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Estate Planning | Wills & Trusts

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Paul Walker: \$45 Million Estate, No Estate Planning?

Paul Walker, star of the popular *The Fast and The Furious* film series, died on November 30th at the young age of 40 in a high-speed car accident. Walker was never married but was reportedly living with his girlfriend of seven years, Jasmine Gosnell, and is survived by his daughter from a previous relationship, Meadow Walker. According to reports, Walker may have been engaged to Gosnell, whom he began dating when Gosnell was 16 years old and Walker was 33.

Since no Will has been filed with the county, it is presumed that Walker died without an estate plan in place. As an unmarried resident of Santa Barbara County, California, Walker's only legal heir would be his daughter. As Walker's family, Gosnell and the mother of his child, Rebecca McBrain, prepare to battle over his estate, which is reportedly valued at \$45 million, there are several lessons to be learned from Walker's life and death.

It is always surprising when high net worth individuals—people who seemingly have the access and means to obtain proper legal advice—fail to take care of their loved ones by having a proper estate plan in place. As discussed in the *April 2012 Newsletter*, Whitney Houston, who died in 2012, did leave a Will, but her estate plan had not been revisited in the last 12 years of her life, during which time her family and financial situations changed significantly. In Walker's case, an estate plan would have served several purposes which are discussed below, but instead it will now be up to his loved ones to settle or litigate the issues regarding his sizeable estate.

Expression of Wishes

One of the primary purposes of estate planning is to express the individual's wishes regarding gifts, appointments and the distribution of his or her estate. For this reason, it is imperative that Wills and Trusts be updated to reflect current relationships and assets. Additionally, having an updated estate plan will significantly reduce the likelihood of conflict amongst family and friends since properly drafted documents are clear, eliminate any ambiguities and do not leave loose ends.

In Walker's case, without an estate plan, there is no way for us to know whether he wished to provide for his parents, his girlfriend or the mother of his child. We do not know whether Walker ever contemplated the consequences of not having an estate plan, but based on the complex circumstances surrounding his relationships and sizeable estate, his wishes should have been clarified in writing for the sake of his loved ones.

Providing for Minor Children

Another benefit of having a proper estate plan in place is that it allows the parent to provide oversight and ages of withdrawal or distribution for minor children by way of a Trust. Without a Trust, a child's inheritance will require court supervision until the child reaches the age of majority (18 in California and Illinois), at which time the child will inherit the entire amount outright and free of trustee supervision.

In Walker's case, since his minor daughter is his only legal heir, the court will be forced to appoint a guardian—likely the child's mother rather than someone of Walker's choice—to manage the child's \$45 million inheritance until she reaches age 18, at which point she will be free to do with it as she pleases. Instead, by having an estate plan in place, Walker could have not only provided for his child's welfare, but he could have also limited her withdrawal rights until the ages of his choosing and named one or more individual or corporate trustees to manage the assets until she reached the final age of withdrawal.

Legal Relationships

Informal relationships, such as dating or an engagement, do not create any inheritance rights in the survivor. Similarly, a separation from a spouse does not terminate the surviving spouse's inheritance rights. In the eyes of the state, a relationship is not created or terminated until it is formally registered by way of a marriage or divorce. The responsible way to reflect the state of a relationship is by having up-to-date estate planning documents in place.

In Walker's case, if Walker wanted to ensure that Gosnell or Walker's parents received a portion of his estate, he should have had a clear, updated estate plan in place. Unfortunately, without an estate plan, we will never know what Walker intended to leave to any of his loved ones and, after the legal battles are settled, his only heir, his daughter, will receive his entire estate by default.

Charitable Causes

Since Walker was not married at the time of his death¹, \$40 million of his estate will be subject to the federal estate tax (\$45 million reduced by the \$5 million federal estate tax exclusion)². As a result, Walker's estate may owe up to \$16 million in federal estate tax (\$40 million taxed at the top federal estate rate of 40%). By having an estate plan prepared, Walker could have not only significantly reduced this estate tax liability but could have also directed a portion of his estate to an organization or entity other than the IRS.

During his life, Walker had established the charitable organization *Reach Out Worldwide* ("ROWW"), which, according to its website, "is a network of professionals with first responder skill-sets who augment local expertise when natural disasters strike in order to accelerate relief efforts." However, since he did not have a Will or Trust in place, ROWW will not receive any bequest from Walker's estate. Any share that Walker would have left to ROWW or any other charitable organization would have avoided the estate tax, effectively allowing him to increase the value of his gift.

Conclusion

Estate planning is the responsible way to prepare for the unpredictable but inevitable. While some individuals may be at higher risk due to their age, health or lifestyle, estate planning is essential for anyone who wants to ensure that his or her loved ones are provided for and assets are transferred in the most efficient manner possible. While many people mistakenly believe that completing their estate planning is unaffordable and requires a significant time commitment, the costs of not having an estate plan in place are far greater.³

1. Married individuals may take advantage of the unlimited marital deduction, which allows an individual to transfer unlimited assets during life or at death to his or her surviving spouse without incurring any estate or gift tax.
 2. These figures are approximations. The exact amount of the 2013 federal estate tax exclusion is \$5.25 million and the exact value of Walker's estate is unknown.
 3. For a discussion of the estate planning process, please see the September 2011 Newsletter, *Painless Estate Planning*.
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Manish C. Bhatia is an Illinois attorney focusing his practice in the area of Estate Planning. Manish has focused his education and practice on Tax Planning, Estate Planning and Business Succession Planning since the first year of law school. He has also added Asset Protection, Elder Law and Nonprofit Organizations/Charitable Giving to his fields of practice. Manish is Vice President of Professional Development for the Indian American Bar Association and a board member of the Young Professionals of Evanston.

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