

BERWITZ & DiTATA LLP

Attorneys and Counselors at Law

310 Old Country Road Suite 101
Garden City, New York 11530
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen R. DiTata

Estate Planning in the Age of Step-Families

Many of us have at least one step-relative in the family – a step-parent, a step- or half-sibling or a step-child. Because the relationships among step-family members are frequently as strong or stronger than the relationships we have with our direct family members, it is important to take current and potential step-relationships into account when planning your estate.

So, for example, recently, a client's step-siblings had refused to acknowledge that, despite the fact that their father had been married to his second wife for only a few years, a strong and meaningful relationship had existed between their father and his stepdaughter for the rest of his lifetime.

Sometimes, however, if we don't have step-relationships in the immediate family, we don't recognize the importance of considering the issue. Here is another example of how things can go wrong:

Bill and Betty had one child, Carol, who had, at the time that Bill and Betty did their estate planning, one son, David. Bill and Betty implemented a trust for David's benefit. In the trust, in the event that David was not alive, the contingent beneficiaries were listed as "the brothers and sisters" of David. After the trust was created, Carol divorced David's father, Curt, and Curt remarried and had two children with his second wife. Years later, David died suddenly and unexpectedly. Curt's two children with his second wife were technically the "brothers and sisters" of David and, thus, eligible beneficiaries under the trust established by Bill and Betty. Bill and Betty, who were still alive, reviewed their estate plan and were advised by their new counsel that David's half siblings were the beneficiaries of the trust despite the fact that they had never even considered this possibility. Imagine if the problem had arisen only after they had died?

This case demonstrates the importance of the care and consideration that must be given to the language used in describing family members in estate planning documents. When Bill and Betty did their estate planning, neither they nor their counsel anticipated the consequences of the simple phrase, "brothers and sisters" of David.

Anticipating the changes to family structure that come about in our fluid society, and utilizing language, when referring to family members that is tried and tested is something that we, at Berwitz & DiTata LLP, strive to do. Call us to review your family-related concerns.