



THE PERROM LAW OFFICE, LLC

Electronic Newsletter

ESTATE PLANNING / IMMIGRATION & NATURALIZATION

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RESOURCES:

- If there are any questions or topics you would like to see in a future issue
OR
- To schedule a consultation visit
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A PROBATE CASE TO REMEMBER...

LESSONS LEARNED: HOW TO AVOID A BAD OUTCOME

I recently finished a case that teaches the importance of a properly drafted and updated Estate Plan. I like to share the story with you.

The case:

Mike was married twice during his lifetime. He had two children from his first marriage and there was a stepson from his second marriage. The children have been estranged from Mike for many years. Mike's second wife passed away a few years before him. After her passing, Mike's stepson from his second wife took care of Mike's every need until the day Mike died.

Mike's Will named his second wife as executor and main beneficiary of his Estate. He also named the stepson as contingent beneficiary and successor executor. Finally, Mike intentionally left his children (from his first marriage) out of his Will.

Finally, Mike bought an annuity contract now valued at \$500,000 and named his second wife as beneficiary.

After Mike passed away his Will and assets were reviewed. Two main disastrous errors were discovered:

First error: *Failure to update executor designation*

When the Will was written, Mike's second wife was alive and well and his stepson was living in the U.S. But, shortly after, stepson moved to Europe and second wife passed away. In Illinois an executor must be a resident of the U.S. Thus, stepson's move to Europe disqualified him from being an executor. With a deceased executor and an ineligible successor executor, we had to go search for an eligible executor candidate. A tough task when you just don't know where they are...

Lesson learned: Update your Will and other estate plan documents periodically. Make sure those named as beneficiaries or successor beneficiaries are alive and well and those named as executor(s) or successor executor(s) are alive and **still eligible** for the task.

Second error: *Failure to update beneficiary designations*

Mike failed to name a successor or contingent beneficiary on the annuity contract. According to the contract policy, the estranged children, the ones Mike left out of his Will, became the new beneficiaries. Not great news for Mike's stepson.

Unfortunately, contractual agreements such as life insurance, 401Ks, 403(b)s, annuity contracts, and other retirement/pension plans are not part of the probate estate and thus courts cannot intervene to alter the contractual agreement or policy.

Lesson learned: Always make sure you are clear on who are you designating as beneficiary both initial and successor beneficiary.

Often, if you have a Will or a Trust, it is convenient to name your Estate or your Trust as contingent or successor beneficiary. Confirm with your life insurance, 401K, 403(b), annuity contract or other retirement/pension plans administrators.

In the end, Mike's estranged children got an unexpected and unintended windfall while stepson, who cared for Mike, got zero. So ***please*** review your estate planning documents and your benefits contracts. Make sure your Will is up to date and that your benefits contracts have the correct intended beneficiary designations.

The Perrom Law Office, LLC wishes you and your loved ones a very happy St. Patrick's Day. We are all Irish on St. Patrick's...

HAPPY ST. PATRICK'S!

If you would like to find out more about the information contained in this newsletter or to set up a consultation visit with our office, please contact us at info@perrom.com or call us at 312.637.9886.

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