

Marriage in retirement: watch for estate planning potholes

Gordy re-married in retirement.

Re-marriage in retirement is common. One spouse usually dies before the other. The survivor is lonely and wants a companion. In Gordy's case, he lost his wife to cancer, and a few years later married a younger woman, named Linda. Gordy and Linda had 10 years of wedded bliss. Then Gordy died of a heart attack following a long illness.

That's when the trouble began, because Gordy's children and Linda had a different idea about Gordy's wishes for his estate.

These differences resulted in a feud. The children and Linda each retained lawyers. Resolution took three years, cost \$50,000 for EACH party in legal fees, and Linda and the children don't speak to each other.

During his working years, Gordy had been highly successful in business and a savvy investor in real estate. He left substantial assets, business ownership, second homes and limited partnerships.

From the children's viewpoint, they recalled Gordy's oft-stated wish to leave as much as possible to his grandchildren. Naturally, the children were loyal to their biological mother, and suspected that Linda was "in it for the money."

Linda, on the other hand, truly loved Gordy. She and Gordy were constant companions. They had many fun times together, and she was a loyal caregiver the last year of Gordy's life, when he often was bedridden. Gordy told her he wanted above all else to make sure she was taken care of for the rest of her life.

Unfortunately, this situation is not uncommon. What could have been done to help the children and Linda reach a better resolution of the estate? Here are pointers from estate planners:

1. **Put it in writing.** Your wishes for assets need to be in writing. Often this is done in a trust and/or will. Verbal promises can be disputed.
2. **Seek professional advice.** There are huge tax implications for how assets are divided and distributed. Tax accountants and attorneys can help you make decisions that minimize consequences and clarify wishes.
3. **Consider a pre-nuptial agreement.** This is a legal agreement signed before you are married. Some specialists recommend pre-nuptial agreements to minimize potential disputes and protect assets. But some people are

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uncomfortable with the complete disclosure needed to make these contracts binding.

4. **Consider health decisions.** Who do you want to make health care decisions for you if you can't make them for yourself: your new spouse or your children (or someone else)? This could be another matter of contention. A durable power of attorney can make this clear.
5. **Talk to the parties involved.** In Gordy's case, he told Linda one thing and his children another. He should have had a consistent story. Sometimes it's not wise to share intentions, but do so whenever it is in the best interest of the survivors.

A second marriage (or even companionship), where both adults have children from previous marriages, can create a legal hornet's nest when it comes to claims on assets.

"I knew Gordy's children for 10 years," Linda says. "Now we don't like each other. Yet I loved their father. This bitterness leaves a lasting stain on that love. I wouldn't wish the pain on anybody."

Gordy left a legacy much different than he wished. All of his wealth created much lasting bitterness. If he had insisted on clearer estate plans, he would have given the best gift of all—peace of mind.

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