



## INFAMOUS ESTATE PLANS: LEONA HELMSLEY

Leona Helmsley has established her historical place with quite a dynamic life, owning an amazing array of real estate, including the Empire State Building. She was convicted of tax fraud and then incarcerated for 18 months, inheriting her husband's fortune under a Will he signed the day before Leona was released from prison.

Her wealth at the time she passed away was approximately \$5 billion dollars. Unfortunately, she set forth all her wishes in a Will for all to see when it became filed in Probate after her death. This includes leaving \$12 million for the benefit of her nine-year-old dog, which was more than she left outright to any other human being or organization. The Probate Judge later reduced that bequest.

Her Will also included instructions such as to be interred wearing her golden wedding band and to have her pet buried next to her predeceased husband and her predeceased son. Leona left \$5 million dollars in a charitable remainder trust paying out \$250,000 a year to two grandchildren, provided that they visit the grave of their father every year. Her Will presents an array of issues with the puzzling plan that it all be effectuated in Probate Court.

One of the lessons learned from this, no matter your financial status or lifestyle, is to take planning seriously, seek a professional, ask questions, and work with your advisor to have measures in place to avoid Probate Court involvement.

## PROBATE GUARDIANSHIP CONSIDERATIONS

With baby boomers coming into maturity, those who have not prepared estate plans, including powers of attorney, could experience the real possibility of a Court case being filed and becoming a controlled probate matter. The possibility is made clear with the uptick in probate litigation.

If a Probate Guardianship filing is necessary, the last person who should be nominated is a professional Guardian. This should only be considered as a last resort. It is preferred that interested family members become Guardians of those who are merely accountable to the Court on an annual basis insofar as regular and ongoing compliance in court involvement. This also enables other family members to get information through their personal and everyday conversations.

The alternative of a professional Guardian can result in 1) moving family members from facilities without prior notice or approval, 2) medicating family members as they see fit without approval or notice, and 3) isolating family members from other family members without approval or notice, selling homes, and draining bank accounts.

It is important to note that the diagnosis of cognitive decline or dementia does not mean a person has lost their right or ability to make decisions. Each person will experience mental aging differently.

For example, a person may be unable to evaluate information and make an informed decision about finances, but can still evaluate and select their medical treatment, decide if they prefer to have a guardian, or choose where they live.

In addition to the baby boomer population aging, the recent economic downturn and the rise in non-nuclear and non-traditional marriages create additional conditions that are ripe for court conflict. In recent years, litigation has increased significantly and so have estates, trusts, and guardianship matters. While no estate plan is 100% bulletproof, consideration should be given to the planning phase to hopefully avoid controversy later in life. This includes ensuring planning is done before there is significant physical or mental decline, which creates circumstances ripe for future collateral attack.

## FRAUD ALERT: GENETIC TESTING SCAM

The U.S. Department of Health and Human Services Office of the Inspector General is alerting the public about a fraud scheme involving genetic testing.

Genetic testing fraud occurs when Medicare is billed for a test or screening that was not medically necessary and/or was not ordered by a Medicare beneficiary's treating physician.

Scammers are offering Medicare beneficiaries "free" screenings or cheek swabs for genetic testing to detect certain diseases or medical conditions. This offer is simply to obtain their Medicare information for identity theft or fraudulent billing purposes. Fraudsters are targeting folks through social media, telemarketing calls, booths at public events, health fairs, and door-to-door visits.

If Medicare denies the claim, the beneficiary could be responsible for the entire cost of the test, which could be thousands of dollars.

If a genetic testing kit is mailed to you, do not accept it unless it was ordered by your physician. Do not sign up for medical or genetic testing that is not under the direction and supervision of your physician.