

MODERN FAMILY

An Educational Series Highlighting Longevity Planning Issues - Chapter Three

By Nancy S. Hearne

[Summary of Chapters One and Two: Steve, a 70 year-old widower and retired professor, lives near Princeton University. He has three daughters. Because Steve was concerned about keeping track of financial matters going forward, he created a revocable trust in order to streamline the transition of management of his assets to his daughter Phoebe, his Co-Trustee].

Five years later and still living alone, Steve is now 75. Due to excellent investment advice and modest spending habits, his portfolio has grown from \$3.25 million to \$4 million. Steve exercises regularly, attends lectures at Princeton and stays active in the Nassau Club Old Guard. Though his children are attentive, Steve is lonely and misses the companionship of a woman. On seniorsoulmates.com, he develops an online relationship with Dolores, who is age 50, divorced and lives in St. Louis. They correspond by email at least once a day. Dolores is a ballroom dance instructor. A few weeks later, Dolores asks if she can visit Steve. He consents and she arrives the next day. They have a whirlwind weekend at Princeton reunions. She promises to return and when she does a few weeks later, she tells Steve that she has subleased her condominium in St. Louis.

Their romance blossoms and Steve calls his attorney to tell her that he plans to marry Dolores in the next few months. His attorney asks Steve if his children are in favor of the marriage. Steve says they are not, but he is firmly committed to his decision. When he tells his attorney that Dolores has subleased her condominium and is living with him, his attorney invites Steve to come to her office.

Steve's attorney cautions Steve that when they marry, Dolores will be entitled to share in Steve's estate when he dies, and if they divorce, to share in his assets. She suggests that they sign a pre-nuptial agreement, which will protect his assets and secure them for his children. Dolores has few assets of her own, and she has asked Steve to divide his estate into four shares and give her one share and his three daughters each one share. Steve thinks this is fair. His attorney suggests an alternative, which is to leave a portion of his estate in trust for the benefit of Dolores. The trust would pay all the income to Dolores, and principal for her health, support and maintenance. At Dolores' death, the remaining principal would be directed to Steve's three children. The benefits of the trust are that the assets are preserved for his children and his estate will have a marital deduction from New Jersey estate tax. Steve likes this plan and promises to discuss it with Dolores.

Steve's attorney also tells him that Dolores will need to be represented by her own attorney and gives Steve three names to share with Dolores. To dampen his daughters' opposition to the marriage, she also recommends that he inform them that he will sign a prenuptial agreement. Steve suggests that if they have questions, they call his attorney and she agrees to speak with them. To forestall lengthy negotiations that could be difficult, his attorney suggests that Steve and Dolores agree to the plan in principal, and then instruct the attorneys to prepare the agreement.

Steve agrees not to plan a wedding date until the prenuptial agreement is signed. His children come around to accepting Dolores, particularly when they learn that she will only inherit through the trust and that she agrees to relinquish rights to Steve's assets in the event of a divorce.

Steve and Dolores sign a prenuptial agreement. Three months later they elope and honeymoon in Paris.

Written by Nancy S. Hearne, a partner in Saul Ewing's Personal Wealth, Estates and Trusts Practice Group. Nancy can be reached at 609.452.3156 or nhearne@saul.com.

The provision and receipt of the information in this document (a) should not be considered legal advice, (b) does not create a lawyer-client relationship, and (c) should not be acted on without seeking professional legal counsel in the relevant jurisdiction(s) who have been informed of the specific facts. Under the rules of certain jurisdictions, this communication may constitute "Attorney Advertising."

© 2016 Saul Ewing LLP, a Delaware Limited Liability Partnership.
ALL RIGHTS RESERVED.