O'NEILCANNON
HOLLMAN DEJONG & LAING S.C.

A MICHIGAN JURY R-E-S-P-E-C-TS ARETHA FRANKLIN'S WISHES

In 2018, the "Queen of Soul" Aretha Franklin passed away, leaving behind four sons and a multimillion-dollar estate. Since this time, Franklin's sons have been engaged in a fierce legal battle regarding the application of contradictory handwritten wills and the proper division of her assets. Recently, a jury in the probate court in Pontiac, Michigan decided that Franklin's handwritten will drafted in 2014 revoked a previous handwritten will and will set forth how Franklin's assets will be divided amongst her children.

Initially, it was believed that Franklin died without a valid will and her estate assets would be distributed in accordance with Michigan's intestacy law. Under Michigan law, because Franklin was not married at the time of her death, her entire estate was to be distributed equally to her four children. However, months after Franklin's death, two conflicting handwritten wills were found in Franklin's home. The first document was discovered in a locked cabinet and was dated 2010. This document was approximately twelve pages long and was signed by Franklin on each page. The second document was dated 2014 and was found inside a spiral notebook tucked under a couch cushion. The 2014 document was significantly shorter than the 2010 document and was only signed "Franklin" with a smiley face nearby. The two handwritten wills were each drafted by Franklin herself and did not list any parties as witnesses. The legal battle revolved around which of the two handwritten wills would apply as they had conflicting terms for the division of Franklin's assets.

Two of Franklin's sons argued that the 2014 document revoked the 2010 document and met the legal standard for a "holographic will" under Michigan law. Typically, a will is only valid under Michigan law if it meets three requirements: (1) it is in writing; (2) it is signed by the testator or, while the testator is present, by another at the testator's direction; and (3) it is signed by at least two witnesses in a reasonable time after seeing the testator sign or after the testator acknowledges the signature. However, unlike Wisconsin, Michigan recognizes handwritten or "holographic" wills if the document is signed, dated, is in the testator's handwriting, and demonstrates by clear and convincing evidence that the testator intended the document to be their will. After less than an hour of deliberations, the jury determined that the 2014 handwritten document revoked the 2010 document and shall serve as Franklin's will.

Had Franklin been a Wisconsin resident at the time she drafted the conflicting handwritten

wills, the legal battle between her children likely never would have occurred. In Wisconsin, for a will to be valid it must meet certain requirements: (1) it is in writing; (2) it is signed by the testator or signed in the presence of the testator at their direction; and (3) it is signed by at least two witnesses (who are unrelated and disinterested) within a reasonable time after witnessing the signing of the will, after the testator's acknowledgment of their signature on the will, *or* after the testator's acknowledgement of the will. Wisconsin does not recognize holographic wills, and neither Franklin's 2010 nor 2014 holographic wills would have been upheld as valid regardless of a showing of Franklin's intent. Instead, Franklin's estate would be distributed in accordance with Wisconsin's default probate laws.

Estate planning can be a complex and stressful process for families, that too often ends in disputes between loved ones. The estate planning team at O'Neil Cannon is dedicated to assisting its clients navigate the estate planning process and creating a personalized plan that meets their goals and wishes for distributing their assets. In the event that disputes arise, O'Neil Cannon's inheritance litigation team is also prepared to assist its clients in all matters related to disputed estate planning documents. To schedule a consultation with a member of O'Neil Cannon's estate planning or inheritance litigation teams, please call (414) 276-5000.