



**Summer 2023**

**Rochester (507) 288-5567**

**Winona (507) 615-0253**

## **Have You Outgrown Your Estate Plan?**

As estate planning attorneys, we work hard to set up estate plans that fit a client's needs and ensure that everything works together for the client and their loved ones. Estate plans remain effective as long as they accurately reflect a client's circumstances and current state and federal tax law. However, circumstances often change. So, too, should your estate plan.

Outdated plans not only jeopardize your wishes and legacy vision, they may also negatively impact your loved ones and yourself. An outdated estate plan can result in many issues such as unintended income or estate tax consequences, the disqualification of a special needs beneficiary from benefits, potentially greater fees and costs associated with settling an estate, forcing loved ones to resort to court intervention, and disinheriting desired beneficiaries or benefitting unintended beneficiaries.

### **Changes in the Law**

Trust and estate laws are constantly evolving, and new legislation could impact your estate plan. One example is the Setting Every Community Up for Retirement Enhancement (SECURE) Act, which changed how beneficiaries could inherit retirement accounts. Another example is the federal estate tax exemption, which is scheduled to continue increasing until the end of 2025, when it will sunset and revert to a much smaller exemption level.

### **Changes in Your Wealth**

Depending on when you originally created your estate plan, you may have chosen to create a last will and testament (otherwise known as a will) because you were young, single, and did not have much money and property. You understand the importance of having your wishes set out in a legally enforceable way, but you did not need any extensive planning at that time. Fast forward ten or more years, and your life may be vastly different. If you have accumulated more money and property, had children, or have gotten married or divorced, you may now need to consider some additional planning to ensure that your loved ones are protected. This may mean you are ready to have a revocable living trust as your foundational estate planning document instead of a will. With more money or minor children to protect, a trust will allow for more privacy and efficiency in handling your affairs during your life and at death.

Your net worth may increase to a point where it warrants tax planning that was not necessary originally. If you have a life insurance policy and other accounts and property that have gone up in value, a tool such as an irrevocable life insurance trust may be beneficial now to remove the value of the life insurance policy from your overall net worth to save on potential estate tax liability at your death. It is important to remember that in order for this strategy to work, it is prudent to work with an experienced estate planning



attorney to ensure that the trust and transfer are executed properly and adhere to applicable laws. Additionally, if your retirement account has grown significantly over the years, it may be time to create a standalone retirement trust to be the beneficiary or backup beneficiary of the account. This could make management of the retirement account easier at your death since it will be the only account that the trustee of that trust will have to manage.

You may also have acquired new assets—particularly digital assets. As of 2022, 16 percent of Americans have purchased digital assets. Digital assets may take many forms, such as music, photographs, documents, or contact information kept in cloud storage; log-ins to social media platforms; cryptocurrencies; and credit card or airline reward points, to name a few. Digital assets are typically more vulnerable to identity theft and hacking once their original owner has passed away.

### Changes in Your Relationships

A specific portion of your estate plan that needs to be reviewed periodically is your choice of trusted decision makers to act on your behalf. These trusted decision makers are legally bound to act in your best interests. Sometimes, those whom you originally chose may no longer be appropriate for the role. Maybe there was a falling out, or your chosen decision maker may have moved away or had other personal changes that make it difficult or impossible for them to fill the role now. Even a corporate fiduciary may decline to act if it requires that a minimum value of accounts and property be under their management before it will accept an appointment. Especially if you are retired, you may not have as much money and property as you did when you first created your estate plan.

### Changes in Beneficiary's Needs

Lastly, how you have chosen to leave money and property to your loved ones may need to be updated. If you created or updated your estate plan shortly after the birth of your first child, you may have included general instructions on how the money and property should be used for your child's benefit. However, now that your child is older, you may want to revisit these sections to customize how and when your child receives money and property. Depending on their age, you will likely have a better idea as to your child's unique personality, interests, struggles, and needs. Updating this section of your estate plan can help ensure that you are creating a plan for your child's inheritance that will truly meet their needs.

### Let Us Help You Make the Necessary Changes

To protect yourself from these possible scenarios, it is important that you periodically review and, if necessary, update your estate plan. If there have been any personal changes that necessitate a change to your plan, no matter how big or small, please schedule an appointment so we can ensure that your plan meets your specific needs. We would be honored to work with you.

**Farm Facts:** There are **2.01 million farms** across the United States. About **98%** of those farms are family-owned.

Agriculture employs over **24 million people**.

Farm families account for just **2%** of the population!



**STAFF  
UPDATES**



Attorney  
**Cade Pederson**  
Joined the firm  
on May 1st and  
offices in  
Winona.



Legal Assistant  
**Gabriel  
Bickerstaff**  
Joined the firm on  
June 27th and  
offices in Rochester.



## Ladies, You Need a Plan!

Women are often the backbones of their own families, frequently focusing on meeting the needs of others rather than their own. However, it is important for women to take care of themselves through financial and estate planning designed to provide for their own future needs, which may differ from those of their male family members, as well as family members who may be dependent on them.

### Planning Considerations for Women

**Longer life expectancies.** According to Social Security Administration data, in 2021, women had an average life expectancy of 79.5 years compared to 74.2 years for men. As a result, it is important for women to create an estate plan that accounts for additional years of living expenses during retirement, healthcare costs, and possibly long-term care costs. As women age, there may be a greater possibility that they could become incapacitated and need someone to act on their behalf to make financial and healthcare decisions. Documents such as financial and healthcare powers of attorney and living wills authorize a person they trust to make decisions or take action for them if they are not able to act for themselves. Some women may not only own their own assets but also inherit wealth from both their parents and a spouse who dies before them, and if so, they need a financial and estate plan to optimally preserve and transfer this wealth. Because women may outlive their spouses, they also may be responsible for administering their spouse's estate or become the sole surviving trustee of a joint trust. These duties may be difficult for a woman who is experiencing health issues that often occur at an advanced age, and this possibility should be addressed in their estate planning. For example, a woman concerned that she will be unable to handle administering her trust at an advanced age can name a co-trustee or successor trustee to administer it if she is no longer able to do so.

**Lower earnings.** According to U.S. Census Bureau data, women continue to earn less than men, and the pay gap widens as they age. In addition, because some women have shorter employment histories due to time off to raise children or care for aging parents, they may have less saved for retirement. As a result, it is important for them to take steps to protect their money and property from lawsuits or creditors' claims. For example, a woman could transfer her money and property to an irrevocable trust. Because she is no longer the legal owner of the property, a creditor cannot reach it to satisfy claims against her so long as the trust is properly drafted to include appropriate distribution standards and administrative and other provisions. The woman may be a discretionary beneficiary of the trust, and the trustee may distribute the funds she needs for living expenses. Additionally, because they have less money and property during their retirement, women need to have a solid plan in place to make sure that they are able to financially provide for their loved ones upon their death and that unnecessary costs and expenses are minimized to the extent possible.

**Care for loved ones.** Many women are caregivers for minor children, adult children with special needs, or aging parents. As a result, they are often concerned about who will care for their loved ones if they are no longer able to do so. If a spouse or sibling is not available to provide care, they need to make sure that another family member or trusted individual can be the caregiver (sometimes called a guardian of the person) for their loved one. The same individual—or someone else—can serve as the guardian of the loved one's estate (sometimes called a conservator or guardian of the estate) to manage the inheritance for their benefit. In the case of a child with special needs, if no family member is able to take on the responsibility of their care, a group home or assisted living facility may be the best choice. A special needs trust may need to be established to ensure that funds are available for the child's care but do not decrease the amount of government benefits they are eligible to receive.

### We Can Help You Plan Ahead

You have accomplished a lot in your life! Celebrate your accomplishments and contributions by contacting us to set up an appointment to create an estate plan that provides for your own future needs and those of the people you love. You deserve the peace of mind that comes with knowing your future is secure. Let our lady attorneys help you with your plans! We have several on staff that understand your needs from a uniquely female perspective.



## Office Hours and Locations

### **Rochester:** 1801 Greenview Drive SW, Ste. 102

Monday – Thursday 8:30 – 4:30

Friday 8:30 – 3:30

### **St. Charles:** 819 Whitewater Ave

Tuesday 12:30 – 4:30

Thursday 9:00 – 12:00

By appointment

### **Winona:** 65 Johnson Street

Monday – Thursday 8:30 – 4:00

Friday 8:30 – 3:30

To schedule an appointment in any of our offices, please call (507) 288-5567.



**Wagner Oehler, Ltd.**  
(507) 288-5567  
www.wagnerlegalmn.com

## Events Schedule

### **Keeping the Farm In the Family**

Wednesday, September 13, 2023

Winona County Historical Society (Briarcombe Room)  
160 Johnson Street, Winona, Minnesota

### **Could an LLC be What Your Plan is Missing?**

Thursday, September 21, 2023 from 2:00 PM–3:30 PM  
Rochester Area Foundation Community Room (2nd Floor)  
12 Elton Hills Drive NW, Rochester, Minnesota

*For all of our current events, or to sign up, please go to [www.wagnerlegalmn.com/events](http://www.wagnerlegalmn.com/events).*

Best of the Best

POSTBULLETIN



We've been nominated for:

- Best Law Firm
- Best Attorney, AND
- Best Place to Work Small Business!

Voting is from 7/21-8/7, 2023.  
Thank You for all of your support!

## **WAGNER OEHLER, LTD.**

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