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ANNE HECHE'S WILL CONTEST: A CAUTIONARY TALE

The circumstances involving Anne Heche's estate are a stark reminder of the uncertainties that may exist following the death of a loved one and the issues that can arise even when someone *thinks* they have their estate plan in place.

Heche's (Possible) Will

When the Emmy Award-winning actress died after a fiery car crash in August 2022, she left behind two sons. After her death, her former partner, James Tupper, the father of the younger of Heche's sons, came forward with a document—reportedly an email from 2011—that he said names him as the administrator of Heche's estate.

In response, Heche's older son, Homer Laffoon, filed a petition to assume control over Heche's estate. In doing so, Laffoon also said that the 2011 document is not a valid will because it does not meet requirements under California law.

More specifically, Laffoon argued, in part, that the document does not qualify as a valid will because it does not contain Heche's signature and was not observed by two witnesses as required by California law. Because there is a question as to whether Heche had a valid will, a probate court must decide the issue before her assets can be distributed.

State law varies on the requirements of a valid will, so let's look at what is required in Wisconsin.

What is a Valid Will in Wisconsin?

First, for a valid will in Wisconsin, the testator (the person making the will) must have the capacity to create a will, which means the person must be at least 18 years old, of sound mind, and acting on their own volition.

For a will executed in Wisconsin to be valid, it must be written down and signed by the testator, or with the assistance of another person with the testator's consent and in the testator's conscious presence, and signed by two witnesses. If a witness to the will is a beneficiary of the will, his or her interests will most likely be limited to what he or she would have received had the testator died without a will, through intestacy law.

Proving a Will in Wisconsin

In Heche's situation, a judge must decide whether Tupper's proposed 2011 document is a legally valid will. Without a valid will, Heche will have died "intestate," and the probate court will distribute Heche's assets according to California law.

Similarly, when a Wisconsin resident dies, his or her estate will be distributed under Wisconsin intestacy law unless a will is admitted to probate. Depending on the circumstances, it might be appropriate to investigate the circumstances surrounding the purported execution of a will by the testator and/or the witnesses prior to waiving any rights to challenge the proposed will.

Our inheritance litigation team has a wide array of experience in handling will disputes—whether investigating the authenticity of the document itself, analyzing the legal sufficiency of a proposed will, or investigating concerns over lack of legal capacity and undue influence. If a court finds that a document does not meet the legal requirements of a valid will, the decedent's estate may be distributed under a testator's previous estate plan or under Wisconsin intestacy law.

Anne Heche's situation is another reminder of the unfortunate complications and issues that may arise following the death of a loved one.

Trevor C. Lippman is a shareholder at the law firm of O'Neil Cannon Trevor assists clients with all matters related to inheritance disputes, including questions surrounding the creation and administration of trusts and wills. Since graduating from University of Wisconsin Law School in 2013, Trevor has assisted hundreds of clients navigate the difficult waters involved in elderly financial abuse allegations and inheritance litigation. Trevor prides himself on protecting the rightful legacies of those who have passed on and seeks to understand each client's unique concerns. To schedule an initial consultation with Trevor, call 414.276.5000 or email Trevor directly at trevor.lippman@wilaw.com.