



Sotomayor Law

Rande S. Sotomayor, Esq.



Mediation, Arbitration and Business Dispute Services

Mediation May Be Useful when Caring for Aging Family Members

May 17, 2016

Last week I attended a fascinating seminar for adult children of aging parents given by my colleague Carlos Arcos, Esq., an elder care planning attorney. The need for this kind of advance planning became powerfully obvious in light of the countless legal issues, public benefits issues, insurance issues, real estate questions, and financial risks associated with natural decline and death in today's world. Planning for your own care or care for a family member or friend when your health declines or you become physically or mentally incompetent to care for yourself can make the difference between preserving assets and losing everything.

Families are not always harmonious. This is one area in which the grass always seems greener in someone else's family. Most families have some degree of discord, and money often brings out the worst in people. Family members often harbor lifetimes of resentment that tends to surface when aging parents need expensive or time-consuming care, when they may disagree about their competence, or when they die and leave assets in proportions their heirs consider to be unfair.

Fights over legal rights are expensive. I'm pretty sure nobody on a deathbed ever said, "I really wish I'd sued my daughter." But we all know that there are many at the end who say, "I really wish my child was here with me. I regret losing that relationship."

Delicate or even non-existent family relationships are predictably strained as loved ones age and issues of care and succession arise. Perfectly reasonable people with good relationships have different opinions and ideas about how to care for aging family members, about family relationships, and about "entitlement."

If Mom or Dad have not planned and communicated their wishes – in writing – then these differences can escalate into costly battles. And this can happen during times of great emotional upheaval, when family members go through the inevitable life changes of mental and physical decline, and then death.

The costs of conflict far exceed monetary costs. The emotional costs, the lost productivity, lost time at work on top of lost time due to family care, the distraction, and the sense of earth-shattering personal destruction are enormous. (I'll save the costs of eventual litigation for another time.)

Consider bringing in a trusted neutral third party to mediate when conflicts arise over care for aging family members. Here are some of the ways a mediator can help with the family dynamics:

1. Effect communication;
2. Identify and articulate family members' needs and limitations;
3. Help family members decide on responsibilities;
4. Develop priorities and plans;
5. Confront and resolve longstanding family conflict; and
6. Preserve assets.

The costs of mediation are insignificant compared to the savings in reducing family strife, or at least managing it, especially during the time when aging loved ones seek peace and resolution above all.

Sotomayor Law

Rande S. Sotomayor, Esq.

466 Foothill Blvd., #162 | La Cañada, CA 91011

Phone: 626-791-5519 | Fax: 626-794-3789 | Mobile: 626-616-5843

E-mail: Rande@SotomayorLaw.com | Website: www.SotomayorLaw.com