

Estate Planning Lessons Learned From the Tragic Death of Anthony Bourdain

Once again, the death of a celebrity reminds us of the importance of thoughtful and comprehensive estate planning. Anthony Bourdain was an American celebrity chef, author, travel documentarian, and television personality. His death by suicide was certainly tragic but, shortly after the event, the media reported that he and his wife were separated, not divorced, and that his estranged wife was still named as the executor of his will and that she is a beneficiary of his estate.

Generally married individuals leave their estate to their spouse and appoint their spouse as executor under the will, trustee of any trusts and agent on the healthcare proxy and power of attorney. But, when one is separating, this may not be ideal. Thus, for example, a person in the throws of a divorce may not want their estranged spouse to make health care decisions in an emergency or to access their financial accounts!

If the marriage is dissolving, it is not uncommon to want to remove the estranged spouse from appointments and designations created during the marriage. Divorces are not typically finalized overnight. Once a divorce is final, New York law provides that the former spouse cannot enforce certain dispositions of property or serve in a fiduciary or representative capacity. But what does one do in the meantime? There may be months or even years during which the estate plan is “in limbo.” If one dies or becomes incapacitated before the divorce is finalized, the estranged spouse could be the beneficiary and/or decision-maker.

If you are in the process of divorcing a spouse, you may wish to consider updating your estate plan. At Berwitz and DiTata LLP, we can review your documents with you and recommend the changes that would be prudent during the pendency of your divorce action.