



LEGACY LAW

Protecting the assets in your family tree

Are you *really* a team player?

Watching the 2025 Tennis Australian Open, I reflected on how short their professional playing careers are – two decades is about the maximum. We are at a changing of the guard – Roger, Rafael, Andy and before we know it, Novak are coming to the end of their glittering careers. This happened with the women's game a few years ago. The only times we hear from retired players is when they cause a scandal (Margaret Court, Boris Becker) or we see them as a trainer in the rising star's box.



Star is a good word – they burn bright for a relatively short period and then disappear.

My first generation clients are like these tennis stars. Often, prodigiously talented, they learn by trial and error and a lot of sweat to find the team that can help them resiliently stay on their trajectory and deal with bumps along the road (which make them stronger).

The rewards are huge for a very small number and they are esteemed by their community for their talents. They may thank their “team” in interviews but there is no transition or succession of their talents and effort to another player. They work hard, collect and leave to follow their real passions (see Ash Barty). Someone else takes their place, often from an academy or place where young players are nurtured.

Sometimes, the commentators will bemoan our lack of investment in young talent but there is no obligation on any player to invest time on the next generation. Some cheer-leading or mentoring is the most that can be expected.

Similarly, our clients can of course take the money from their investments and run. They usually want to hand on what they cannot spend or choose not to give to philanthropic causes. Handing on the skills to manage it is harder especially when the owner enjoys the management part – it may even be their favourite child (which gives them dopamine hits by generating an income stream or the capital value increasing).

So, they are like a star player who wants to be a coach and, having taught their kids how to ride bikes and drive, assume it is a learnable skill which they will be able to do. When it is harder to impart, they may blame their kids (for a lack of interest, entitlement, laziness etc).

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Or maybe the parents' expectations are unreasonable for the amount of skilled coaching they offer. Some adult kids mock their parents' driving skills (guilty) so doubt they can be taught by them.

Our clients often bemoan the kids' skills but were they the best person to coach them? Were key staff carefully interviewed, references checked, mentored and trained in a more professional environment? Did the parent get any training in training? Was everything discussed in unbiased detail or were assumptions made?

Maybe some of the family are not naturally team players? Can you picture Nick Kyrgios as a great coach? Sometimes, people cannot explain how they do things instinctively. The same happens with golfers (Tiger anyone?) and snooker players (Ronnie O'Sullivan cuts a miserable figure these days) but also in team sports where the best coaches were rarely the star players.

As always in work, I reach for the writings of my mentor Jay Hughes in Aspen, Colorado. I re-read his book "Family – the Compact among Generations" over these holidays (this is my passion so don't feel bad for me – for my family, sure). His studies of history give him a sense of perspective and an eye to the future. He points out that politically the transition options include revolution, anarchy or liberal conservatism. The latter is the preferred model for an orderly family change he suggests, not just because it was articulated by an Irish statesman Edmund Burke but, because "they offer their members the safety and confidence that they will have a lifetime in which to attain the highest level of self-awareness and the personal freedom and happiness that come with it. And they will do so without anxiety that their family's governance system will be undermined by constant changes to the system's roots". An orderly evolution "of the governance system creates a platform that offers the greatest number of family members the greatest possibility that each will achieve the greatest happiness attainable". Where do you sign up?!

By anticipating the likelihood of a fight for control among the next generation over a family trust or business, the heat can be taken out, expectations managed and legacies assured. I explain that especially where a discretionary trust is involved, fights over how that discretion is exercised are likely to the point where one party will say, "I have had enough of this, I am in my 50s, please just give me my fair share". We then get to argue over valuations, fairness, liquidity and what parents would want – this can take a long time and damage relationships. The legal fees have consistently been higher in this scenario so your lawyer may not tell you this.

Avoiding this predictable problem is not easy but is often simple.

To ensure the effort is worth it, you need:

1. Buy-in; family members other than the patriarch and matriarch need to be seriously engaged for this to work as they will be asked to "live in the plan";
2. Change approach; otherwise you get the same results as you have now and your legacy is still no closer to actually happening the way you want; and

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3. Resources; as you know from life, you need support to do anything novel and results are quicker when you have the right coach.

Over the next couple of weeks, I will be watching the tennis and writing on articles on these three topics. If this is not your passion, please turn to another channel. Thank you.

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