

# The DAILY PLAN-IT<sup>TM</sup>

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## ***Do senior-age clients need prenuptial agreements?***

We've seen this scenario - or a similar one - many times at our law firm.

A widower who lost his wife of 50 years gets remarried to a widow who lost her husband of 45 years. They attend the same church, share the same values and, in some cases, have the same circle of friends. They were lonely and found each other in the midst of grief and a desire for companionship.

Why would two senior-age adults in love need a post or prenuptial agreement if they are equally wealthy and financially secure?

### **Avoiding disagreements**

Usually this type of issue is perceived as awkward and uncomfortable to talk about. Even when families are not wealthy, there are financial and beneficiary issues that need to be sorted out in advance so that there is no confusion later when one member of the couple passes away.

Many of the disagreements resulting from the death of one spouse usually have to do with the "stuff" of their life. Who ends up with the deceased spouse's collectibles, such as art, furnishings, and sentimental valuables can result in a tremendous amount of heartache and disputes among surviving loved ones.

While most clients believe their children and their surviving spouse will be reasonable about dividing up personal belongings or assets, that is not always the case.

### **Lawsuit proceeds**

You can never predict the bizarre twists that life will throw at clients. In some cases, the surviving spouse became wealthy as a direct result of the death of their spouse.

Yes, it's strange but true. We've seen cases involving automobile accidents, medical malpractice, and nursing home negligence that resulted in the death of one spouse and a resulting lawsuit settlement left the surviving spouse significantly compensated for the loss. Where will these proceeds go upon the death of the second spouse? Interesting dilemma, isn't it?

## **What's love got to do with it?**

Love may have everything to do with it today, but tomorrow may be a different story. As difficult as it may be to reduce the risk of fights, broken hearts, and large legal bills, it may make sense to sit down with a financial planner and a lawyer to walk through the best way to protect everyone involved.

How do we protect the newlyweds, as well as their respective children from first marriages and any grandchildren? What happens if they become mentally incompetent? Who manages their health care? Who steps in to handle their finances?

The need for prenuptial and postnuptial agreements that integrate the wishes of the newlyweds is critical. Taking action now can save the family tremendous heartache and expense.

If you have a senior-aged client who is about to remarry, consider asking them to speak with an experienced estate planning attorney. We are happy to help answer any questions you may have about these issues.

As always, we hope this article is informative to you and your clients. If you have any concerns or suggestions, please contact our office. We're here to help.

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