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OPINION

## Today's Business: Words matter in legal and financial documents

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Two simple words can mean a lot, especially in estate planning documents.

Take for example, the words: "and" and "or." There are significant implications when either word is selected. The result, in many cases, can be unintended if not used appropriately in your planning.

Do you have a joint bank account with a spouse? Is it in John Smith and Mary Smith's names or is it listed as Mr. John Smith or Mrs. John Smith? If, for example, the term is "and," you may need two signatures on each check.

In your Power of Attorney documents, do you name two individuals as your agents: John Smith and Mary Smith? In Connecticut, the default rule is that

absent other language in the Power of Attorney, both agents must act jointly. More and more banks are refusing to name co-agents on accounts because every transaction needs permission from both named agents.

You should review your Medical Advance Directives, as well. You have the option of naming two (or more) representatives to act either together using the word "and" or "in the alternative," or meaning either individual can act alone, sometimes in sequence.

One other option that is available in legal documents is to name more than one agent/representative using the word "and" but add the clarification of the word "severally." In the law, the word "severally" means that either person can act, depending on whoever is available.

You may have noticed that the words "shall" and "may" in your Wills and/or Trust documents. The implications of each have strict legal meaning. The word "shall" demands that the executor or trustee carry out the direction in the document. The word "may" gives the fiduciary the discretion to make decisions regarding the directions — to use his/her own judgment.

Another example of legal words that have significant consequences is found in the title of many property deeds. If two or more individuals own the property as joint tenants with right of survivorship, then if one owner passes away, the survivors automatically assume title of the property by operation of law. However, if your deed lacks these, or similar, words then the individuals own the property as tenants-in-common. This means that when one party passes away, his/her ownership interest would pass through his/her Will through the probate process.

Have you ever wondered what the abbreviations POD and TOD mean on an account? "Payable on death" is usually associated with the naming of a beneficiary on a bank account, such as checking, savings, money market, CDs, etc. If a bank account is listed as "John Smith, POD," when John Smith dies, the bank account will automatically be owned by the person named as a beneficiary by John Smith on the account information.

Similarly, the designation "transfer on death" refers to the beneficiaries of an investment or brokerage account. Both designations, POD and TOD, will result in those particular accounts being distributed by operation-of-law to the named beneficiaries and will not follow your directions in your Last Will and Testament.

Remember, words DO matter. It is important to review your legal and financial documents regularly to ensure that your wishes will be carried out as you intend.

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