



## Estate Planning for Blended Families

*Written by: Michele Procino-Wells, Esquire*

When I think about planning for blended families, I often think of the 1970's television show, *The Brady Bunch*. Mike and Carol Brady seemed to create a perfect blended family. Mike came into the marriage with 3 sons and Carol had 3 daughters. While the sitcom is all about the Bradys' ups and downs, they seemingly lived as one big, happy family. But I wonder if they had done estate planning what it would have looked like? Would

**COUPLES WITH BLENDED FAMILIES HAVE  
FOUR GENERAL OPTIONS TO CHOOSE FROM  
WHEN DESIGNING THEIR ESTATE PLANS.**

they have created simple documents leaving everything to the survivor of them at the first of their deaths and then trusted the survivor to provide for all of the kids at the second death? Instead, would they have created separate plans to protect their children?

What would happen if Mike died first, left everything to Carol and then she became estranged from Mike's sons? Would she then feel justified in updating her planning to leave everything to just her girls? What if Carol remarried and leaves everything to her new spouse? Maybe instead, Mike wanted to create a plan to protect his sons by leaving his assets to them directly and skipping over Carol. Would he then feel he wasn't adequately providing for his wife and would this cause conflict between Mike and Carol? None of these are easy questions to answer.

Over the years, I've determined that couples with blended families have four general options to choose from when designing their estate plans.

Option 1: Create separate plans and maintain separate assets.

This option is often chosen by couples who each brought their own assets into the marriage and agree to keep things separate including their estate planning. If that were the case for Mike and Carol, they would each create their own Trust, of which they would each be their own initial Trustee. They could then name one or more of their separate children as their successor Trustees who would take over management of the Trust assets upon their deaths. By having their own, separate Trusts, Mike and Carol would keep control over their separate assets during their lifetimes and the ability to direct how those assets would be distributed after their respective deaths. They could choose to provide some or all of the assets for the surviving spouse at their first of their deaths, or they could decide to skip each other entirely and leave everything to their own children or other beneficiaries of their choice.

Option 2: Create a joint plan and trust each other to carry it out.

Unlike the scenario in Option 1 above, many married couples combine their assets during their marriage and do not want to separate their assets for purposes of their estate planning.

Here, let's assume Mike and Carol decided to own all their assets jointly and want to make sure that upon the first of their deaths, the survivor would still have

225 High Street  
Seaford, Delaware 19973

1519 Savannah Road  
Lewes, Delaware 19958

[www.pwwlaw.com](http://www.pwwlaw.com)



PROCINO-WELLS  
& WOODLAND, LLC

*Continued from previous page...*

access to everything, without limitation. In that scenario, Mike and Carol would likely create a joint Trust of which they'd be the Co-Trustees. After the first of their deaths, the survivor would serve as the sole Trustee. Together, they name successor Trustee (s) perhaps naming one or more of their children who would take over after both their deaths. They'd also have to agree on how to distribute their assets after the second of their deaths. Oftentimes, couples in that case will direct distribution in equal shares among all their kids.

The complexity with a joint plan is the risk of what happens after the first death. Joint Trusts are usually going to be revocable meaning that the couple can jointly amend the Trust while they're both living but also means that the survivor retains the right to amend the Trust even after the first spouse dies. That's when the step-kids sometimes get written out. For Mike and Carol, let's say Carol dies first, Mike grows distant from Carol's daughters and later decides to change the Trust to leave everything to his sons only, or if he remarries, perhaps to his new spouse.

Some couples are perfectly fine with this type of plan and fully trust their spouse's discretion to make changes to the planning if they feel it's appropriate.

Option 3: Create a joint plan and lock it in at the first death.

This option is often considered by couples who want to own assets jointly like under Option 2, but also want assurance that their intended beneficiaries will eventually inherit. Here, Mike and Carol could create a joint revocable Trust, but they could decide that they want to make the Trust become irrevocable upon the first of their deaths so that their joint wishes cannot be changed by the survivor. They could also accomplish a similar goal by entering into a separate, legally enforceable agreement by which they would contractually obligate themselves to provide for all of the children at the second death. With use of such an agreement, the Trust itself could otherwise remain revocable so other provisions such as choice of

Trustee could still be changed even after the first death.

At first, couples often like the idea of locking themselves into their joint planning with one of these methods, but it's important to understand that by doing so a person is giving up significant rights. This can be brilliant planning for whomever dies first but is often regretted by the surviving spouse especially if a lot of time passes between the couple's deaths.

Option 4: Create a plan using a combination of the above methods.

Many couples struggle with the above options and find none of them to be a good fit. That often requires creativity in creating their estate plan. Some couples will create joint Trusts for assets they consider jointly owned and want to make sure the survivor has control of after the first death but also create individual Trusts for assets they want to keep separate. Couples can also consider controlling some assets separately by beneficiary designation. For example, if Mike and Carol created a joint trust for their home and accounts, but still wanted to ensure their separate children inherited from them, they could consider naming the children as beneficiaries on their life insurance policies or retirement accounts. Be advised though, use of beneficiary designations in this way takes careful planning and should only be considered for adult, responsible beneficiaries.

### No Easy Solutions

There's no one-size-fits-all solution to estate planning for blended families. Creating an appropriate plan requires couples to first learn about their planning options and then have honest conversations about what's best to carry out their wishes and protect against their fears. So how do all the Mikes and Carols of the world figure it all out? They seek out the advice of experienced estate planning professionals who can advise them on their options, facilitate their conversation, help them make decisions and then make sure it's all memorialized in the appropriate legal documents.

## BELLA'S BRIEF

### *The Office from a Dog's Perspective*

One of my pet peeves is the use of too many words to form a statement. Legal writing and attorney speak can be especially off putting when sentences are mind-numbingly long and complex. I personally like the simplicity of this office. Internally there's a lot of shorthand, like RLT for Revocable Living Trust, or POA for Power of Attorney. Often the gals even use initials rather than full names when corresponding because it's quick and concise. However, there was one rather large misunderstanding a few months back when I overheard conversations with OBX, OINC, and then, in my house, NALA. Given that it's vacation season I thought we were traveling to NOLA – you know, New Orleans, Louisiana – until one day there was a new plush and smaller dog bed next to my own. Nala, as it turns out, is the new puppy that's trying to rule the house. She's cute, but still has a lot to learn about a very simple rewards system. Good behavior earns a treat, stubbornness gets you nowhere, and aggression will land you on the step for a cooling off period. Kids!

xoxo Bella 



## LEGAL MUMBO JUMBO

### *Legal Language in Layman's Terms*

#### STEP-UP IN BASIS

When the price of an inherited asset on the date of the decedent's death is above its original purchase price, tax code allows for the raising of the cost basis to the higher price, minimizing the capital gains taxes owed if the asset is later sold.

#### TIME OUT!

M E R W V P Y P O W E R O F A T T O R N E Y Y J  
 A X Z I L R O N I M A T P H N R I S S Q N M K X  
 X Y F N A I D R A U G Y N V T G G M R F Z S G C  
 O B V P Z E Q B Q M O X V E T J E M I Y M H S L  
 D E A R W I L L Y I I K U C B X H D E F U X O Z  
 Q G F O P T F I K S E T O U E Q U X M L U K I Q  
 R R N P L M B X A W S S P C A C N R O W C D P C  
 Y P Q E A P Z J A U E G U V I P F S L L K G Y W  
 C A T R D K D B R A R T A A K D H Q C D D B F L  
 J Y G T Z M L T F L O F R Z H J Q N O U T T X Q  
 S R C Y L T J H Z R G Y Y O M W J E H W Y D Y L  
 Z A A F I O D U A Q L M R E V O C A B L E O Z O  
 U I A J O I N T T E N A N C Y P C K S J F F F G  
 E C M R I L S F I E F B C P E T T D F U N S O P  
 K I V S R Y V T S L U W K C A G N K D G K L R R  
 J F A W D P H T G O F F Q Z C T E H I L L U I L  
 U E R H A W A E J H P J V G V D M W J N I A G M  
 G N B C U T H L S T H V Q C S D U V S Z C P I D  
 P E Y W E Q P E Y C R G Y I X W C M X M I A N X  
 F B H P Y O Z P V S N U I M R U O X N F D T A F  
 V V L H N A W H L V J U S A Y R D G N G O Q L L  
 A A I P X Z O S R M S E M T Q A R M H X C V F D  
 N K H C Q B G Q C U A S I O E Y D Y O H W H E D  
 F P Z D C J O Y L J E U Q E D E C E E A O M F M

Property Trustee Estate Plan Will Joint Tenancy Revocable

Document Guardian Original Minor Fiduciary Codicil

Executor Trust Power of Attorney Beneficiary

#### ***A note from the attorneys...***

Someone once gave us the chance to learn from them by sharing about their own career path so we might find ours. Our love of learning has not stopped, and our desire to pay it forward has never felt more significant. This summer, along with our team, we are mentoring three interns as they seek to gain professional knowledge and skills to decide on their own paths forward. We are excited for their futures!

*Michele & Owen*



# PWW FRIDGE-WORTHY



Taylor Hogan is a 2019 graduate of Milford Senior High School. She studied at the University of Delaware and is currently completing her undergraduate degree in political science at Coastal Carolina University, South Carolina. She aspires to pursue a career in law upon graduation. In her free time, she enjoys reading, going to the beach at the Delaware seashore, and spending time with her family, friends, and dog, Luna, at her family farm in Greenwood, DE.

Mira is a 2017 Dover High School graduate and completed her B.S. in Accounting from Clemson University in 2021. She will be starting her

2L year at the Paul M. Herbert Law Center this coming fall. Mira currently lives in Dover with her parents, Ron and Lisa. In her spare time, she enjoys spending time with friends and family, running outside, and watching the Clemson Tigers play!



Since graduating as a homeschooled student in 2017, Emma Green is completing her undergraduate degree at The King's College in New York City. She majors in Humanities with a Pre-Law minor and will graduate spring 2023. When not reading on the beach or biking the trails in Lewes, she lives in Brooklyn, NY where she spends most of her free time with friends or exploring the Brooklyn parks.





PROCINO-WELLS  
& WOODLAND, LLC

Do you recall the thrills of high school and college? Dare we say, the thrills were never big enough to overpower the anxiety of deciding what we “want to be when we grow up.” Our incredibly smart, talented and driven summer interns are no different. We applaud their initiative and exploration of our firm and the legal industry as they decide if this career path is truly their passion.

We wonder what words of wisdom you might impart to a young student on the brink of their career. If you're inclined, send the PWW 2022 Summer Interns a note, encouragement, words of wisdom or a laugh to:

**Procino-Wells & Woodland, LLC**

**Attn: 2022 Summer Interns**

**225 High Street**

**Seaford, DE 19973**



## OFF THE CLOCK

We would like to thank our featured referrer of the month:



**DELMAR NURSING AND REHABILITATION**  
AN AFFILIATE OF EDEN HEALTHCARE  
*Our caring hearts and helping hands make the difference*

101 Delaware Avenue  
Delmar, DE 19940  
302-846-3077

*Procino-Wells & Woodland, LLC is a proud member of:*



Accredited Attorney



This newsletter is intended for informational purposes only and does not constitute legal advice. For legal advice, consult a licensed attorney. The examples used are simplified for ease of understanding and illustration of general concepts.