



THE E.P. EXPRESS

FOS's Estate Planning Newsletter
An ounce of prevention. . . .

Volume 4, Issue 1
Spring, 2016

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EVEN LAWYERS FORGET TO PLAN

YOUNG PEOPLE NEED ESTATE PLANS



By Michael G. Koutnik

A few years out of law school and still on the "right" side of 30, there are a lot of things I don't have. For example, I don't have a house or mortgage, or a wife, or any children.

I also don't have a will, power of attorney, or any other estate planning documents - yet.

And that's a mistake.

While there are several things I don't have, I'm also lucky enough to have retirement savings, investment accounts, and a growing autographed baseball collection (with the recent ad-

dition of Hall of Famer Rollie Fingers).

Prior to joining a law firm that excels at estate planning work, I was under the impression that no sane person would consider estate planning prior to that person expecting a child. I have no one to plan for, the thinking goes.

And even if I did, are a couple of bank accounts and some baseballs really enough for it to matter? It's a trap that I think many people who are just starting careers fall into.

I now know that estate planning is so much more than just addressing the care and protection of children and assets upon someone's death.

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Ah, youth. The world is yours—or will be, when you earn some money. Nothing can stop you—maybe, not even death.

Optimism is great. But, as Mike Koutnik's article explains, even optimists need some basic estate planning tools.

What if you're injured in a car accident or nasty fall? Without a health care power of attorney (HCPOA), if you become incapable of making your own medical decisions, the hospital will make them for you.

A HCPOA lets you designate who you trust to make medical decisions for you if you can't. See the Page 3 article on Lamar Odom, who had no HCPOA.

And what if, while you're incapacitated or recovering, you can't access your accounts or pay your bills (including your rent or -lucky you- your mortgage).

If you executed a general durable power of attorney, naming a trusted and financially knowledgeable person to handle your finances, you won't return from rehab to a stack of collection notices.

Now, what if you're one of the unlucky few and die from your injuries? Unintentional injuries are the leading cause of death for those age 18-34.*

You may not be rich, but everyone owns property. Most people want theirs divided amongst their immediate family.

But what about that baseball signed by

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THE GUY ON TV SAYS I CAN DO MY OWN WILL!

We've all seen the ads on late-night TV:

"Need a will? No problem. Just give us your address and payment information, and we'll send you the forms. Fill in the blanks and you're done!"

You may be done all right, in more ways than one.

There are two main reasons clients come to estate planning attorneys for wills, trusts and related documents.

Legal Specialty. Estate planning is a unique legal specialty, practiced by attorneys with extensive legal, tax and accounting backgrounds. It involves federal and different states' inheritance, tax, execution and recordation requirements. FOS's estate planning attorneys are experts in their field.

One-size-fits-all forms don't account for the nuances of each state or each indi-

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ZIGGY STARDUST HAD AN ESTATE PLAN. DO YOU?



David Bowie’s January, 2016 death broke millions of music lovers’ hearts.

From 1969’s *Space Oddity* to 1972’s *Ziggy Stardust*, 1983’s *Let’s Dance*, 1999’s *Hours*, 2003’s *Reality* and this year’s *Blackstar*—Bowie’s music defined life’s decades for so many.

We grew up, regrouped, and grew anew with each album.

Bowie was always one step ahead of the curve, introducing new musical (and androgynous fashion) styles in one decade, and re-introducing “older” classical musical genres (and Seville suits) in another.

With his death, Bowie issued one final release—his will.*

In the process, Bowie once again led the way.

Bowie’s will (under his given name David Robert Jones) named trusted professionals as the executors of his estate, to collect, maintain and distribute his assets.

The will left Bowie’s residence to his wife (former model Iman), and funds/stock to his personal assistant and Bowie’s childhood nanny.

The will divided Bowie’s remaining estate amongst his wife (50%), his son from a prior marriage (25%), and his daughter from his second marriage (25%).

His minor daughter’s bequest, including real estate, was in trust.

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The Guy On TV Says I Can Do My Own Will!, from page 1

vidual. They could disserve a purchaser’s purposes or yield adverse tax bills.

Self-help estate planning websites even contain disclaimers stating that they are not law firms and do not give legal advice. [See www.legalzoom.com](http://www.legalzoom.com). In other words, don’t trust “us” for anything.

Personal Client Relationships. FOS’s estate planning attorneys go the extra mile—they combine their substantive estate planning experience and expertise with direct, personal client relationships.

Every client’s estate plan is unique, based on the client’s circumstances,

wants and needs, and the applicable law. FOS’s estate planning attorneys know their clients, the law, and how to achieve an appropriate, individualized plan.

The disposition of assets at death is monumental and personally important. As such, there is no substitute for continued, face-to-face communications with a dedicated estate planning professional.

Forget the forms. Contact FOS for an estate plan that effectively and efficiently protects you and your family, and minimizes your potential tax liabilities, all at a reasonable cost.

Young People, from page 1

Rollie Fingers that your best friend covets? Or that poster your sweetheart really likes? You can direct who will get what through a **simple will**.

You may also have a small but growing 401(k) or other retirement account. If you die, the account will be transferred to whomever you list on your **beneficiary designation form**.

Want to give your struggling sister some help? Make her the beneficiary. With no designation, your account would pass according to the state’s scheme, not yours.

Estate planning covers more than “bad” things. What if you get married? Congratulations. Now consider a **pre-nuptial agreement** (or **post-nuptial**, if you already tied the knot).

Such an agreement describes how property acquired before and during marriage will be treated at divorce or death.

Spouses can classify their property in any fair way. Each party’s “property” can remain that party’s property, or spouses can combine their assets. Inheritances or gifts can be kept separate or joined together.

All newlyweds, of course, expect their marriage to last forever. Hopefully yours will. But such an agreement can protect you if it doesn’t.

Estate planning is for everyone, not just “old” or “middle age” people. So work with an FOS estate planning attorney to protect yourself.

Then go rule the world.

[*http://cdc.gov/injury/wisqars/pdf/10LCID_All_Deaths_By_Age_Group_2010-a.pdf](http://cdc.gov/injury/wisqars/pdf/10LCID_All_Deaths_By_Age_Group_2010-a.pdf)

DON'T FORGET YOUR HEALTH CARE

POWER OF ATTORNEY



Reality TV personality Khloe Kardashian and former NBA

player Lamar Odom were in the midst of a public divorce, after an extended separation, when Lamar's drug overdose put him into a coma.

Lamar regained consciousness, but suffered severe cognitive and physical injuries which may never fully heal.

Lamar never created a health care power of attorney (HCPOA).

He never designated in writing who was to make medical decisions on his behalf if (as

happened) he became unable to make them for himself, or what advanced procedures he did and did not want.*

Since Lamar had no HCPOA, the law empowered Khloe, still legally Lamar's wife, to make Lamar's medical decisions for him (until he could do so for himself).

Not Lamar's parents or siblings. Not Lamar's trusted friend or advisor. But Lamar's soon-to-be ex-wife.

Is that what Lamar wanted? Lamar's family? Khloe? We may never know.

What we do know is that Lamar's tragedy highlights three important and easily accomplished estate planning les-

sons.

First, every adult--old and young, healthy and not, married and single--should have a HCPOA. Otherwise, your health care decisions may be made by someone you would not choose on your own.

Second, your HCPOA should be reviewed every few years, and at major life changes, such as a separation or divorce. You don't want your first husband deciding whether to "pull the plug" while your second husband helplessly holds your hand.

Third, the first two lessons apply to *all* estate plans. Every adult needs a complete, properly tailored estate plan, including a will/trust, financial

power of attorney, HCPOA, and account and insurance beneficiary designations.

And every estate plan should be periodically reviewed, as a matter of course and at each major life change.

Be the star of your own reality—contact your FOS attorney to create or review your estate plan, including your HCPOA.

[*http://stevenandrewjackson.com/2015/estate-planning/lamar-odum-has-no-advanced-directives-and-an-almost-ex-wife-making-the-decisions/](http://stevenandrewjackson.com/2015/estate-planning/lamar-odum-has-no-advanced-directives-and-an-almost-ex-wife-making-the-decisions/)

**Photo by Frazer Harrison/ Getty Images for Race to Erase MS.*

Ziggy Stardust from page 2

Bowie modified his original 2004 will in 2007, five years before his death. Had Bowie reviewed it again, he might have made further adjustments.

Bowie, for example, might have chosen to keep his dispositional scheme private.

If so, he might have used a trust, not a will, for his substantive bequests.

Unlike a will, a trust is usually not filed with the court and so is not made public.

Bowie's will also directed that he be cremated in Bali and his ashes scattered there.

While wills typically include these type of provisions, a will alone provides no certainty that they will be followed.

A will may not be found or accessed, for example, until after a body's disposition.

In such cases, the departed's wishes as to the disposition of his remains may unintentionally be disregarded.

For that reason, a separate, easily accessible memorandum, in addition to the will itself, is recommended.

Whatever the specifics of Bowie's will, this transcendent star knew the importance of an estate plan.

Be like Ziggy—create or review your estate plan today.

[*http://www.nytimes.com/2016/01/30/nyregion/david-bowies-will-splits-estate-said-to-be-worth-100-million.html](http://www.nytimes.com/2016/01/30/nyregion/david-bowies-will-splits-estate-said-to-be-worth-100-million.html)

**Photo from Dezeen magazine.*

Even Lawyers Forget from page 1

For example, if I am injured, I know who I want to make my healthcare and financial decisions.

But without a healthcare or general durable power of attorney, someone else might end up making those decisions.

And, of course, if I die unexpectedly, having an estate plan would ensure that *my* desires are carried out, and take a big item off the list of things that my family would need to address in that difficult time.

So I'm bugging my FOS estate planner, to create my plan. What about you?



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AUNT MARY—GUESS WHAT I'M LEAVING YOU IN MY WILL?

To non-estate planners (i.e., most of the population), the technical estate planning process can be eye-numbingly dry.

Wills with sub-parts and sub-sub-parts. Book-length trusts. Lawyer language everywhere.

Yes, you have to read your estate plan documents. And yes, your FOS attorney will make sure you understand them.

Your estate plan, after all, is YOUR mandate of where, when and to whom YOUR assets go upon your death. It's your last word.

Want to revenge-gift your aunt the couch she keeps calling "ugly"? Go right ahead.

Want to pay your grandson's college tuition, but would prefer he stop drinking during the semester? Leave him the tuition, conditioned on abstinence.

Like the LP preservation mission of Vinyl Record Day (yes, this non-profit exists)? Bequeath away.

Don't worry. None of these would be the strangest bequest ever made.

That award might go to the man who left almost \$50,000

to Jesus Christ, provided he could prove his identity. <http://www.dailymail.co.uk/news/article-3018729/Money-half-pound-pork-sausages-single-farthing-nagging-wife-26-000-Christ-long-prove-s-craziest-bequests-wills.html>

Or the British woman who left \$806,000 to "whichever government is in office at the date of my death." http://www.upi.com/Odd_News/2013/08/15/Britains-governing-parties-to-give-unusual-bequest-to-Treasury/48001376546150/

Or maybe the woman who left a \$100,000 trust fund for her 32 cockatiels, a cat and a dog named Frosty. <http://>

time.com/4023996/100k-32-cockatiels/

Of course, you don't have to make these, or any, unusual bequests. You can and should leave your assets to whomever or whatever you want.

That's the point. Without an estate plan, you won't control your assets' disposition after you die.

Contact your FOS estate planning attorney to make sure you have the last word.

And imagine the look on your aunt's face. . . .