

# Accettura & Hurwitz

*Estate & Elder Law*

Phone: 248.848.9409 | Fax: 248.848.9349 | [www.elderlawmi.com](http://www.elderlawmi.com)

Farmington Office: 32305 Grand River Avenue, Farmington, MI 48336

Royal Oak Office: 1022 S. Washington, Royal Oak, MI 48067



P. Mark Accettura, Esq.  
[maccettura@elderlawmi.com](mailto:maccettura@elderlawmi.com)



Samuel A. Hurwitz, Esq.  
[shurwitz@elderlawmi.com](mailto:shurwitz@elderlawmi.com)



Rebecca A. Coyle, Esq.  
[bcogle@elderlawmi.com](mailto:bcogle@elderlawmi.com)



Wendy K. Turner, Esq.  
[wturner@elderlawmi.com](mailto:wturner@elderlawmi.com)



Austin Accettura  
[aaccettura@elderlawmi.com](mailto:aaccettura@elderlawmi.com)



Kimberly G. Rapp  
Office Manager  
[kgrapp@elderlawmi.com](mailto:kgrapp@elderlawmi.com)

## FALL 2023 UPDATE

As is our custom, this semiannual correspondence is intended to keep you abreast of developments in estate and elder law. The following is a brief summary of noteworthy developments since our last communication:

### Who's Your Daddy? Are You My Mommy?

Developments in DNA testing require changes in how we define the objects of our bounty in our estate planning documents.

Millions of Americans have researched their DNA since in-home testing became available roughly a decade ago. These tests often yield unexpected results, including clues as to the identity of the subject's biological parents. As a result, children across the country have been contacting unsuspecting fathers and mothers (including many of our clients), offering uncontroverted evidence of parenthood.

Fathers may or may not know that they sired a child. Women who adopted a child out may have had a false sense of security believing that sealed adoption records would forever keep their secret.

Newly discovered children can wreak havoc in estate planning, as any person with a legitimate interest can file a probate contest. While there is no help for those who don't even have a Will, those with Wills and trusts can express their intentions as to who does and does not inherit. Also, at Accettura & Hurwitz, we have recently updated our Will and trust documents to specifically exclude unknown children. Our new protocol makes a child's birth certificate determinative of parentage. Unless otherwise stated, our Wills and trusts define non-adopted children as only those whose original birth certificate identifies our clients as parent (or the children of our clients when identifying grandchildren).

### *Intestate*

An individual who dies without a Will (known as dying "intestate") has no say who inherits. The State of Michigan, through the laws of intestacy, determines the decedent's rightful heirs. Such heirs include all biological children (including previously unknown children with DNA proof of parentage) and adopted children. For those without a Will there is no opportunity to say who does or does not inherit.



## ***With a Will and/or Trust***

Problems can arise even for those who have executed a Will and/or a trust. Typically, a child born before the date of a Will who is not mentioned in the Will is not protected by Michigan's "pretermitted heir" statute and thus does not inherit. However, Wills that identify beneficiaries by their class (known as "class gifts"), such as "my children," "my grandchildren," or "my nieces and nephews" leave open the possibility that newly discovered children inherit. Naturally, such children can be specifically excluded in estate planning documents IF the decedent knows about them or, if known, the decedent had changed his or her estate plan to specifically disinherit.

## ***The Solution***

The key is to define heirs in Wills and trusts to specifically exclude any heir, whether it be a child or grandchild, to specifically exclude unknown biologicals. As noted, we have already amended our documents to do so. You should contact us immediately if you are concerned about the issue of unknown biological children (or grandchildren, or others).

## **Certain Veterans Exempt From Property Taxes**

Disabled veterans and the unmarried surviving spouses of deceased veterans are exempt from property taxes on their principal (homestead) residence. To qualify, the veteran must have been honorably discharged and either be 100% disabled or be determined by the VA to be individually unemployable (total disability rating based on individual unemployability (TDIU)). The exemption passes to the surviving spouse of a deceased veteran

and continues for the surviving spouse's lifetime as long as the surviving spouse does not remarry.

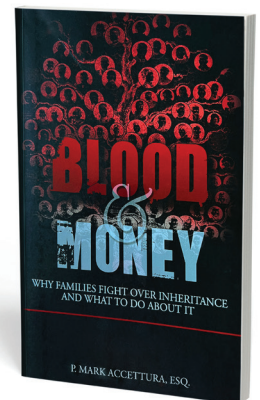
To apply, the veteran or his or her surviving spouse must file Michigan Department of Treasury Form 5107 "State Tax Commission Affidavit for Disabled Veterans Exemption."

Veterans who are not determined to be 100% disabled (but at least 60% to 70% disabled) can be individually unemployable if the veteran is unable to work due to a service-connected disability. A veteran is unemployable if unable to find work that is not marginal, and which pays an annual salary that is above the federal poverty level (\$14,580 for single veteran in 2023). Older veterans with a disability rating of 60% and above (but less than 100%) should consider applying for a TDIU rating, even if they have been previously denied. One of the fastest growing groups of veterans receiving disability benefits as well as TDIUs is those who are age 65 and older. While the VA does not consider age to be a factor in determining disability, older veterans possess unique vocational challenges. Older veterans who have not worked for fifteen years may no longer possess transferable skills (see Havranek, J. 2007; Weed, R.O., & Field, T.F., 2001), a key component in the assessment of employability.

## **NEW FEATURE**

### **Excerpts from Blood & Money**

Beginning with this Newsletter, we are featuring select passages from Mark's book *Blood & Money: Why Families Fight Over Inheritance and What Do About It*.

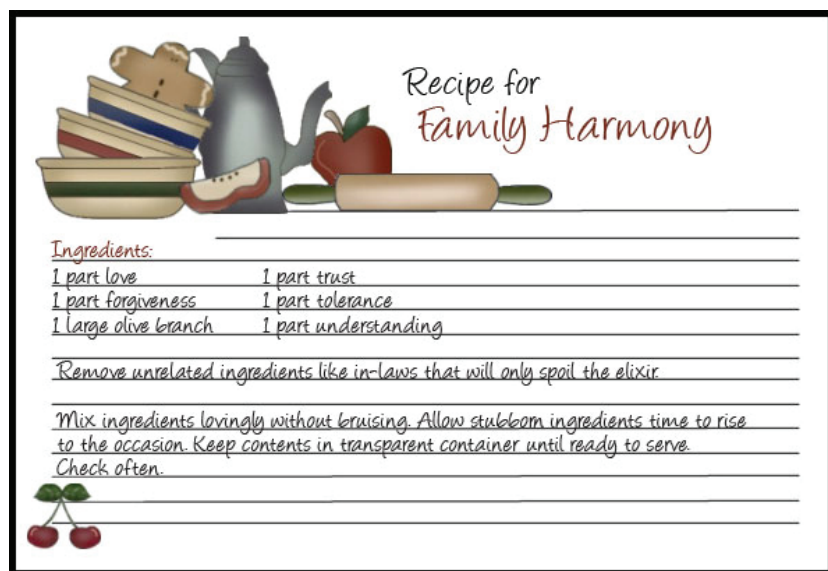


**Chapter 11 – An Ounce of Prevention, pages 193-194:**

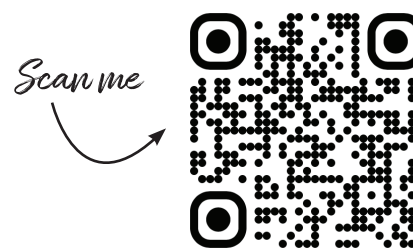
“Many of the problems of inheritance are themselves inherited. They are both genetic and acquired, but they are not inevitable. Inheritance disputes can be explained and predicted and are to a large degree preventable.

Understanding is the first and usually the most difficult step. It requires one to put oneself in the shoes of stepparents, siblings, and step-siblings, the most frequent inheritance combatants. Avoiding conflict also requires that we critically examine our own contribution to the conflict. Easier said than

done, as we humans are challenged when it comes to seeing ourselves objectively. We also rarely put ourselves in the shoes of those with whom we conflict, preferring instead to react to the reactions of others. Unfortunately, these undeveloped and little used skills are required as each participant must examine his or her unique role in family disputes: the villain, pacifist, mediator, pugilist, appeaser, victim, etc. Each must suspend his or her personal feelings and try to understand the perspective of other combatants who are acting out long held roles, feelings and emotions.”



*Blood & Money is available on Amazon or through our office.*



**Call Us Immediately When...**

Call us from the hospital *before* you are discharged to “rehab.” While hospital discharge planners may suggest a facility, it is ultimately your right to choose the nursing home (nursing homes provide both rehabilitation and long-term care services) where you wish to continue your recovery. Hospital discharge planners often choose facilities that only accept Medicare. Since at least 90% of rehab facilities accept both Medicare and Medicaid, it would be a shame to accept a discharge to a facility that you will have to leave when your Medicare days (potentially up to 100 days) run out. Also, **please call us if we haven’t seen you since 2018.**

# Accettura & Hurwitz

*Estate & Elder Law*

32305 Grand River Avenue  
Farmington, MI 48336

## **Please Say Nice Things About Us!**

If you are unhappy with our service please contact our office and speak with our office manager, Kim Rapp, and we will do our best to remedy the issue. If you are happy with our service, please visit our Facebook page called “Accettura & Hurwitz: Estate and Elder Law” and/or Google Review and give us a good review so others will know of our good work.

This Newsletter is considered general information and is not intended to constitute individual legal advice. Please contact us if you think the information herein impacts you directly. We look forward to speaking with you soon. Please visit our website [www.elderlawmi.com](http://www.elderlawmi.com)

Very truly yours,

ACCETTURA & HURWITZ

P. Mark Accettura    Samuel A. Hurwitz    Rebecca A. Coyle    Wendy Turner    Austin R. Accettura