or taking on significant debt) would be a power retained by the owners (voting themselves or, even better, through a board).

- **TRANSPARENCY.** Secrecy is almost a family farm trademark. There are reasons for this (a subject I've written about in the past), but, uncontrolled, secrecy will strangle communication, understanding, and trust. Ideally, all owners have a right to all information. In reality, not all owners will be equally discreet. Some information, in the wrong

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— Dr. Donald Jonovic

hands, can do great harm to a business.

It's more practical and prudent to construct agreements and business policy with a need-to-know structure for distributing information. Owners always need to know income statement and balance sheet information, but only senior managers need to know acquisition strategies and family employee pay levels. Fundamental here is the need for a policy requiring appropriate distribution of essential information.

- **PARTICIPATION.** A.Z. believes involvement together in the farm will help keep his heirs together as a family. To make sure this happens, the structure must include regular communication of farm financials and key events. Instituting an annual business/social owner gathering at the farm can accomplish this and provide strong emotional mortar to hold the whole structure together.

A.Z. should discuss these issues with the family first, then go to the advisers for help designing entity choices that support their plan. **■**



THE PROBLEM: CAN SPOUSES OF OWNERS AND SUCCESSORS BE INCLUDED IN PLANNING THE FUTURE WITHOUT CAUSING BUSINESS, FAMILY, AND PERSONAL PROBLEMS?

SUBMITTED BY C.V., VIA EMAIL

Everything I know about farming I learned from my father-in-law, Kurt. Over those 10 years, his son (and my brother-in-law), Alex, worked for an international agribusiness, so Kurt depended a lot on my help. I now manage the farming almost single-handedly. Alex has returned as farm business manager. My wife, Mary, works with her father in the office.

Lately, they've started having what they call "board meetings," which include Kurt, Mary, and Alex. I am not invited. I asked about that, and Kurt said those were family meetings. "Alex's wife doesn't come, either," he said. Mary says not to worry. "We just have some family things to work out." Is that fair? I'm a big part of the business. Shouldn't I be part of these meetings, too?

THE SOLUTION:

The concept of bloodline is firmly rooted in family business culture. It's a central provision in buy/sell agreements and transition plans. It drives decisions to require prenuptial agreements. Problematic as that all is, C.V.'s question takes us even deeper to this fundamental question: Who, exactly, is family? More specifically, are in-laws family?

I think we can find our answer in two facts of family life, both of which put C.V.'s question in a much more useful light.

Fact 1: Every marriage results in one new and two changed families. Remember what happened the Thanksgiving after that first marriage of one of your children? You know, that painful

discussion about which family would have the new couple for the holiday meal?

The expectation of both changed families: *Of course they'll be with us.* This presents a wrenching dilemma to the new family. Any choice they make will certainly be painful for at least two of the three families.

Fact 1 tells us our nuclear family's valued traditions, at best, can last only until our children marry. After that, the traditions from another family must be absorbed or the changes (and the in-laws who bring them) will be resented.

Fact 2: In-laws are, in most cases, a necessary condition for producing the family's successor generations.

Fact 2 may seem obvious, even incidental, but the implication is profound.

The concept of lineal descendant may be clear in law, but in the family context, it disregards half of the genes added in each generation.

Talk all we want about our direct descendants. In reality, every family's bloodline broadens with each generation. In biology and in love, our individual family lines are quickly submerged in new patterns of genetic and emotional threads.

Consider that the heirs in our next generation are actually lineal descendants of both halves of the extended family line. This means the spouses of our children have the same emotional commitment and genetic connection to their offspring as do we, and they share our concern for the fu-

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In reality, every family's blood line broadens with each generation. In biology and in love, our individual family lines are quickly submerged into new patterns of genetic and emotional threads.”

— Dr. Donald Jonovic

ture of what is built. They, too, love their children and want to ensure the best opportunities for them.

In this light, reconsider C.V.'s question. Mary's family can't ignore the possibility of divorce, and, for that reason, should ensure that assets being built for future generations stay in that inheritance line via buy/sells, prenups, and trusts.

The major mistake, one too often committed, is extending this thinking to the unconscious assumption that divorce is probable, thereby excluding spouses from ongoing transition planning that will impact the whole family's future.

C.V.'s wife said he was excluded because they have "family things to work out." I can't second-guess what they're specifically discussing, but common sense and experience teach me that including C.V. in those discussions won't cause problems. It's excluding him that will.

Assuming C.V. and Mary do have a sound marriage, excluding him not only is unfair but also is unwise. ■