

***Planning Ahead***



***Lisa C. Alexander, Esq.***  
*Jakle & Alexander, LLP*

## **Estate Planning for the Blended Family Post Death**

In a typical husband and wife estate plan, a joint trust is created that will continue after the first death for the benefit of the surviving spouse for the rest of his or her life. After the death of the first spouse, the surviving spouse usually becomes sole Trustee with ultimate control of all the assets. Normally, the children won't receive any inheritance until after the death of the surviving spouse. This is all well and good and as expected when the children and parents are all related. Not so in the case of step-child and step-parent.

The step-children may be left out, often shut out from information, resentfully watching their future inheritance diminish over the years. A previously harmonious blended family may come apart after the death of the biological parent, leaving the surviving spouse and step-children to deal with the breakdown of their relationship. Not the legacy they all intended.

From the estate planning perspective, the children have no birthright to inherit and it would be normal and expected for the husband and wife to provide for each other first. It is also understandable that the step-children may feel slighted and make the step-parent the focal point of their disappointment and anger.

It is important for the husband and wife to understand and acknowledge the family dynamics. With potential conflict in mind, thoughtful planning may minimize friction, for example with respect to a family vacation home. Consider sharing the estate plan with the children so there are no surprises. Explore life insurance or other means to facilitate gifts to the children at the first death so they are not left to wait for the step-parent to pass. It may be wise to appoint a bank or professional fiduciary to serve as Trustee instead of the surviving spouse. This will protect the surviving spouse and also ensure the Trust will be administered in a neutral manner.

When the first death occurs, the surviving spouse should expect to consult with an attorney to be sure his or her fiduciary duties as Successor Trustee are understood and carried out. Likewise, the children may wish to consult with their own attorney to understand their rights and interests in the Trust. Transparency and open communication when the estate plan is created and continuing when the first death occurs may be key to keeping the blended family intact.

**Lisa C. Alexander is an attorney at Jakle & Alexander, LLP. She can be reached by calling 310-656-4310 or by emailing her at [alexander@jaklelaw.com](mailto:alexander@jaklelaw.com).**