

Thoughts on Naming an Executor



A question we are often asked is "Should I name Covenant as my executor? Can't I just name a family member?" As is often the case when attorneys get to answering questions, the answer is "it depends." Conceivably, a family member could work (and this happens without issue all the time). It really comes down to what is most important to you.

SOME CONSIDERATIONS:

- 1 | How important is it for you to make things as easy as possible on the family who has just lost a loved one? If that is a high priority, leaving one or more family members with a substantial job to do may not be preferred. This is especially true the closer the family member (but the closest family members are precisely the ones you are likely to name).
- 2 | Is/are there family who are a) local b) willing to serve c) able to serve d) conscientious enough to do what needs to be done in a timely, organized and documented fashion?
- 3 | Are the family dynamics supportive of selecting one or two family members to be "in charge" after a death (is naming some person likely to cause any friction in the family)?
- 4 | Is the family member likely to charge less in fees than a professional? Even if the individual takes a fee that is smaller than that which would be charged by a professional, if that person is not the sole beneficiary, might this cause any family friction?
- 5 | If not, does that family member realize that serving really is a job (not just some dying honor bestowed upon them by the now recently deceased) with corresponding responsibilities, obligations, deadlines, requirements, liabilities, etc.?
- 6 | Will the family member be emotionally stable enough to both a) grieve for his or her loss and, simultaneously b) settle the deceased's estate in an organized, businesslike manner?

If there are family members who meet the above "criteria" (not that these are requirements, but merely issues that you should consider when thinking about naming family as executor), then naming that person as executor should be fine. In reality, many people do not think through all these issues when naming a family member. Even after choosing a family member executor and some number of alternates (in light of the preceding considerations), it is nevertheless a wise practice to name a professional fiduciary, such as First Covenant Trust, as the last alternate. That way if family decides they do not wish to act, they can simply decline to serve, leaving Covenant as the "backstop."