



ELDER LAW AND ESTATE PLANNING

Joseph Karp

Children's expected inheritance from dad goes to stepmother instead

Question: Dad always told us an inheritance was coming our way. He and our mother were divorced. He was married to his second wife, "Barb," until his death a few months ago. We now learn he left us nothing in his will, and everything to her. We know for a fact he had thousands of dollars in his stock portfolio. We're certain he wanted her to give us at least half as our inheritance. We talked to her about it, but she said the monies are legally hers and she deserves it because she is the one who nursed him through his latter years of dementia and ill health. We feel we've been cheated out of our inheritance. What are our legal options?

Answer: Your father had no legal obligation to leave his adult children anything. Barb has no legal obligation to give you any part of her inheritance.

You say your father had dementia before he died. Did he have full cognitive capacity at the time he executed his will? Was this his only will, or were there prior ones? What is the date of the execution? If it can be demonstrated that he was not fully aware of what he was doing, or perhaps was the victim of undue influence, you may have the basis for a lawsuit. You should consult a probate litigation

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attorney to discuss this.

On the other hand, it is possible he left the money to her on the assumption she would leave you an inheritance upon her own death. Although you may feel she is morally obligated to do that, do not confuse moral obligation with legal obligation. If that was, in fact, your father's intention and she has it in mind to follow through and leave you something, alienating her now will not help the situation.

I'm sorry you are in this situation. There are no easy answers. Good luck.

Joseph Karp, a member of the Florida and New York Bars, is a Nationally and Florida Bar Certified Elder Law Attorney and founder of The Karp Law Firm, located in Palm Beach and St. Lucie counties. The firm assists clients with wills, trusts, Medicaid and VA benefits planning, special needs planning, asset preservation, probate/trust administration and estate litigation.