

Aging Parents, Embattled Kids: Can You Find Pain Relief?



This is a real situation.

Three brothers are engaged in pitched battle over their mother's living situation. Mom is severely demented and can't care for herself independently. She had long term care insurance, but she has almost exhausted that benefit. Her only remaining asset is her home. She needs full time care.

The eldest brother, James, seized power over her finances from the middle brother, Paul. He got mom to appoint him the power of attorney and the agent on the healthcare directive, and displaced Paul, who had always been on both documents. Mom wasn't competent to sign anything when she did, but James didn't seem to care. That infuriated Paul. Little brother Joe is somewhat passive, but sides with Paul.

The three never got along very well, even as kids. There was a lot of arguing and their communication did not improve as they grew up. They largely avoided one another. Until now.

James decided, without communicating with either of his brothers, to move mom to an assisted living facility that takes care of people with dementia. She would have her own room. It would be in her neighborhood. Her house would be sold to pay for it. A deposit was paid.

When Paul heard of this, he became enraged, told Joe and they both threatened to sue James. In response, James found a lawyer and began guardianship proceedings. There is no money in mom's checking account to pay the lawyer, so James promised the attorney that she could get paid when the house was sold. It's a nice home.

Mom's long time estate attorney suggested mediation. She urged the siblings to stop upsetting their mom and each other by using a neutral person to help them try to reach some agreements. This sounds like a good solution, doesn't it? They could meet with the

mediator, and see if they could figure out a way to be more civil to each other around the move for mom. They definitely needed help to work toward a less aggravating future for each other caring for their mom.

James refused to go to mediation.

The guardianship proceeds apace. Thousands of dollars will be needlessly wasted on the litigation, James against Paul and Joe. The brothers will become ever more acrimonious and the story will not end well during mom's final days.

As a mediator for families in conflict, I can only say that this story keeps repeating itself in different forms. It's frustrating for me, as I know that in most instances, mediation of family conflicts about elders can really help and it is quite often successful. The hard thing to understand is why wouldn't the Jameses of the world want to give it a try? Is it the power they yield? Is it control over their siblings via legal documents and court cases?

Certainly, the cost of mediation can't be the reason to refuse it. It is far, far less expensive than just about any court proceeding. If siblings are scattered, as in James, Paul and Joe's case, mediation can even be done over the phone. You can't make anyone do it though. It's voluntary.

A factor at play is James's attorney's motive in handling the guardianship proceedings. Lots of money is at stake if the litigation keeps going. She can rake it in when that house sells. If she agrees to go to mediation with Paul, and the siblings settle their differences, there goes her paycheck. If you don't think some lawyers want to keep conflict alive and churning for their own selfish sakes, think again.