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Aretha Franklin: Too Much Estate Planning

Too little estate planning can put your heirs in a bind and tie up your estate in time-consuming and costly probate litigation. But as the legal saga of Aretha Franklin's estate shows, too much estate planning—in particular, planning that introduces uncertainty about your final wishes—can also be problematic.

After her death, there are lessons to learn from the Queen of Soul about how to R-E-S-P-E-C-T your legacy—and your heirs—with a well-thought-out, professionally prepared estate plan.

Four Sons, Two Wills, and One High-Stakes Court Drama

Aretha Franklin, one of the most influential and successful singers in American history, passed away at her Detroit, Michigan home in 2018 at the age of 76. Her passing marked the end of a storied musical career—and the beginning of a five-year court battle among her children over her last will and testament.

Initially, it appeared as though Franklin died intestate—that is, without a will—which would have left the court to decide how her personal property, real estate, music and copyrights, and other money and property would be divided among her four sons. But the surprise discovery of not one but two wills raised legal questions about how Franklin wanted her money and property distributed.

One will from 2014 was found under couch cushions and written in a spiral notebook. The other, dated 2010, was in a locked cabinet. Both were handwritten and had detailed lists of her accounts and property and named who should get what, but neither was prepared by a lawyer or listed witnesses. Further complicating matters, the two wills contained key differences about how the estate should be divided up, and Franklin's sons disagreed about which version should control the estate.

Over the next five years, the sons would face off in court over these tangled legal questions. The case became combative, and a rift reportedly developed in the family. A jury finally put the saga to rest when it determined that the 2014 document found in the late singer's couch represented her true final wishes.

Takeaways from Franklin's Will Dispute

Estate planning is about cementing your legacy as you envision it and making sure that your heirs have minimal burdens when they inherit your money and property.

Aretha Franklin's legacy, at least from a musical standpoint, cannot be questioned. But her failure to put her personal finances in order before her death led to a messy legal situation that could have been easily avoided with the following basic estate planning strategies:

- **Let loved ones know where documents are stored.** A will must be presented to the court and verified before it takes effect. If it cannot be found, it is effectively useless. You need to make sure that your loved ones know where your will is stored, along with your additional estate plan documents like trusts, powers of attorney, and life insurance policies. Keep them some place secure, such as a bank safe deposit box, a fireproof safe, a filing cabinet, or an encrypted online cloud. Anyone needing access to the documents should also have access codes. Document copies can be given to your estate planning attorney, the local probate court, a trusted friend or family member, or the executor as a fail-safe.
- **Keep just one version of estate planning documents.** Only one will is admissible to probate. As it did in Franklin's case, the most recent version of a will or other estate planning document typically prevails in court over an older one. If you update your will or create new documents, destroy the older version to prevent confusion.

- **Avoid handwritten wills.** Unless you find yourself on your deathbed without a will, desperately scrawling one out at the last minute, there is not really a good reason to use a handwritten will, known as a holographic will. Although holographic wills are considered legally valid in many states, there are some states that do not allow them at all, and in the states that do allow them, they must meet certain criteria. In some states, for example, the material issues (what you have and to whom you want to leave what you have) must be in your own handwriting and signed and dated by you. Working with an attorney is a much better way to ensure that the document is legally prepared and executed.
- **Do not send mixed messages.** Having more than one will is an estate planning blunder that is easily avoided. But you will also need to make sure that your wishes are properly reflected in the beneficiary designations on your retirement accounts and in the way you have created jointly owned accounts and property.

Estate Planning Is a Lifelong Process

An estate plan is not something you complete once and then leave in a cabinet (or under couch cushions). It needs to be revisited and updated throughout your life as things change. The earlier you start estate planning, and the more vigilant you are about revising it, the better. Ignoring it or waiting until the last minute to make revisions could have unintended consequences that your heirs are left to deal with.

To complete or review your estate plan, please reach out to schedule a meeting with our attorneys.