

# Does your estate plan clearly communicate your wishes?

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Precise language is critical in wills, trusts and other estate planning documents. A lack of clarity may be an invitation to litigation. An example of this is the dispute that arose after Tom Petty's death between his widow and his two daughters from a previous marriage. (The two parties have since resolved their differences and dismissed all litigation matters.)

## Defining "equal participation"

Details of the musician's estate plan aren't entirely public. But it appears that his trust appointed his widow as "directing trustee," while providing that she and his daughters were entitled to "participate equally" in the management of his extensive music catalog and other assets. Unfortunately, the trust failed to spell out the meaning of equal participation, resulting in litigation between Petty's widow and daughters over control of his assets.

There are several plausible interpretations of "equal participation." One interpretation is that each of the three women has an equal vote, giving the daughters the ability to rule by majority. Another interpretation is that each has an opportunity to participate in the decision-making process, but Petty's widow has the final say as directing trustee. Yet another possibility is that Petty intended for the women to make decisions by unanimous consent.

If the two parties hadn't settled their differences out of court, it would have been up to the courts to provide an answer based on evidence of Petty's intent. But the time, expense and emotional strain of litigation could have been avoided by including language in the trust that made that intent clear.

## Clarify and communicate your intent

If you're planning your estate, the Petty case illustrates the importance of using unambiguous language to ensure that your wishes are carried out. And if you anticipate that one or more of your beneficiaries will perceive your plan as unfair, it's a good idea to sit down with them to explain your reasoning. This sort of discussion can go a long way toward avoiding future disputes. Please contact us to help review your estate plan documents to ensure your intent is clearly spelled out.

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