



LEGACY LAW

Protecting the assets in your family tree

Article on Family Disputes

I don't know about you but given family disputes tend to be played out in public, with PR advisers leaking and spinning, I was disappointed that the Murdoch's latest stoush was played out behind closed doors in Nevada. The result and appeal process will be public so we can rewatch *Succession* until that drops.



I watched *Succession* on my annual long-haul flight to Ireland to see my Mum and family. Ireland, like any place, is not immune to public family disputes. While there the public broadcaster RTE aired in prime time a documentary on one such family, the Dunnes:

<https://www.rte.ie/player/movie/extraordinary-life-the-ben-dunne-story/561302567982>

The main character, Ben Dunne Junior, saw it all, strikes over apartheid, price wars, he was kidnapped by the IRA and released after a large ransom was apparently paid, huge amounts of cocaine and sex workers in Florida, threats to jump off balconies at luxury hotels and revelations that brought down a Prime Minister (Taoiseach Charlie Haughey).

It was called "The Ben Dunne Story" but really you could insert the name of any child of a successful business family.



I was struck by the similarities with the Murdoch story. We have all recently seen old footage of Rupert saying he had three children (he had four at the time and has more now) and they needed to be tested before a decision was taken over who took control of his empire. Ben Dunne said his father put the business in a trust partly to test his children. Ben said he never

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failed an exam ... because he never sat one! Well, even if tests are passed, that is not the end of the story as we see with the Murdochs every week in the Courts.

At Legacy Law, we read all the relevant judgments and I can tell you that, even if you lose a case, there is a right of appeal and parties often start a claim on different grounds (breach of trust, fraud on a power, promissory estoppel) and then of course they can sue their advisers and lawyers. Australia truly is the land of the fair go!

Predictably (to us), when exiting his family's trust Ben said his contribution to the business was almost that of his father Ben Senior. By this, he was claiming he should not have to give up the value he added, making a valuation for his interest in the trust a highly contentious matter. We see families break up over such valuations as each sees the other side as trying to find the other's walk away position. The solution is to firstly agree a process upfront, while the parents are around, and request adult children to agree to the family's "no fighting" rule and perhaps a "we will not go to Court" rule.

We help our clients avoid these fates and we use real life stories to help them. The stories and learnings often come from the US where they are at four and more generations of wealth. Ignoring those lessons is a mistake.

I spoke to my mentor Jay Hughes again this week about a client family and we developed a plan for them that they are thankfully embarking on to build harmony (the name of the Murdoch's succession plan!).

I encourage you to read Jay's work – it is brilliant. There is a rich literature outside Australia on this topic. Professor Davis founded Harvard's family business management studies during his 21 years on the faculty of their Business School. Here are some of the things he has to say:

"The two most effective practices implemented to protect and preserve the family business are one, to build an independent board to strengthen the business and two, to draft a family agreement to strengthen the family".

"Our fundamental belief is that the process of forging a family agreement can be just as or more important than the content of the agreement itself".

"The process of developing the family agreement builds family decision-making and problem-solving skills ... educates family members about their own histories and their business as it functions today. The process motivates family members to consider the collective good and an overarching sense of purpose for business ownership and for family as family ... the process, most importantly, fosters family commitment to personal and collective growth".

"A facilitator can be especially helpful in the process. If the focus of the agreement is an owners' contract ... the facilitator may be an attorney".

Contact me at dgriffin@legacylaw.com.au if you would like to know more.

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