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WHAT'S WRONG WITH BEING RIGHT?

As I sat down to write about estate, business, and succession planning, I felt called to write about the importance of the core values involved in these and other legal matters. My mind kept returning to this thought: “What gets in the way of individuals completing estate, business, or succession planning?” Often, I believe, it is “the need to be right.”

I can personally attest to the economic and emotional cost of this very human need to be right. Early in my legal career, I was in business with several partners (we were not associated with our law firm). A dispute arose with a key employee over options to buy into the business. We could have immediately resolved the dispute when the employee offered to pay us something less than required by our contract, but as a “matter of principle,” we did not think we could let the employee off the hook. That decision ended up costing us almost 47 times as much as she offered, following a lawsuit.

It is not uncommon that during the process of estate or business planning everything stops because of a disagreement, often over truly insignificant matters. The parties become unwilling to compromise, leading to no plan at all, which is far worse for all concerned than a plan that is less than perfect.

Another human tendency is to take inflexible positions. For example, parties in litigation often take strong stands early, not interested in settlement. After paying legal fees and experiencing the emotional stress of the ongoing conflict, they become willing to negotiate a resolution without going to trial. If we could recognize earlier the costs of needing to be right, we might achieve a solution satisfactory to both parties and save money and aggravation.

Early in my career, my client was selling her business to a well-known family in the Twin Cities, represented by a well-known business lawyer. When negotiations bogged down, the parties and their lawyers met around a large

conference table. I knew of the other lawyer's reputation and that several people would be part of the negotiations, so I came well prepared with persuasive arguments on my client's position. As we started going through the roughly 15 open issues, the other lawyer simply gave in on many of the issues without any argument. I did not realize at the time that this lawyer knew that getting the deal done was more important than being right. I learned a valuable lesson from this wise lawyer that has paid my clients many dividends over the years.

Several years later, I was involved in another transaction where, at 7 p.m., after several hours of fruitless negotiations, we were at impasse. We had focused on insignificant issues, and seemed to be more interested in winning arguments and being right than coming to an agreement. I walked out of the room in frustration and noticed a jar of miniature Hershey candy bars on the receptionist's desk. I reached for a handful of the candy bars, went back into the room, handed them out, and suggested that we all needed a different taste in our mouths. Within 15 minutes, the parties shook hands on the deal.

In approaching potential disputes, I find it helpful to ask questions such as:

- What is preventing me from agreeing with the other party?
- What is the motive for my position?
- How important is this issue to my ultimate goals?
- What difference is this going to make in my life one hour from now, one week from now or one year from now?

There is always an emotional and economic cost when we need to be right. Be aware of that cost and weigh that cost carefully — and don't forget to try the chocolates!