

SIBLINGS DO NOT ALWAYS GET ALONG!

I received a phone call last week from a woman that was very upset with her fiduciary and her 2 siblings. She wanted to know if she could fire the fiduciary. After calming her down so that we could have a reasonable conversation, I stated that I could not help her without knowing more about her concerns.

Finally I was able to get the information that I needed in order to give a reasonable answer. Her mother was deceased and the fiduciary was named in her estate plan. It appears that the brother was to get the house and the 2 daughters were to get other assets of the estate. I did not inquire as to whether the estate was shared equally. But there is nothing that says a parent has to split an estate into equal parts.

The brother needed funds to pay for some pool repairs that his mother had not done while she was alive. He was upset at the fiduciary, because it was going to come out of his portion of the estate. He planned on suing the fiduciary and wanted everyone to join in. In addition he had lived there rent free for numerous years.

The sister was mad at the brother because he had not paid any rent to their mother while he lived there and he should pay it to the estate. She was also angry at the fiduciary because she was doing a bad job.

I told the woman that called me that it appeared that the Fiduciary was doing what she was supposed to do. Being a fiduciary is not winning a popularity contest. A fiduciary does what is legally necessary by following the instructions of the estate plan. If the brother wants to sue, let him. It will also come out of his portion of the estate. I recommended that she tell him that she was not supporting his actions. A reasonable attorney would not take on this case since it appears that there was no misconduct on the part of the Fiduciary.

COMMENTS:

Mama knew her children well and planned accordingly. It does not make it easy for the Fiduciary or executor of the estate however. But imagine what this story would be if they were all co-Fiduciaries!! PLAN AHEAD, it won't prevent some issues, but it can prevent you from hiring an attorney later.