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PERSPECTIVE

Celebrities should have a will (or a trust) of their own

By Clifford L. Klein

When she died on August 11 as the result of a fiery car crash, actress Anne Heche left behind two sons from former relationships, two former mates, and no will. Now her 20-year-old son Homer Laffoon is suing for control of her estate while her former partner James Tupper asserts that she named him her executor.

Heche is just the latest in a seemingly endless stream of celebrities who have died intestate. Last year, pop superstar Prince's estate was finally settled after more than six years of legal wrangling that involved the IRS, a deceased half-brother, unrelated parties with an interest in the estate's assets, and six blood relatives who ended up with equal shares of an estate including real estate, music rights, and the value inherent in Prince's name and likeness. In the absence of a will, Prince's heirs were forced to watch and wait as tens of millions of estate dollars were paid for lawyers, consultants and taxes.

It is never good when a person dies without a formal estate plan, but when that person is a well-known celebrity, the challenges are significantly magnified. Business lawsuits, paternity claims, romantic entanglements, abuse allegations – the number and range of charges that can and will be asserted against the estate of a public individual are limitless.

Even when they have made plans, celebrities sometimes don't always get things right. Kobe Bryant had not updated his trust before his tragic death at age 41, leaving his wife Vanessa to petition the court to add to the trust the couple's youngest daughter, born just six months before his death, as a beneficiary. The court ultimately granted her petition, but had it not approved the request with the family's consent, that daughter could have been denied a share of Kobe's estate.

Larry King drafted a holographic will, ostensibly intended to supersede an earlier will that favored an estranged spouse over his children, setting the stage for protracted litigation among his heirs. Tom Petty's widow and two daughters were able to reach a settlement after a months-long dispute, enabling the three to have equal say in the release of additional recordings.

Even with planning, the estates of artists and other creators can present complex valuation problems because of the unique nature of their assets and the difficulty of objectively valuing them. Prince's music rights and other intangibles were valued by the estate's administrator at \$82.3 million; the IRS valued them at twice that amount – a whopping \$163.2 million. After Robin Williams' death, his Mrs. Doubtfire dress sold for more than \$25,000 at auction. Even the best of estate planners cannot predict how such assets will be treated by posterity.

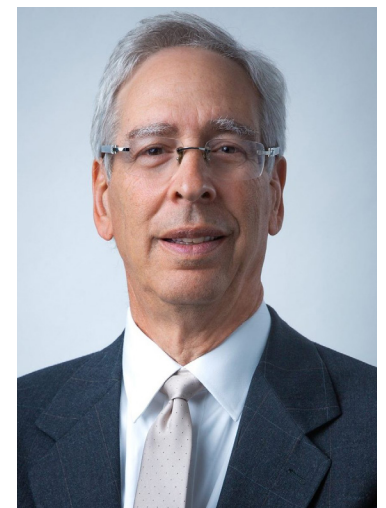
Which brings me to the question of how, ultimately, to expeditiously and quietly resolve these complicated probate matters and help everyone move forward after the death of a celebrity. As the Prince case underscores, litigation can end up consuming a large portion of an estate and take years to resolve. Mediation allows disputing parties to hear each other's claims and concerns and move toward a satisfactory settlement. I have overseen many types of cases during the course of my career, including difficult criminal matters, but nothing is as emotional as working through a loved one's death. Even the closest of families can come to loggerheads when property rights are at issue. For this reason, part of my job as a neutral is to first lower the emotional temperature.

I may look for a family elder – possibly the patriarch or matriarch – to whom the others will look for direction. If I can identify that person, I may take them aside and remind them that they've been entrusted with a huge responsibility; it is their obligation to put their own feelings aside and help bring others together. I'll invoke the memory of the departed to instill in them a sense of honor and dignity. When I'm successful in pushing the right buttons, things tend to proceed much more smoothly.

While keeping my finger on the pulse of the participants, I move through the issues underlying the dispute, asking them if they have evidence or doc-

uments to support each claim they've made. The parties may have decided to try to settle the case through mediation early in the process, to avoid expensive discovery, but when I meet with them, they often concede that they may not have all the evidentiary proof required to make their case. My role is to point out weaknesses in their case, should they go to trial, as well as the potentially large expense

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of obtaining critical facts for further litigation.

If a party asserts a specific value for an asset, I'll remind them that a court will require proof for that valuation; if they claim the asset as their own, I'll try to flesh out the basis of their entitlement. Although I am not the final decision maker, it's my job to ensure they understand they will have to do their homework and assemble the documents and other proof needed to establish their claims if they

decide to proceed to trial.

If a secret "love child" shows up, paternity tests will be required. An unknown heir can undo the best-laid estate plans and throw a wrench into the most carefully negotiated settlements. Paternity tests may not be conclusive on the issue of establishing a parent relationship under California law, but they can nevertheless be critical evidence.

If couples have been living together, especially those with different income levels, how can

they verify a statement that the deceased partner promised the surviving partner the house or other large asset when there is nothing in writing? If they bought the house as a couple, what has been set in place about survivorship? Was the property a tenancy-in-common or a joint tenancy?

When there is no estate plan for a famous person, or when that plan is out-of-date, inconsistent, or insufficient to address competing claims, the last thing

the legal system should do is drive the family farther apart. Funerals ought to be a time for bringing people together, to celebrate the lives of their loved ones. A thoughtful, well-managed settlement process can further that process by helping people put aside their differences and move forward. For Anne Heche, Prince, and so many other deceased celebrities, had there been a will or trust, there would have been a way to achieve necessary closure.