



ELDER LAW AND ESTATE PLANNING

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Recent divorcée who had joint living trust with ex seeks advice on next steps

Question: I was divorced last year. My ex-husband and I had a joint living trust. What should I do now to bring my estate plan up to date? We have two minor children together. Do I consult the same attorney who did our original trust? I believe my ex has already gone back to that same lawyer.

Answer: Call the lawyer. He/she may tell you there is a conflict of interest and decline, in which case you will need to find a different estate planning lawyer. Whoever the lawyer, he/she should examine your divorce settlement, because it may contain provisions that impact what you can, can't, or should do in setting up your plan. Here are a few basic issues you will need to consider at this point:

Beneficiary designations: The first thing you must do without delay is change your beneficiary designations on your retirement plans.

Advance Health Care Directives: Who do you now want making your health care decisions for you if you cannot do so yourself? From time to time a divorced person maintains a close relationship with the ex-spouse and wants that person to continue as surrogate.

Durable Power of Attorney: Who do you want to handle your financial affairs if you

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cannot do so? Who will be backups? Parents, siblings, friends?

You will need a new will. Your will must contain provisions to protect your minor children if anything happens to you, although customarily the other parent is the guardian.

Life insurance: It's important to consult the divorce settlement. Sometimes settlements require that life insurance be maintained to protect the children, or to ensure the spouse's maintenance.

You may also want to consider setting up your own revocable trust, depending on the nature and extent of your assets. Your estate planning attorney will be able to guide you. Good luck!

Joseph Karp and Jonathan Karp are Florida Elder Law and Estate Planning Attorneys. The Karp Law Firm is located in Palm Beach and St. Lucie counties. It assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration, estate litigation, and probate and elder law mediation.