



# In 48 Hours, I Had to Practice What I Preach

July 2008 from James M. Kane, Attorney

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Many of us in the service industry are like the proverbial cobbler (yes, including lawyers): we provide shoes with the best fit and finish for our clients, but we leave ourselves and our families poorly shod, or worse yet, barefoot.

This is an unusually personal newsletter about a recent 48-hour period in my life; it began with the complete blindsides of a Friday night hospital ER diagnosis (tentatively very chilling) and a much more optimistic Monday morning follow-up (but still serious). During this long 48-hour period, my wife and I were suspended within vast uncertainty.

At that time, we believed the 48 hour-period could potentially have been my last chance to get my affairs in order. The situation caught us completely off-guard, with many loose ends in my own I'll-get-to-it-later family matters.

I now am back in full swing and the 48-hour period is behind me; my sense of urgency no longer exists. This 48-hour period, however, strongly impressed upon me the need to stop procrastinating and get my own family affairs in order.

Although we lawyers like to believe we are the unshakeable rock of Gibraltar for our clients, I was in near-panic during this 48-

hour period as I organized various topics and notes of final instructions for my life. This, quite frankly, was due to a level of worry and concern over my unfinished family business that I hope never to experience again, especially when facing my own mortality.

I share the following relevant aspects of my recent experience so as to motivate you, if you are by chance a procrastinator, to avoid a similar 48-hour surprise, or in the worst case, a situation with no lead time.

## **Assume Your Current Estate Planning Documents are Your Final Versions**

As a trusts and estates lawyer, I experienced briefly during the 48 hours an imagined level of after-death embarrassment; embarrassment that my wife might end up with problematic documents. Even though I insist on updated estate planning documents for my clients, my personal estate planning documents were much older than they should be.

During the 48-hour period, my wife and I also discovered we did not have the updated guardian provisions that we desired for our children. This omission would have been much worse than that kitchen faucet I kept promising to replace but never got around to.

Lesson No. 1 -- The 48-hour period made me experience *first-hand* the reality of a completely unexpected event, that can effectively freeze the status of whatever estate planning documents we have in place -- or fail to have in place.

### **Insurance Records**

The permanent life insurance I have on my life for my family's benefit includes certain options to allow additional payments beyond my normal premium amount without additional insurability underwriting (thus, a related increase in death benefits at my original preferred premium rate), a conversion option to a universal policy, a disability waiver if I am disabled, and the ability to extend the coverage beyond the guaranteed term.

Lesson No. 2 -- I have all these excellent insurance policy options, but had failed to inform my wife about them and about the circumstances where she and my children could benefit from triggering the various options.

During the 48-hour period, I made sure my wife had the name and phone number of our insurance advisor, and made her promise that she would rely on the advisor's advice for assistance with our situation, if needed.

### **Internet Access Information**

The simplicity of this next point belies its importance. My wife and I both handle a great deal of our affairs by internet. I really had to scurry around during the 48 hours to provide my wife with all of my known internet accounts: all access passwords, and other relevant information about automatic bill-pay schedules, etc.

Lesson No. 3 -- My wife's potential ability to step in and seamlessly handle all of my

online business matters (banking, internet bill-pay, renewals, etc) would have been seriously hampered, if not impossible, without the knowledge of what family business I handle over the internet, the corresponding URLs and, most importantly, the passwords. I now keep this data in a safe place for my wife's access, if ever necessary.

As an aside, to my wife's credit she handles the bulk of our family bill-paying, banking, insurance, and so forth. She is much less the procrastinator than I (but come to think of it, I don't know where she goes online, nor what her passwords are). Lesson No. 4 -- Find out about your family's internet business access.

### **Social Security Benefit Information**

From a bundle of non-specific files, I dug up a copy of my latest annual Social Security earnings statement in order to remind my wife that she and my children would be entitled to survivor benefits. Lesson No. 5 -- The Social Security Administration can provide you with an annual statement of your earnings history and the projected benefits your survivors will receive.

Read the earnings statement carefully and make sure the annual earnings information is correct, as federal law applies a 3-year statute of limitations for making corrections.

### **Misc. Loose Ends**

This seems humorous now that I am out of harm's way, but during the 48 hours I also noted various important items for my wife's attention, such as making sure the air filters in our furnaces are replaced every two months; making sure the homeowner's and property tax payments are made on time for our cabin in rural NC; and making

sure the annual LLC registrations are current (that I had been handling by internet). Lesson No. 6 -- Jot down this small-but-still-important stuff.

### **Names of Our Team Members**

In the past my wife and I alone handled virtually all of our family legal and business affairs. Over the years, however, I have mellowed and put into practice the benefit of having a quality team of advisors who are available to assist my family in my absence (such as for tax return preparation, investments, insurance, etc.). Lesson No. 7 -- I made sure my wife had the names and contact information for all the members of the team.

### **Last But Not Least: the Name of a Good Lawyer**

This next point, due to my ability over the years to be my own family's lawyer for most matters, was a very important discussion with my wife during the 48-hour period. Lesson No. 8 -- The variation in lawyers' judgment and expertise is as wide-ranging as is human nature; lawyers are not fungible. I wanted to make sure my wife would have a successor lawyer in whom she has complete confidence and can feel comfortable asking questions or seeking assistance. Because my situation is now back to normal, I can keep this name filed-away in with my personal records (to which my wife now has access).

### **No More Ill-Fitting Shoes**

I have now made great progress in mending my cobbler ways and providing my family with the best shoes possible (figuratively speaking), sooner rather than later. I never want to experience this 48-hour scramble again in such ill-fitted shoes.

### **Finally, a Comforting Consolation**

Until this 48-hour incident I had not been in a hospital since my teenage years for wisdom teeth removal; I had virtually no first-hand experience with illness and hospitals. Lesson No. 9 -- Even though the 48-hour period was difficult due to my lack of preparedness for the above matters, I found my mind adapted well -- much better than I expected -- to this emergency medical experience.

This adaptation is a surprising consolation and, I believe fortunately, is the way our minds protect us in these moments of unexpected urgency. This positive note reminds me of the following passage from Thomas Mann's novel *The Magic Mountain*, that goes to the heart of this consolation:

The pity the well person felt for the sick -- a pity that almost amounted to awe, because the well person could not imagine how he himself could possibly bear such suffering -- was very greatly exaggerated. The sick person had no real right to it. It was, in fact, the result of an error in thinking, a sort of hallucination; in that the well man attributed to the sick his own emotional equipment, and imagined that the sick man was, as it were, a well man who had to bear the agonies of his state. Illness so adjusted its man that it and he could come to terms; there were sensory appeasements, short circuits, a merciful narcosis; nature came to the rescue with measures of spiritual and moral adaptation and relief, which the sound person . . . failed to take into account.

Excerpt from *Thomas Mann, The Magic*

*Mountain* 466-67 (H. T. Lowe-Porter, trans., The Modern Library Edition 1992)(1927).

### **Thank You for Your Indulgence**

Finally, thank you for allowing me to share my personal experience. I hope it might be of value to you.

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