

**ESTATES OF THE RICH AND FAMOUS:
WELL PLANNED, POORLY PLANNED, NOT PLANNED**

by
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The wealthy, the famous and the powerful often have a battery of attorneys who represent them in a variety of financial transactions. In more than a few cases, however, this high-priced representation does not seem to extend to estate planning or when it does, counsel may actually be complicit in some wrongdoing. And even if a sensible estate plan is created, celebrities, who are used to having their own way, tinker on their own producing unintended consequences. In all these situations, another set of lawyers will eventually profit handsomely from the resulting postmortem litigation.

This paper summarizes just a few examples, grouped in what I hope are useful categories. Even though these estates are outsized and sometimes bizarre, they can still provide practical guidance for attorneys who represent more ordinary clients.

NO WILL

Howard Hughes

The Hughes estate is one of the most bizarre, protracted and non-sensical situations anyone could imagine. Once considered America's richest man, Hughes had a successful and multifaceted-career – pioneering aviator, industrialist, movie producer and sometimes philanthropist. He died in 1976 without immediate family, no descendants and importantly no valid Will.

Fighting about his billion-dollar estate stretched over more than 30 years. Along the way, various purported Wills appeared, most famously the three-page holographic document

presented to the court by Melvin Dummar, a Nevada gas station operator. This Will, usually referred to as the "Mormon Will," made a large bequest to the Mormon Church and various others, notably including Melvin Dummar himself. His one-sixteenth interest would have amounted to well over \$100 million.

Why Dummar? He claimed to have found Hughes in 1967 on the edge of a desert road, dirty, disheveled, bleeding and generally in a bad way. He assumed Hughes was basically a bum, but even so, picked him up and drove him to the back door of the Sands Hotel in Las Vegas. The details are murky but later evidence indicated Hughes visited the brothel known as Cottontail Ranch from time to time. The ranch was located near where Dummar found the disoriented Hughes. Hughes apparently wandered off into the desert after an all-night party. His business associates testified that Dummar's story was impossible because Hughes never left the Sands at any time between 1966 and 1970.

The meeting between Hughes and Dummar is a strange tale; so also, is the story of how Dummar came into possession of the Mormon Will. He testified that after Hughes' death, an "agent" of Mr. Hughes just showed up at his gas station, gave him a sealed envelope, and instructed him to deliver it to the Mormon Church. The purported Will was in the envelope. Just another improbable circumstance. Dummar's account was just too much for the Court. Easier for the court to believe Hughes had never left the Sands for three years running (less bizarre?) than believe Dummar. In 1978, the Court ruled the Mormon Will invalid.

But years later, one of Hughes' pilots claimed that in the late 1960s he had occasionally flown Hughes to the ranch to visit his favorite prostitute Sunny, who among other assets, had a diamond embedded in one of her teeth. Dummar, citing the pilot's information, sought to reopen the case. In addition to the pilot's testimony, a 1980 movie (Howard and Melvin) was

sympathetic to Dummar and a 2005 book written by a former FBI investigator supported Dummar's claim, but the court had already made its determination and would not revisit the matter. Dummar died in 2018 having received nothing.

Other claimants for an interest in Hughes estate were more typical. Purported children and wives made various claims, including one woman by the name of Terry Moore. She had lived with Hughes for a time in the 1940s, claimed to have married him, maybe twice, and that they never divorced. In the interim, it was documented that she had married and divorced several other men. Despite her seemingly weak claim of being Hughes' spouse, the estate apparently thought it was best to get rid of her claim by paying her \$400,000. When an estate is as large as Hughes', apparently it is easy to be loose with six figure settlements, though it did not work out that way for Dummar who received nothing.

Finally, a general settlement was worked out in 2008 with about a hundred different people (mostly remote intestate heirs who had no personal association with Hughes). Over 90 attorneys were paid millions by the estate. Legal fees were so high partially because Hughes' domicile was uncertain with California, Nevada and Texas all in contention. It was commonly thought that Hughes would have wanted his primary beneficiary to be the foundation he had created, Howard Hughes Medical Institute. Fortunately, the settlement also included a significant amount for the Institute.

Jimi Hendrix

Guitar legend Jimi Hendrix died in 1970 from an accidental drug overdose at age 27, leaving no Will and no other structure to manage his very valuable music rights.

Dying without a Will and no wife or children meant his surviving parent Al Hendrix was his sole intestate heir. Jimi's only other close relative was his brother Leon. Not until 1993 did Al finally gain control of Hendrix's image and music rights. Then Al passed away in 2002, leaving his estate (including Jimi's assets) not to Leon but to Al's adopted daughter Janie who was of course not a blood relative of Jimi. Brother Leon challenged Al's Will asserting his close relationship with Jimi should have been recognized by Al. After a six-year battle, the court felt Al had intended to disinherit Leon and let the Will stand with Janie inheriting it all and Leon left with nothing.

Chadwick Boseman

Black Panther superhero Boseman died at age 43 in August of 2020 without a Will, even though he had been battling colon cancer for four years. There were only three interested parties – his two parents and his wife of just a few months, Taylor Simone Ledward, making her his sole intestate heir. While he had a 4 or 5 year relationship with Taylor prior to their last-minute marriage, there is no way of knowing if he understood the consequences to his parents from his marriage just months before his death. Perhaps he intended for Taylor to be his heir, perhaps he never thought about it or maybe she thought about it and realized an opportunity. The truth remains unknown.

But the actual outcome may be more nuanced. Boseman's probate assets were listed at about a million dollars. Press reports speculate that he had considerably more wealth. These additional assets may have been in some sort of trust. It is possible of course that a broader circle may be beneficiaries of any such trust. However, if there is a trust, it seems unusual that there was no companion pour over Will.

Prince (Prince Rogers Nelson)

Prince died at age 57 in April of 2016 of a drug overdose determined to have been accidental. Dying without a Will meant his six siblings are his intestate heirs. However, as would be expected in an estate worth hundreds of millions of dollars, dozens of other claimants have appeared, asserting heirship or other relationships.

Much of Prince's estate continues to be shrouded in secrecy, but it is believed that he left no structure to manage his massively valuable business entities and music rights. Much disagreement has arisen among the intestate heirs. One corporate fiduciary was removed; another appointed. His property has been opened as a museum. Would he have wanted the public trooping through his private domain? Sorry, no estate plan, no say.

Practice Tips. Some studies indicate up to 60 percent of the population do not have an estate plan. Individuals who have been successful in business or entertainment are no different and maybe even worse. Without testamentary documents expressing the decedent's wishes, the end result will likely be crafted by the court or competing claimants. Without any input from the decedent, heightened hurt feelings and expensive legal fees will surely be the product. Business owners and entertainers likely have one or more attorneys handling legal matters, such as contracts, litigation, etc. Doesn't that business attorney have a duty to the client to at least discuss estate planning and business succession planning? In this litigious age and with the high cost of sorting out complex issues in a postmortem setting, cautious attorneys would be wise to document attempts to discuss these issues with their clients. Poorly drafted or no estate plans produce costly legal fees that heirs might want someone other than the estate to bear.

TOO SIMPLE

Jim Morris

Morris was the lead singer of the rock group The Doors. When he died at age 25, his estate was fairly modest, but because of his 25 percent ownership of The Doors, the value of his assets rose to tens of millions over the next few years. Perhaps, a two-page Will seemed

appropriate at the time of his death. After all, he was technically unmarried and had no children. His blood relatives included parents from whom he was estranged and two siblings.

He left his entire estate to his girlfriend/common law wife Pamela Courson, but she died three years later intestate. Her heirs at law were her two parents. So, the Morris fortune now resided with “outsiders.”

Morris’ parents challenged Jim’s Will asserting that he was incompetent at the time he made the Will and lacked testamentary capacity. They further alleged that Pamela’s status as common law wife did not make her a spouse for inheritance purposes. If the court had accepted these arguments, Pamela’s assets that came from Morris would have been distributed to his parents as intestate heirs. But the court ruled the other way on both points, enabling Pamela’s parents to inherit all of Jim Morris’ assets.

In an apparent gesture of goodwill and litigation fatigue, Pamela’s parents agreed to split the assets equally. A rare happy ending.

Practice Tips. With estates that are relatively small, but have potential for great growth either by inheritance or by the decedent’s own efforts, it is always good to ask the client to think about more than the moment. How would plans change if the estate were X times larger? Consider provisions for a contingent trust under certain defined circumstances. This is no small task when an attorney has a 25 year-old client, but careful and contemporaneous discussion-notes will protect the attorney when the inevitable lawsuits are filed.

OVER PLANNED

Jacqueline Kennedy Onassis

The former First Lady had a detailed estate plan with sophisticated tax planning that included a Charitable Lead Annuity Trust (CLAT). Her plan also included outright gifts to her two children and friends. The residue of the estate was to be used to fund the CLAT for various

charities and after the 24-year term, the remainder was to be distributed to her grandchildren. In the immediate aftermath of her death, her plan was much praised as wise and generous.

Best laid plans even with a lengthy, expensive estate plan can go awry: After specific and outright bequests, taxes and administration expenses, there was no residue left to fund the CLAT. The plan did not fit the assets.

Practice Tips. Don't under plan but over planning may be just as bad. Obtain complete information about the testator's assets. Does the plan make sense compared to the testator's assets? Do the math.

HOLOGRAPHIC WILLS

Aretha Franklin

The Queen of Soul with 18 Grammy awards and more than 100 singles on the Billboard charts died in Detroit on August 16, 2018 and was laid to rest after an over-the-top, eight-hour funeral, costing at least \$200,000.

Initial reports said she had died intestate, but the situation became more tangled when handwritten documents were found that might be considered Holographic Wills, which are valid in Michigan (handwritten and signed with the intention to dispose of assets at death).

Actually, three possible Holographic Wills were found in the course of inventorying Aretha's personal affects. Two were found in a locked cabinet and were both dated 2010. The third document was found folded in a notebook under some living room cushions and dated 2014. All of these documents looked more like rough drafts – words crossed out, others added, notes scribbled in the margins, arrows drawn pointing in various directions. The 2014 document contained some words and passages that could only be read after careful study under a

magnifying glass. However, handwriting experts confirmed that the 2014 Will was written by her.

Estate proceedings began under the tentative assumption that the 2014 Holographic Will was valid. Aretha's niece and close companion Sabrina Owens was named administrator with the concurrence of Aretha's four sons. This appointment was agreed to even though the 2014 Will had removed Sabrina's name from the list of executors. Aretha's attorney of forty years David Bennett sought to be named the estate's attorney. (What, no Will drafted by him in all that time and he still wants to represent the estate? No Will even though she had been diagnosed with pancreatic cancer?)

Harmony did not last. In 2020, one of Aretha's sons accused Sabrina and Bennett of mishandling estate assets for their personal benefit and sought their removal. The estate presented many challenges including its size and complexity (probably around \$80 million with another million in uncashed royalty checks) and multiple years of unpaid federal income taxes totaling \$7.8 million. In light of these circumstances, the court decided it was best to remove Sabrina and appoint a new administrator, the prominent Detroit attorney and Aretha's friend Reginald Turner (who at the time was president-elect of the American Bar Association).

In March 2021, the IRS, the four sons, other interested parties and ten attorneys representing various interests reached a partial settlement with an initial payment of \$800,000 to the IRS, \$50,000 to be paid to each of the sons plus future quarterly payments to each of them, payment of some estate expenses, and various other distributions.

It seems certain that this estate will finally be resolved only by a court approved universal settlement agreement among all parties with perhaps at least some deference to the 2014 Holographic Will.

Charles Kuralt

Kuralt, the avuncular host of the CBS Sunday morning news and features program, died in 1994 with estate planning documents consisting of a bequest to his second wife Suzanna and a credit shelter trust for his daughters from a previous marriage. Kuralt, a New York resident, owned a large tract of property in Montana, but otherwise he seemingly had a straightforward plan and assets, but the family was in for a surprise. They learned for the first time that he had a mistress, Patricia Shannon.

As he was dying, Kuralt wrote a letter to Shannon stating his intention of giving her the Montana property. Shannon claimed title to the property on the basis of the death-bed letter being a Holographic Will. New York does not recognize Holographic Wills, but Montana does. Since Montana law governed the disposition of Montana real estate, Pamela's claim was granted. But the good news for her did not stop there. The Montana Supreme Court ruled that the letter was in fact a holographic *codicil* to Kuralt's New York Will.

Consequently, the New York Will's tax clause governed the entire estate including the Montana property. The New York Will directed that taxes and expenses be paid by the residue of the estate. As a result, Shannon received the full value of her holographic specific bequest free and clear and the widow's share was reduced by the amount of the additional taxes.

Larry King

In the Divorce section below (page 13), the sorted details of Larry King's estate settlement are set forth. We pause here briefly because Larry left a handwritten Will which many equate to a Holographic Will. The first thing to note is that King's Will is not Holographic. It was handwritten, but was also executed by two disinterested witnesses, thus making it a regular Will in compliance with California law. (Note: California also recognizes Holographic Wills.)

Part of the King story is in this section because the text of his Will (without the witness section) demonstrates the problems that often arise with do-it-yourself Wills, which is what all Holographic Wills are. More often than not it is likely that the handwriting is careless; the testator's wishes are loosely expressed; and the document is incomplete or maybe even contradictory. The testator is likely to have a casual attitude about the document as Aretha Franklin did, making changes, lining out one thing, adding another, perhaps on a momentary whim. Maybe that is why Aretha kept her 2014 document under a cushion – easy access to make immediate changes to some particular part. King, on the other hand, scribbled his short Will while critically ill all at once but still carelessly written with cross outs. (See Exhibit 1)

Practice Tips. Since Indiana and Illinois do not recognize Holographic Wills, it might seem this is a matter of little concern. But caution is advisable. It is not proper to simply dismiss a handwritten Will. It may actually meet the statutory requirements of a valid Will (as Larry King's Will does). Moreover, Holographic Wills are valid in many states. If a decedent has real estate in one of those states, a holographic document will likely be effective to dispose of that property as happened in the Kuralt case. Where there is a valid traditional Will and a valid Holographic Codicil, the Will's tax clause may cause the main estate to bear all the taxes and administrative costs, allowing the holographic bequest to pass free and clear, another consequence of the Kuralt document. The careless wording often used in Holographic Wills can give rise to litigation if enough money is involved. See Exhibit 2 for a list of states that permit Holographic Wills, according to Legal Zoom (my apologies for the source).

DOMICILE

Johnny Hallyday (nee Jean-Philippe Smet)

Hallyday, often called the French Elvis, had a long career, dominating the French rock scene for six decades and selling more than 100 million records. He died at age 74 in December of 2017, survived by his fourth wife, two children from that marriage and two adult children from a previous marriage.

He left his entire estate for the benefit of his wife and on her death equally to his four children. Not an uncommon plan, of course. But the issue came down to determining whether California or French law applied. His estate planning documents were prepared in California, but he, his wife and his two younger children spent considerable time in the French Caribbean island of St. Barth.

Johnny's two adult children (perhaps about the age of wife #4) did not want to wait for her to die before receiving their inheritance. They sued in French court to enforce French law's ban on disinheriting children, asking the French court to give them their legally required share immediately.

After reviewing travel patterns and the fourth wife's almost daily Instagram posts, the court determined that Johnny's "true home" was in French territory, French law applied and the four children were entitled to their forced share immediately at the expense of wife #4 and Johnny's intended wishes. Note: The only U.S. state that bars disinheriting children (absent a clear statement to do so) is Louisiana.

Heath Ledger

Ledger who died in New York City in 2008 is best remembered for his role as the Joker in The Dark Knight. His performance earned him a posthumous Oscar, but did not spare his heirs from uncertainty over the ramifications of his disputed residence.

He was clearly an Australian citizen and his Will declared his residency to be western Australia. That Will dated 2003 divided his estate equally between his siblings and his parents.

The very next year, living in New York City he entered a relationship with the actress Michelle Williams. They never married but had a daughter Matilda in 2005. Heath and Michelle split in 2007, but they continued to co-parent their daughter in New York City.

At the time of his 2008 death, his Will remained unchanged, though he had purchased a \$10 million life insurance policy about 7 months before his death naming Matilda as the beneficiary. The cause of death was described as an accidental prescription drug overdose. Initially, the insurance company denied the claim, pending their review of the accuracy of Heath's disclosures on the application. Suit was filed on behalf of Matilda and eventually the proceeds were paid.

That left the issue of the rest of his estate (over \$16 million). Since Matilda was an afterborn child not provided for in the Will, she would be entitled to an intestate share (comparable Indiana provision at 29-1-3-8). As Heath's only heir that would mean 100% of the estate. The Ledger family back in Australia considered suing to enforce the 2003 Will, but eventually agreed to let Matilda have the whole estate, probably on advice of their counsel that New York law would apply despite the Will's declaration of Australian residency.

But there was still one more issue: Federal Estate Tax. If Heath were a resident alien, all of his assets, wherever located, would be includable for determining the taxable estate and subject to the Code's standard tax rates less the normal exemption. If he were a non-resident alien, only his US-based assets would be includable but with a very limited exemption (\$60,000). In this case, it may have not made much difference if his assets were primarily in the United States.

Practice Point: For clients who spend considerable time in different jurisdictions (even within the U.S.) extra caution is called for in establishing the desired residency. Clues should be noticed in the asset and family background gathering process. Was the client born here? If not, what is the current citizenship? Does he/she travel for extended periods to the same place? Whatever jurisdiction is chosen, try to document with available records (voting registration, driver's license, etc.). Consider a formal written declaration of residency. Uncertainty of residency can have major tax and dispositive implications.

DIVORCE

Larry King

Back to Larry King, famous for his decades-long radio/television program where he interviewed celebrities, politicians, rogues and just about anyone of audience interest, died January 23, 2021 at age 87. His private life was also a matter of tabloid interest – eight marriages to seven different women (along the way, one of the wives was divorced, remarried and divorced again). He had a total of five children, one by adoption, but only three survived him. Larry and Wife #8 (Shawn) were married for twenty-two years and produced two children, both of whom survived him.

At the time of his death, he was separated from Shawn and had filed for divorce in 2019 but did not actively attempt to finalize the divorce during the two plus years of his remaining life. In the interim, they had gone to counseling, remained on speaking terms and Shawn maintained

reconciliation was a possibility. At the time of his death, Shawn and his son from a previous marriage Larry, Jr. were at odds over which of two Wills should be probated.

2015 Will. This Will named Shawn as executor and was part of a complete estate plan, including creation of the King Family Trust of which Shawn remained trustee at Larry's death. That trust holds the bulk of Larry's assets, estimated to be about \$144 million. The accompanying Will may be a pour-over.

2019 Will. This handwritten Will with two witnesses was penned by Larry two months after filing for divorce. It leaves his probate estate (about \$2 million) equally to his five children. The document is very short, barely legible with cross-outs, and makes no reference to the trust. (See the Holographic Will section, page 7)

Larry, Jr. filed the 2019 Will for probate and asked that he be named administrator. Shawn objected and petitioned that the 2015 Will be recognized as the only valid Will.

Larry, Jr.'s arguments included the obvious one that the 2019 Will was the "last" Will of his father. He also argued that his father intended to divorce Shawn, that they were no longer living together and that she had abandoned him. Larry Jr. also asserted that he would be the more competent party to manage his father's business affairs.

Shawn responded that the divorce was not final; they were still talking to each other, that she had not abandoned Larry and in fact that they had been to counseling and may have eventually reconciled (as they had done in 2010). Furthermore, she asserted that at the time the 2019 Will was executed, Larry may not have been competent because of his serious illnesses; that he may have been under the influence of pre-operative medication and that he may have been a victim of undue influence. (It's not clear how much support Shawn could provide for

these assertions.) She also alleged that the apparent confusion manifested by the poor handwriting of the 2019 Will was further evidence of lack of capacity. Next, she alleged that Larry, Jr. was a poor choice for administrator, that he had a conflict of interest arising from a disputed payment of \$266,000 his father made to him (not clear whether loan or gift), and furthermore that Shawn as trustee was already administering the bulk of Larry's assets. One final argument arose from the carelessly drafted 2019 Will. Its six lines did not make a complete Will since it only related to dispositive matters and, therefore, Shawn argued, that document could at best only be considered a codicil to the 2015 Will which would leave Shawn as executor even if both documents were determined to be valid.

As of this writing, the Court has not resolved this dispute.

Practice Tips. Blended families and death during the pendency of a divorce create a high probability of litigation. Naturally, the divorce attorney's main focus is on the divorce settlement, but as the King case reminds us, estate planning aspects should also be given attention. A more professionally drafted 2019 Will may have given Larry Jr. a better claim. If Larry meant to exclude Shawn from his estate plan, she should have been removed as trustee of the King Family Trust. (Likely King's divorce attorney knew nothing about the 2019 Will or Larry's late-life estate planning desires.)

Other issues to consider: testator competency, enforceability of two post-marital agreements and Shawn's community property interest (California).

UNDUE INFLUENCE/ELDER ABUSE

Gail Posner

Gail was the daughter of Victor Posner, the much-feared master of hostile corporate takeovers. His success in the 1980s at hard ball corporate maneuvering (including raiding the pension funds of acquired companies) made him one of America's most highly compensated executives and eventually the subject of much litigation. Among other legal problems, he was

charged with federal income tax evasion, to which he pled no contest. Nevertheless, Gail ended up with a sizable estate.

She lived a lavish lifestyle in her Miami Beach mansion, assisted by a large staff that included bodyguards, drivers, personal trainers, housekeepers and various other retainers. Her life was plagued by drug abuse and alcohol addiction. As time went by, she became increasingly reclusive.

Gail's main passion was her three dogs, one of which named Conchita had every imaginable privilege including a \$15,000 Cartier necklace, which the little dog refused to wear because it was too uncomfortable. Conchita also had an extensive wardrobe costing in the thousands. And of course, she had her own gold Cadillac and chauffer. Gail felt that Conchita had unique abilities and audience appeal. So, she hired a publicist just to promote Conchita as one of the world's most spoiled dogs.

Given this background and lifestyle, when Gail died in 2010, her unfolding estate plan was as strange as her life. Conchita and her other two dogs along with her pet turtles were to continue living in Gail's mansion for the rest of their lives with a \$3,000,000 trust to meet the creatures' every need. But the extraordinary did not stop there.

Gail left a total of \$26,000,000 to various members of her staff, including \$10,000,000 to one of her bodyguards, \$5,000,000 to another bodyguard, \$2,000,000 to her personal trainer, and \$5,000,000 to a housekeeper by the name of Queen Elizabeth Beckford. Beckford's daughter was also cut in for \$1,000,000. Several of these bequests were conditioned on the recipient agreeing to continue living in the mansion rent free to provide care for the animals. Gail's only son Bret Carr was left only a relatively modest sum of \$1,000,000. The residue of her estate

reflected her more normal interests, including charities involved with animal care, breast cancer research and suicide prevention.

Needless to say, Bret challenged the Will asserting his mother had been manipulated and terrorized by her staff through the use of drugs, alcohol and isolation from family and friends. He also asserted that her estate planning attorney knew, should have known or was an active participant in manipulating Gail in her weakened state.

As of the most recent information I could find (2019), Gail's estate was still not settled. Most likely a settlement agreement among all parties will determine the end result.

Brooke Astor

Brooke was at the very top of the most elite of New York society. She loved to dress up, show off her fabulous jewelry and attend glitzy charitable galas. She also donated generously to various charitable causes (\$200 million by some estimates) and intended to leave them many more millions at her death.

She passed away in 2007 at the age of 105. Her last few years were much less glamorous than her first 100 years had been. She began to suffer from increasingly serious dementia and Alzheimer's. Realizing she could not continue to oversee her finances, she gave her son Anthony Marshall (Tony) authority to act on her behalf with a very broad power of attorney – even though she had a less than perfect relationship with Tony. What he did with that authority is the heart of this story and it destroyed his reputation and wealth.

Tony had had a distinguished career. He was a decorated military officer, CIA agent and U.S. ambassador to several countries. How he could go so wrong is somewhat of a mystery. Greed certainly was a factor. Some blame his third wife for encouraging him to use his power to

enrich himself and her. When he became his mother's attorney-in-fact, Tony was already 80 years old and comfortable by most people's standards.

Brooke's powerful friends (including David Rockefeller, Henry Kissinger, Barbara Walters and Annette de la Renta) were growing increasingly concerned about Tony's care for Brooke. In 2006, Brooke's grandson Phil Marshall (Tony's son) filed a guardianship petition asking that de la Renta be named guardian of the person and J. P. Morgan Chase guardian of the estate. The court appointed the guardians as requested, but only after a proceeding that produced an 18,000 page transcript plus thousands of exhibits and massive media attention.

Concerning Brooke's personal care, allegations listed in the guardianship petition included forcing her to sleep on a urine-soaked sofa, skimping on her medicines, limiting her wardrobe, and cruelest of all, locking up her beloved dachshunds in a room far from her. Long-time, loyal staff were fired. She was also being isolated from her many powerful friends.

On financial matters, the petition alleged that Tony used his power of attorney to benefit himself in various ways, including retroactively paying himself \$1 million annually for overseeing Brooke's finances, covering his personal and business expenses with Brooke's funds, and among other transactions, selling one of Brooke's most valuable paintings for \$10 million, less a \$2 million "commission" for himself.

Then there were the multiple codicils to her Will. Her long-time attorneys at Sullivan & Cromwell were no longer being consulted. Instead, Tony arranged for her new attorney to be Francis X. Morrissey. He drafted all the codicils to her 2002 Will, including one where he forged Brooke's signature. These codicils gave Tony ownership control of a major share of

Brooke's estate, all to the detriment of her favorite charities. For his loyal service, Morrissey was promised some of the spoils (a few million).

After a six-month criminal trial, Tony and attorney Morrissey were convicted of grand larceny, fraud, conspiracy and other related charges. Tony was sentenced to one to three years in prison. In June of 2018, after all appeals were exhausted, he began serving his sentence, but was released on a medical parole after serving only eight weeks. By November 2014, he passed away at age 90.

Meanwhile, the battle was raging over which of her many documents was the last valid statement of Brooke's testamentary wishes. Many parties had interest in the outcome – including grandchildren and great grandchildren, dozens of charities and the New York attorney general. After negotiations lasting two and a half years, the court accepted a global settlement in March 2012, which recognized the 2002 Will as valid, but modified some of the dispositive provisions. As originally drafted, Tony would have received cash, securities and real estate worth about \$70 million. After his misdeeds, none of the other parties would agree to this outcome. In the end, Tony accepted \$14.5 million, but after his legal fees of \$11.6 million, all that was left for Tony from his mother's estate was \$3,000,000. He also owed another \$12.3 million in restitution to the Manhattan district attorney for their expenses in prosecuting him. From \$70 million to virtually nothing. Not a good deal for Tony or his wife.

Tony's situation became a disaster of his own making. His reputation was ruined by the public testimony in the guardianship proceeding. Defending himself in the guardianship and ultimately in the criminal proceedings cost him millions. Reputation ruined; fortune exhausted!

Practice Tips. Both of these cases remind us of the risk attorneys expose themselves to when they are involved with estate plans that defy logic. Gifts to caregivers, especially if the decedent is isolated from family, is a definite red flag. Another caution when large amounts are involved is the concentration in one person the power to provide personal care and manage finances. In

many such cases, the functions should be separated, perhaps with the financial aspects handled by a corporate fiduciary. Both these cases display the power of greed over good sense.

GREAT WEALTH, SPARTAN LIFE

Huguette Clark

Huguette was the daughter of a former U.S. Senator who made his fortune in copper mining and railroads. When she died in May of 2012 at the age of 104, she was sometimes described as the most famous heiress no one had even seen. She had no real friends and no close family, having divorced in 1930 and her sole child dying in 1963. She could have lived in either of her two fabulous mansions [one pictured below] or in a 15,000 square foot Manhattan apartment spread over one whole floor and half of another floor with a stunning view of Central Park. Despite all this, Huguette elected instead to live the last twenty years of her life in a simple hospital room, first at Doctors Hospital and then at Beth Israel Medical Center.



PHOTOGRAPH COURTESY OF BARBARA CLEARY&POSS REALTY GUILD

Though she typically spoke French, her Wills presumably were all drafted in English. Her last two Wills were executed in 2005, only 6 weeks apart. The earlier Will left most of her large estate to nearly two dozen distant relatives whom she apparently never met and may not have even known their names. The Will described the beneficiary class only in terms of their relationship to her. That Will also provided \$5,000,000 to her private care nurse who worked every day and often for long hours.

Huguette must have thought better of leaving so much to unknown relatives and in the second Will, they were all removed with a sentence added that emphatically stated her wish they inherit nothing. In the new Will, she greatly increased the bequest to the caregiver, provided for her godchild, and established a foundation to house and display much of her artwork and beloved doll collection. This foundation was to be funded with a large cash bequest and one of her mansions. The balance was given to several individuals and charities.

Upon her death, the distant relatives challenged the second Will, hoping for the first Will to be recognized as her final valid wishes. Rather than assert incompetency (which would have been a tall order since the two Wills were only separated by a few weeks), they alleged instead undue influence and fraud by the caregiver and Huguette's accountant and attorney. Also singled out for challenge was the bequest to New York's Beth Israel Medical Center, her final home, for pressuring her to make large lifetime gifts as well as the large bequest contained in the second Will. The Clark relatives also wanted the attorney and accountant removed as co-executors. Family members stated their overriding goal was to expose elder abuse and also carry out Aunt Huguette's wishes (which just happened to correspond with their own best interest).

The beneficiaries of the Second Will were incentivized to reach a settlement for fear of losing it all. If both Wills were declared invalid (say for lack of capacity), the Clark

beneficiaries would have been the sole intestate heirs. But the Clark heirs were also at risk if both Wills were declared invalid and an older Will with an entirely different dispositive plan could be found and validated.

The settlement provided \$34.5 million for the Clark relatives, \$85 million and the California mansion for the art/doll museum, \$3.5 million for her goddaughter whom Huguette had not seen since the 1950s (though they corresponded intermittently), at least \$10,000,000 to the Corcoran Gallery of Art, one million dollars to Beth Israel Medical Center (on top of the millions of lifetime gifts), and finally more modest gifts to various individuals and others (including her doctor and the managers of her homes). Millions in gift taxes were past-due on the large non-charitable gifts she gave during her life.

There were also losers. Huguette's attorney and accountant each gave up their \$500,000 bequests and also the right to serve as co-executors, no doubt painful, but better than face charges of malpractice and fraud. The biggest loser was Huguette's personal nurse, probably the only person whom she was close to. The second Will had increased the nurse's bequest to \$31,000,000 on top of \$30,000,000 in lifetime gifts she had received. To avoid costly litigation, she agreed to give up her entire bequest and refund \$5,000,000 of her lifetime gifts.

Practice Tips. Much like the previous section on Elder Abuse/Undue Influence, lawyers and accountants should be warned: Beware when facilitating unusual, perhaps abusive, dispositive plans. The danger is great of being drawn into the Will contest as a defendant at the cost of monetary loss and charges of unethical behavior. In this case, it would be hard to argue that the professionals were acting solely in the best interest of the client when they incorporated a significant inheritance for themselves. Large gifts to non-relatives with near exclusive access to the testator will almost certainly be challenged, even by very distant and otherwise invisible relatives.

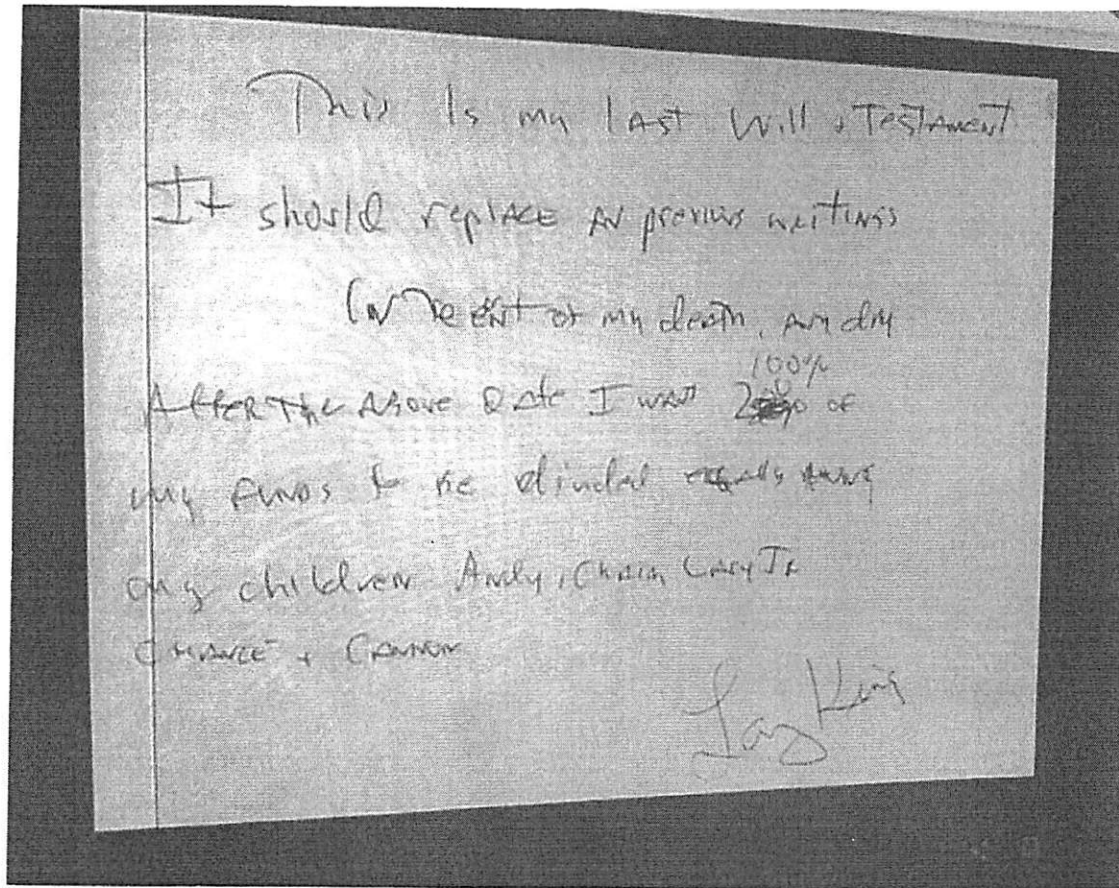
CONCLUSION

All of the individuals described above started out with so many advantages or so much talent that they soon gain great advantages. They all had much money either inherited or easily earned, yet happiness seemed allusive for most of them. Many had very strange lifestyles so much so that probably few would be willing to change places with them. Others died young either by suicide or seeking escape from life's frustrations through drug abuse. The large sums involved with several of these individuals also tended to corrupt the people around them, including their professional advisors. That is a red flag worth noting.

Perhaps F. Scott Fitzgerald was right when he wrote, "Let me tell you about the rich. They are different from you and me. They possess and enjoy early, and it does something to them...."

Exhibit 1

Larry King's Will



Wording: "This is my last Will and Testament. It should replace any previous writings. In the event of my death, any day after the above date, I want 100% of my funds to be divided equally among my children Andy, Chaia, Larry Jr., Chance and Cannon."

Exhibit 2

States Accepting Holographic Wills

Alaska	Nevada
Arizona	New Jersey
Arkansas	North Carolina
California	North Dakota
Colorado	Oklahoma
Idaho	Pennsylvania
Kentucky	South Dakota
Louisiana	Tennessee
Maine	Texas
Michigan	Utah
Mississippi	Virginia
Montana	West Virginia
Nebraska	Wyoming

States Accepting Foreign Holographic Wills

Alabama
Connecticut
Delaware
Iowa
Minnesota
New Mexico
Rhode Island
South Carolina
Washington

Source: Legal Zoom (2019)