

Family Feud: Disputes Over Sibling's Actions as Executor

Parents should think carefully about choosing one sibling over another.



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A recent column in [the Social Q's section of the New York Times](#) highlights a potential problem for clients when it comes to picking an executor among multiple siblings. The wife who asked the question said her husband was named executor of his father's estate, and his two sisters were now suing him, claiming his delay in performing his duties cost the trust money. The sisters are also trying to get the husband removed as trustee. It's not clear from the column whether the husband and his sisters had a good relationship before their father died.

Picking One Executor Among Siblings

It's not uncommon to name one child over another as the executor, says Jay Freiberg of Elman Freiberg PLLC. But that's often a recipe for disaster as the other siblings feel slighted. Disharmony can also occur if the sibling who's named as the executor lords their power over others. A parent should think carefully about choosing one sibling over another, notes Avi Kestenbaum of Meltzer, Lippe, Goldstein & Breitstone LLP, as this may cause jealousies, resentments and disputes.

Factors to Consider

Many factors go into deciding whom to appoint as the testator. For example, the testator needs to consider the estate assets and how difficult they are to administer, says Kestenbaum. Every estate is different, with some being simpler (bank and brokerage accounts) and others incredibly complex (real estate and business interests). Also, some children are more responsible than others. One sibling may be better suited for this role.

Picking Just One

Picking a single individual rather than multiple individuals avoids gridlock when making estate decisions, says Kestenbaum. But the testator must put thought and care into their decision to choose one sibling over another, as this may cause jealousy, resentment, and disputes. Generally, Kestenbaum believes that it's not helpful to name one sibling as trustee over another for this reason. But sometimes

the sibling is still the best choice and what the parent wants. The other siblings may accept and understand this. Also, the other siblings should consider that being the executor is often a thankless job, and a time-consuming and administrative one, depending on the assets. The executor may not receive adequate monetary compensation for their efforts, depending on state law and whether the will provides for compensation and, if so, at what amount.

Avoiding Litigation

The testator should take steps while alive to try to ameliorate this situation if they're set on unequal appointments, says Freiberg. Practitioners should encourage the testator to discuss and explain the reasoning behind their decision. The testator likely doesn't want to have an uncomfortable conversation with their family, but the practitioner can point out potential problems that can arise from not being transparent with them.