



## The Makofsky Minute | August 28, 2018

### The Queen of Soul

A failure to plan can be a plan for failure. Aretha Franklin, the Queen of Soul, passed last week at the age of 76 following a battle with pancreatic cancer. As an artist, Aretha was very concerned about exercising complete control over her music and legacy. What's more, Aretha worked with many lawyers, accountants and business managers during her life to assure that she had complete control over her physical assets and intellectual property. Despite the pestering of her personal lawyer for many years, Ms. Franklin failed to leave behind a Last Will and Testament. Here's why you should...

An individual who dies without a Last Will and Testament is said to have died "intestate." When there are no directions for the distribution of assets, the laws of intestacy determine who inherits the decedent's property. Intestacy is controlled by state law. Aretha died unmarried, leaving behind four sons. In both Aretha's home state of Michigan and in New York the laws of intestacy dictate that where there is no spouse, children of the decedent each inherit an equal share. This

means that if no Will or other testamentary instrument is discovered, Aretha's sons will each receive a multi-million dollar share of the estate, unprotected. If any of Aretha's sons have creditor, substance abuse, or spending issues, the administrator will have no choice but to distribute the share outright, making the funds vulnerable to waste. Furthermore, Aretha likely lost opportunities to plan for estate tax savings.

In addition, while her sons nominated Sabrina Owens, a niece of Ms. Franklin, to be the administrator of the estate, it is ultimately up to the court to determine the administrator of Aretha's estate. The named administrator, who could be a stranger to the family, is the person who will ultimately have control of Aretha's music, intellectual property, trademarks and other assets. It is the administrator who will, in large part, shape the public's memory of the superstar. With Aretha's sharp eye for maintaining control of all she did, this is surely not what Aretha would have wanted.

Most of us are not multimillionaires or music icons, but we have worked hard



for what we have accumulated. Few of us really want to leave the distribution of what represents a lifetime of work, to chance. Yet, many of us are procrastinators or are just plain afraid to embark on an estate plan. Aretha, perhaps due to privacy concerns or fear of her own mortality, did not leave behind an estate plan. Each of us needs a plan for the orderly distribution of our assets.

Ameliorate disaster, plan, create a Will or other estate plan, and revisit this plan as your life circumstances change. Don't leave your loved ones in troubled water. Preserve your legacy with the R.E.S.P.E.C.T. it deserves.

*At Makofsky & Associates, P.C. we help our clients prepare for the future, protect their assets and meet tomorrow's challenges with proper planning today.*

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