

BERWITZ & DiTATA LLP

Attorneys and Counselors at Law
224 Seventh Street
Garden City, New York 11530
Telephone (516) 747-3200 • Facsimile (516) 747-3727

Lawrence N. Berwitz

Maureen Rothschild DiTata

AFTER WE SAY GOODBY

After the loss of a loved one, family members sometimes find it difficult to focus on what needs to be done to ensure the decedent's wishes are carried out. Although it may be very difficult, there are issues which must be promptly addressed.

The wishes of the decedent regarding the disposition of his or her remains is the first order of business. Arrangements should be made with a funeral parlor for burial or cremation. Typically, the funeral parlor will coordinate with the cemetery if a burial is contemplated. The clergyman who will officiate over the ceremony must be contacted or selected. An obituary may be posted and notifications should be made to family members, friends, colleagues, neighbors, business associates and others who the decedent would have wanted to be in attendance.

The funeral parlor will order and obtain death certificates. It is important to ensure that accurate information is conveyed about the decedent as correcting the death certificate is a time-consuming endeavor. The number of death certificates that will be required varies depending upon a number of factors. An original must be filed in each state in which property is owned by the decedent. Banks and other financial institutions, insurance companies, title companies and others will require an original death certificate. It is advisable to order more death certificates than you think will be necessary.

Other steps that should be taken include: redirecting the decedent's mail; notifying credit card companies and canceling all outstanding credit cards; notifying the decedent's employer; canceling subscriptions to magazines, newspapers and other publications; canceling contracts with cell phone, internet, cable and telephone providers; canceling the decedent's library card; terminating social security and pension payments; arranging for continuing insurance on the home and other property of the decedent; securing the decedent's car and, perhaps, returning the license plates and canceling the automobile insurance.

The timely distribution of the decedent's property is important. First, ascertain whether the decedent had a Last Will and Testament and/or a Trust and, if so, determine where those documents are located. Please note that, under no circumstances should the staples or other fasteners be removed from the Will. Doing so will delay the probate of the Will and, in some instances, it could invalidate the Will. The Will should contain a provision nominating an Executor. This is the person whom the decedent designated to be responsible for carrying out his or her wishes. If the decedent had a Trust, it should contain a provision appointing a Trustee or successor Trustee. The Trustee is responsible to manage the assets owned by the Trust and to carry out the Trust's directions regarding the disposition of those assets. Typically the nominated Executor and Trustee seek the services of an attorney to assist them in their efforts.

The nominated Executor or Trustee can expedite the process by bringing important documents to the first meeting with the attorney. They include: death certificates; the funeral bill with evidence of payment; statements of all financial accounts in which the decedent had an interest; beneficiary designations for the decedent's retirement accounts; the original Will and/or Trust; the names and current addresses of the decedent's relatives; the date of death for any relatives that may have predeceased the decedent; and the amount of any outstanding debts of the decedent. There are additional documents which may be necessary if a proceeding must be commenced in the Surrogate's Court to probate a Will, appoint an Administrator in the absence of a Will or for the administration of a Trust, but the attorney will identify them and advise the Executor or Trustee of their importance.

Naturally, once the basic steps have been accomplished and the rudimentary documents accumulated, each matter has its own unique character and requirements. We, at Berwitz & DiTata LLP, are available to help the Executor and/or Trustee navigate the administration of an estate or trust with sensitivity and empathy.

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Estate and Retirement Distribution Planning, Estate Administration and Elder Law