

TOP TEN ESTATE PLANNING LESSONS FROM RECENTLY DECEASED CELEBRITIES



San Antonio
Estate Planner's Council
Tuesday, January 19, 2021

Eido M. Walny, J.D., AEP®, EPLS
Walny Legal Group LLC
250 East Wisconsin Avenue, Ste. 1750
Milwaukee, Wisconsin 53202
414-751-7531
ewalny@walnylegal.com
www.walnylegal.com



1

Celebrities & Estate Planning

- Given their wealth and notoriety, one would expect celebrities to have comprehensive estate planning documents in place.
- However, turns out they have more in common with the public when it comes to estate planning, and often, don't have appropriate documents, if they have any at all, in place.

2

Celebrities We Won't Discuss...

- **Kurt Cobain** – Daughter Frances inherited his one-of-a-kind guitar, only to give it away as part of a divorce settlement. The guitar was later auctioned for \$7 million.
- **Aretha Franklin** – After her passing, over \$1 million in uncashed checks found in her house, plus cash stuffed in couch cushions and other hiding places.
- **Summer Redstone** – Notorious for “do it yourself” revisions to his trust which resulted in more than 40 amendments, leading to family infighting and allegations of incapacity, elder abuse, etc.
- **Stan Lee** – Did not have proper incapacity planning in place; family was forced to seek TRO against business manager who was charged with extortion and elder abuse.
- **Tom Petty** – Died suddenly in 2018 without proper planning to control business interests and future musical releases; widow and daughters from previous marriage litigated in probate court.

3

Prince

- Died in 2016 from prescription overdose
- Had no estate planning documents
- Divorced and had no living children at the time of his death
- One full sibling and 7 step-siblings (one is since deceased)
- Substantial net worth, including a vast catalogue of music (a large portion of which was never publicly released)

4

Prince

- Probate/Intestacy
 - Unlikely Prince wanted to leave assets to his siblings/half-siblings, however, they are his heirs under Minnesota law
 - See also: Avicii
 - Swedish DJ, died in 2018 with estate of \$50 million
 - Millions to charity during life, but no estate plan
 - Under Swedish law, parents inherited his entire estate
- Public forum
- Not tax efficient; huge legal bills

5

Prince

1. Have Estate Planning Documents.

Prince should have had estate planning documents to dispose of his assets. The default is intestacy and his heirs under the intestacy statutes were likely not his preferred beneficiaries.

6

Michael Jackson

- The King of Pop
- Died in 2009
- Was divorced and had 3 children at the time of his death
- Assets included Neverland ranch as well as a large music catalogue and musical rights

7

Michael Jackson

- Had an estate plan!
 - Revocable trust based plan
- Trust was never funded with any of his assets...
 - Assets remained in his name and had to go through probate

8

Michael Jackson

2. If You Have a Trust, Fund It.

It is not enough to have an estate plan. It also must be funded through re-titling of assets or beneficiary designation. Otherwise, the assets will likely pass through probate.

9

Kobe Bryant

- NBA Superstar
- Died in 2020 helicopter accident with daughter, Gianna
- Had sophisticated estate planning, and had updated his trust several times throughout the 2000s
- But youngest daughter was born in 2019 and trust was never updated

10

Kobe Bryant

- Result: Trustees have petitioned California probate court to modify the trust and add youngest daughter as beneficiary
- In this case end result probably ok – no opposition
- But a cautionary tale: Estate plans should either contain provisions including after-born children in the pool of beneficiaries, or they should be updated immediately after the birth of subsequent children.

11

Heath Ledger

- Movie star/Heartthrob
- Died in 2008 of accidental overdose
- Had a daughter, Matilda, with Michelle Williams but he was not married
- Left a three page will from 2003

12

Heath Ledger

- Will left everything to his parents and sister
- It did not include any provisions for his daughter, Matilda, or Michelle Williams
- Luckily conflict was avoided as Heath's parents and sister disclaimed their interests
- See also: Anthony Bourdain and Kate Spade
 - Both died while separated from spouse, yet still married
 - Didn't update estate plans to reflect separations, so estranged spouses still controlled burials and inherited assets

13

Kobe Bryant and Heath Ledger

3. Update Your Documents.

Even if you have estate planning documents, they need to be monitored and updated upon the birth of a child, or any major life event. If not, it could result in assets going to unintended beneficiaries or unintentional exclusion of family members.

14

Robin Williams

- Committed suicide in 2014
- Married to his third wife (Susan) at the time of his death
- Had three children from his previous relationships
- Comprehensive estate planning
 - Prenuptial Agreement and various trusts set up for the benefit of his wife and children

15

Robin Williams

- Robin Williams Trust
 - Allowed Susan to reside in the couple’s home in Tiburon, CA
 - Napa Valley estate and its contents are distributed to the children’s trusts
- Tangible Personal Property (TPP) to children
 - “clothing, jewelry, personal photos taken before marriage to Susan”
 - “Memorabilia and awards in the entertainment industry and the tangible personal property located” in the Napa Valley property

16

Robin Williams

- Issue: does this include property in their Tiburon, CA home?
- How is memorabilia, etc. defined?
- What happens to TPP which may be located elsewhere, such as storage?
- Susan filed paperwork asking the probate court to answer these questions; led to legal battle over awards, toys, clothes, etc.

17

Robin Williams

4. Be Clear with TPP.

- In addition to planning for the disposition of hard assets, it is also important to account for and identify where TPP where be distributed. Any ambiguity could result in court intervention which the trust specifically was created to avoid.
- Sentimental items sometimes cause more controversy among family member when compared to property which have significant monetary value.

18

Philip Seymour Hoffman

- Twister, Hunger Games, Mission Impossible, Capote (Oscar for Best Actor)
- Had three children and had been in a long-term relationship at the time of his death
- Despite the fact that they had 3 children together, he and his girlfriend never married
- Died in 2014 with a will signed 2004
 - Funded a trust for one of his three children with the balance to his girlfriend

19

Philip Seymour Hoffman

- With an estate worth upwards of \$35 million, his estate plan should have included tax liability planning
- Estate and gift taxes (in 2014):
 - \$5,340,000 Individual estate and gift tax exemption
 - Any amount over is taxed at a rate of 40%
 - Unlimited marital deduction

20

Philip Seymour Hoffman

5. Plan for Taxes

- Use of credit shelter revocable trust planning
 - Allows the exemption of the surviving spouse to be used as well as the unlimited marital deduction
 - Must be married to claim marital deduction
- Irrevocable, dynastic trusts designed to move assets out of taxable estate

21

James Gandolfini

- Tony Soprano, The Sopranos
- Died unexpectedly in 2013 of a heart attack while vacationing in Italy
- He had two children and was married at the time of his death
 - His infant daughter was from his current relationship. He also had a son from a previous relationship
- Net worth estimated at \$70 million, including property in Italy

22

James Gandolfini

- He had a will which was signed in 2012
- It included numerous specific bequests to friends and then divided the estate between his two sisters, his wife, and his infant daughter
- He noted that he made other provisions for his teenage son Michael
 - \$7 million life insurance policy which was put in a trust

23

James Gandolfini

- Foreign Property
 - There was a provision in his U.S. will providing for the distribution of his Italian property to his two kids
 - However, Italian inheritance laws dictate such disposition
 - Children are automatically given half and his wife a quarter, meaning he only had the right to give away the last quarter

24

James Gandolfini

6. Plan for Foreign Property and Know the Local Laws.

Despite the intention to give the whole property to his children, his wishes can not be fulfilled due to Italy's inheritance laws.

25

Whitney Houston

- Iconic Pop Star
- Downed in 2012 in a bathtub
- Divorced from Bobby Brown and had one child, Bobbi Kristina
- Had a will from 1993, the year before her daughter's birth

26

Whitney Houston

- Will provided for his daughter to receive 10% of her estate upon reaching age 18 and the balance upon reaching age 21
- Given her net worth, that amounted to millions of dollars falling into the hands of a teenager
- Unfortunately, Bobbi Kristina only received the first payout, as she passed away in 2015

27

Whitney Houston

7. Plan for Distributions to Young Beneficiaries

Receiving outright distributions at 18 or 21 is not advised given the maturity level of most individuals at that age. Consider, instead, providing for staggered distributions at 25, 30 and 35, for example. This provides some control and protection over the assets as the beneficiaries mature.

28

Casey Kasem

- Radio DJ and personality
- Diagnosed with Lewy Body Dementia in 2007 and died in 2014
- Had 3 children from a previous relationship and one child with his second wife, to whom he was married at the time of his death

29

Casey Kasem

- Bitter relationship between the children from his first marriage and his second wife
- These strained family relationships led to fighting towards the end of his life and following his death
 - Family fought over dueling HCPOAs and his end of life wishes
 - Also fought over the disposition of his body
 - Allegations of elder abuse soon followed

30

Casey Kasem

8. Plan for Incapacity

Every individual over the age of 18 should have POAs in place. Once in place, monitor and update throughout your lifetime. Absent these documents, a guardianship proceeding will be necessary.

31

Anna Nicole Smith & J. Howard Marshall

- Anna Nicole Smith (a former playboy model) married J. Howard Marshall (an oil tycoon and her senior by 63 years)
- Fourteen months into the marriage, J. Howard Marshall died in 1995
- Anna Nicole was not named as a beneficiary in his will
- She sued alleging that he intended to provide for her
- She died in 2007 while the litigation was pending, leaving behind a 5 month old daughter, Danielyn

32

Anna Nicole Smith & J. Howard Marshall

- Anna Nicole teamed up with one of J. Howard Marshall's sons (Howard III, who had been disinherited) in the lawsuit
- Initially, the probate court ruled against Anna Nicole
- Anna Nicole then filed for bankruptcy, alleging that Pierce Marshall (J. Howard Marshall's oldest son) had interfered with her inheritance
- Initially, that court awarded her a \$474 million judgment, however, it was subsequently reversed by the U.S. Supreme Court

33

Anna Nicole Smith & J. Howard Marshall

- Ultimately, Anna Nicole’s estate did not receive the millions she alleged he had intended to bequeath her
- The case was litigated for over 20 years and most of the initial interested parties died during the proceedings. As the judge noted, “this case has been litigated for nearly 20 times the length of the parties’ marriage.”

34

Anna Nicole Smith & J. Howard Marshall

9. Plan for a Disinheritance

J. Howard Marshall disinherited one of his children as well as his wife. Following his death, his intent was questioned. In order to overcome this presumption, clear language noting the disinheritance should be included in any estate planning documents.

35

Frank Zappa

- Rock musician who died in 1993
- At his death, he was married and had four children, Dweezil, Moon, Ahmet and Diva
- Created the Zappa Family Trust which holds the rights to his music
- His wife, Gail, controlled the trust until her death in 2015

36

Frank Zappa

- After Gail’s death, Ahmet and Diva became the trustees
- During the time Gail was serving as trustee, Dweezil was touring using the name “Zappa Plays Zappa”
- Now, Ahmet and Diva, as Trustees, are preventing Dweezil from using the “Zappa Plays Zappa” name, instead he’ll tour using “Dweezil Zappa Plays Frank Zappa”

37

Frank Zappa

10.Choose Your Fiduciaries Carefully.

Fiduciaries are a key part of an estate plan. Its impossible to plan for every eventuality; someone will need to exercise judgement. Choose the wrong person for the job and even the best planning will go astray.

38

Justice Warren Burger

- Former Supreme Court Justice who died in 1995 with an estate of around \$1.8 million
- He left a will, which he drafted, of only 76 words
- It was filled with typos, failed to give his executors proper powers to dispose of his estate, and subject his estate to unnecessary tax

39

Justice Warren Burger

Bonus: Don't do it yourself

Estate planning documents are very important and shouldn't be drafted but by estate planning attorneys. Failure to understand the complex legal issues can result in significant taxes and family fighting.
