

Risks of Joint Ownership

While it may initially be appealing to name two or three of your children or other relatives as joint co-Trustees in your Trust, co-Executors in your Will, or joint co-Agents in your Powers of Attorney, there are potential problems in doing so. Our office usually recommends that instead of appointing joint co-Trustees, co-Executors or co-Agents, you appoint one main backup person to act for you, and then appoint additional backups to be named in order of succession so that there is only one person acting at a time. You are legally allowed to appoint two or more individuals jointly to act in these roles, and we will set it up that way if that is what you wish, but must first advise you of some the problems that may arise in doing so. If you appoint two or more people to act jointly, you have the option of either saying that they have to agree on every decision or that each one can act alone. Either of those create potential problems:

1. If you mandate that they have to agree on every decision and action, that can be very cumbersome as it requires them to both sign all checks and documents and to agree on every little detail of the management and distribution of your assets. I have seen people who get along very well be unable to agree on something as simple as what bank to use to open a new account. If they don't all agree, nothing gets done and things can grind to an immediate halt thus frustrating your wishes of an easy and speedy distribution.
2. If you set up the joint appointment to say that either co-Trustee, co-Executor or co-Agent can act on their own, you're potentially setting up a situation where each acts on their own, against the wishes of the other, and they each go two separate directions. For example, if the Trustee's disagree about what bank to open a new Trust account at, each Trustee has the authority to open a Trust account at a bank of their choosing -- each going to a different bank. If the Trustee's can each act on their own without the other's consent, such a situation can create disastrous consequences that have the potential of bringing the administration of your affairs to another halt.

Both of the above situations can have the same result, your matter is pushed into Probate Court to solve the problems caused by a joint appointment. Having more than one Trustee, Executor or Agent serving at the same time usually slows down the administration process and can stir rancor between children and/or relatives, and, ultimately cause a legal battle. As a parent, the knee jerk reaction is to have all of your children involved in the handling of your Trust, but you're setting them up for sibling rivalry and



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conflict by doing so. As a result, our office recommends only appointing one Trustee, Executor or Agent at a time.



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