

# Experts say gays need advice on estate, life plans

## OUTLOOKS, FROM 1E

not have a lease. He is not on the deed or on the utility bills. The name on everything is Robert Pierce."

Because they had done no legal planning, Gagliano will probably end up with nothing except a few photographs and his own clothing.

When a Broward judge ordered the Pierce family to temporarily allow Gagliano back into the house, he found "they removed everything."

"They came into the house. I never felt so violated. The photographs . . . of me were gone. Everything was packed in boxes. [The family] dog was gone. They had already taken

**'I don't even know where his ashes are. This is a person I lived with for four years.'**

**FRANK GAGLIANO,**  
partner of deceased cameraman

the dog to [Pierce's] father's house. I was heartbroken."

Gagliano describes himself as "one of the worst-case scenarios."

Perhaps, but not an unusual one.

"My [friend's] story is exactly the same," said Michael Wallman, a Morgan Stanley Dean Witter estate planner who specializes in alternative families. Wallman, who is straight, became an advocate after the death of a close gay friend.

"The partner's parents came in and said, 'Thank you very much for taking care of our son during his illness. You've got to get out of the house. We're selling it.'"

"The guys were together for 15 years. The parents came in and said, 'We really appreciate you being our son's room-



**FRANK GAGLIANO:** Warns gays to protect their assets.

mate," Wallman recalled.

Now, Wallman counsels other gay and lesbian couples. "When you come to my office, I know you are married or in a committed relationship. But in the eyes of the government, you are not.

"And that is why you need financial planning. Because your assets are not assumed to go to your partner. You are not going to receive the fruits of your partner, or vice versa."

Miami attorney Richard Milstein says it is a two-pronged issue:

"You need life planning and estate planning," Milstein said.

Had Pierce not died in the crash, but had "been in a medical state in which he could not make decisions for himself," Gagliano would have been legally excluded from all decision-making, Milstein said.

Before Rabbi Greg Kanter of gay-oriented Congregation Etz Chaim performs a same-sex wedding, he sends the couple to a lawyer to work out the details.

Attorney Elizabeth F. Schwartz, who represents Gag-

liano in his suit, said this is a great concept.

"He wisely understands that what he provides is acknowledgment of a couple's commitment in the eyes of God. But what he recognizes is that God cannot grant you access to your partner in the hospital," Schwartz said.

Schwartz, an attorney at Crockett & Chasen, a Miami Beach practice "that specializes in representing gays, lesbians and other sexual minorities," said it's important to note that "we don't have relationships that have a single presumption under the law."

But, she adds, there are laws that would protect gays and lesbians nearly as much as heterosexual couples.

"My hope is that as we become more out and comfortable with ourselves, more and more people will avail each other to these protections,"

she said.

Schwartz and Gagliano will speak May 20 at the annual Lambda Conference & Business Expo in Miami Beach.

Gagliano is now driven to persuade other gays and lesbians not to wait until it's too late to protect themselves.

"If you don't, you'll end up like me. I don't even know where his ashes are. This is a person I lived with for four years. We spoke 20 times a day on the phone. The only thing I have are photographs."

*Outlooks runs the second and fourth Thursday of the month. To contact Steve Rothaus, call 305-376-3770, or send him faxes at 305-376-5287. Notices can be mailed to: Steve Rothaus, 1 Herald Plaza, Fifth Floor, Miami FL 33132. The column is on-line at [www.floridaoutlooks.com](http://www.floridaoutlooks.com)*

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## 10 LEGAL PROTECTIONS

Here are the primary tools needed by same-sex couples to protect themselves:

- ▶ Make a will, even if there's not much money or real estate involved.
- ▶ Make sure all deeds and accounts are properly titled.
- ▶ Create a durable power of attorney.
- ▶ Name a health-care surrogate for medical decisions.
- ▶ Make a living will directing your wishes should you be in a terminal medical state and can't express yourself.
- ▶ Name a preneed guardian should a court determine you cannot handle medical or financial decisions.
- ▶ Appoint a preneed guardian for minor children, if any.
- ▶ Check beneficiaries of insurance, IRAs, 401Ks, etc.
- ▶ Have a cohabitation agreement that designates how to divide assets in case of a break-up.
- ▶ Create a coparenting agreement, if necessary, deciding custody issues in advance.

For more information, see the Lambda Legal Defense and Education Fund Web site, [www.lambdalegal.org](http://www.lambdalegal.org)

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BOB EIGHMIE / HERALD STAFF

**BOOKED:** Attorney Elizabeth Schwartz and Frank Gagliano will speak May 20 at Lambda Conference.

## Gay couples need to plan for estate in case of a death

Frank Gagliano says he learned the hardest lesson of his life in the darkest hours: Just after his life partner, WTVJ-NBC 6 cameraman Rob Pierce, died in a helicopter crash, Pierce's blood relatives locked Gagliano out of the couple's Deerfield Beach home.

"It's total displacement all at one time. Not knowing what direction to turn or what steps to take — what's going to happen next," Gagliano said. "I am going to be 37 years old on June 6, and I have to rebuild my life. I never expected it to happen."

The couple had been together four years and planned an April 16 commitment ceremony when Pierce, 34, died March 3 in the Kendall crash. Under Florida law, because Pierce had no legal spouse, children or will, his estate automatically passes to his father.

"It's not relevant if they were a couple and the family has no position on that," Pierce family attorney Joy Carr told The Herald after Gagliano sued to be allowed into the couple's home. "Frank does



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