Celebrity Wills in the News

Caretaker Banks on Ernie Banks Will

By Robert D. Kaplow, Esq.

Chicago Cubs baseball legend, Ernie Banks, died in January 2015, having reached age 83. He died after suffering a heart attack. According to media reports, he had also been suffering from dementia. One would think that he would have left his estate to his wife and children. Unfortunately for his family, that was not the case.

A few months before his death, Mr. Banks signed a new will leaving all of his assets to his caregiver, Regina Rice, and naming her as Executrix of his estate. This put Ms. Rice in full charge of his estate. Apparently, Mr. Banks' family was totally unaware of the execution of the new will. Ms. Rice claims that the will expresses Mr. Banks' clear desires. She was working for Ernie for approximately 12 years and asserts that she is only adhering to his wishes. The family is contesting the will.

It is certainly possible that the will does reflect Ernie's wishes. However, whenever assets are left to a caregiver, questions are raised as to whether there was undue influence used by the caregiver to have a new will prepared. This is especially a question when the deceased was elderly and may not have understood the document he was signing. At a recent hearing, the probate judge ordered Ms. Rice to present evidence of Ernie's assets. In a preliminary filing, Ms. Rice reported that his assets are only $16,000. In fact, the Chicago Cubs have agreed to pay the $35,000 funeral bill, as the bill had been unpaid by his estate.

In a similar situation, what can be done to prove the validity of the will? Most of the work in proving the validity of the will needs to be done prior to or at the signing of the will, and not just at the time the will is presented to the probate court. Since Ernie's family was unaware of the new will, one way of avoiding the problem would have been to inform the family of the new will. Where the maker of the will does not want to inform his family, in similar situations, our office has had the individual examined by a psychiatrist or a psychologist who can then issue a report that the individual was of sound mind and knew what he was doing. It can

also be helpful to videotape the signing of the will so that a judge can see that the deceased was of sound mind when the will was signed. Also, the caregiver should not be present at the time the will is signed. It may also be necessary to bring in the testimony of third parties who can show that the deceased clearly intended to benefit the caregiver instead of his family. For example, did the deceased have any conversations with his accountant, attorney or financial planner in advance? Perhaps he told those people that he felt that he had given enough to his family already, or that he had specific reasons for disinheriting his family. It is not sufficient to state in the will or trust that “I am disinheriting my family for reasons that are known to them”. This only gives the family an opportunity to state that they have no idea why they are being disinherited. If a judge feels that there were no reasons to disinherit the family, the will could possibly be set aside.

At a hearing on March 31, 2015, Ms. Rice presented testimony of the witnesses to Mr. Banks’ will. The witnesses were the paralegals for the attorney who drafted the will. They both testified that they believed that he was of sound mind when he signed the will, that he knew he was not leaving anything to his family, and that he was not coerced to sign the will. Based on this testimony, the judge ruled that the will was valid. However, Ernie’s family has said the ruling was merely procedural, and that they will continue to fight the will.

Interestingly, Illinois passed a law effective for wills executed on or after January 1, 2015, which presumptively voids testamentary gifts to a caregiver. However, since his will was signed in 2014, this law will not apply to the Ernie Banks will.