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## Estate Planning Lessons from Celebrities

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Although it is important to learn lessons from your mistakes, it is even better to learn lessons from others' mistakes. Many celebrities' estate planning mistakes can serve as valuable lessons for the importance of a well-drafted estate plan.

### **Probate is Long**

In Virginia, the average probate lasts anywhere from nine months to three years. The more complex the estate, the longer the probate will last. When Howard Hughes died in 1976 he left no will or trust to inform his heirs and loved ones of his intentions. Consequently, his extensive estate had to go through probate. This probate lasted for 34 years, finally settling the last properties in 2010. The estate lost sizeable funds to probate taxes and administration fees. Although your estate may be more modest than Hughes', probating the estate can still take a considerable amount of time, eating up the assets intended for your beneficiaries.

### **Probate is Expensive**

Probate takes about three to five percent from the assets in administration and court fees. The longer the probate continues and the more complex the assets, the more money your estate will lose before it gets to your intended beneficiaries. Elvis died with only a will covering his \$10 million estate. The estate taxes, probate costs, and legal fees consumed \$7 million dollars worth of assets, leaving only 30% for his beneficiaries. He could have prevented many of these costs and heartbreaks by avoiding probate with a trust.

### **Probate is Public**

Probate is a public proceeding, so every document, filing, etc. is publicly available for anyone to view. After James Gandolfini, star of the HBO series *The Sopranos*, passed away in June, the media quickly found his will and posted it online. Forbes, U.S. News & World Report, and even The New York Times jumped at the opportunity to analyze and criticize the will, claiming that Gandolfini failed his children by allowing his \$70 million estate to go through probate. In reality, Gandolfini's estate planning did include trust funds and alternative asset management instruments, only distributing \$6-10 million through the probatable will. However, this media attention could have been easily avoided if Gandolfini used trusts to manage all of his property rather than using a combination of trusts and a will. Even if you are unlikely to become tabloid fodder, you may not want nosy neighbors, acquaintances, and coworkers viewing your private affairs.

### **Fund Your Trust**

Even the most robust and clever trust cannot protect your assets from probate without funding. Unlike Elvis and Hughes, Michael Jackson had the foresight to create a trust for his children and mother. However, he

neglected to fund the trust before death, and consequently all of his assets had to pass through the probatable pour-over will before being distributed by the trust's specifications. His estate is still in probate.

### **Use an Estate Planning Attorney**

Like most fields of law, estate law changes frequently and is filled with nuances and fine distinctions. Many celebrities, like Gandolfini and the late Anna Nichole Smith, let their entertainment lawyers create their estate plan. Although these lawyers may be experts in contract law, their unfamiliarity of modern estate law can prove problematic for their client's beneficiaries. Both Gandolfini's and Smith's wills, publicly viewable because of probate, include simple mistakes that can be costly and tiresome for heirs, such as not using the legal name of the trust instrument in the will. Smith's will features another problematic issue: omitting successor beneficiaries. Smith survived her only listed beneficiary, her son, and explicitly prohibited any previous or future heirs at law from inheriting her fortune. Smith's daughter was born after she drafted the will, and is currently fighting for the assets, which would otherwise go to the state. A prudent estate planning attorney's job includes considering all possible events, so that your assets only go where you intend.

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