



Estate Planning of The Rich & Famous

Heath Ledger's Estate:

An Important Lesson in Updating Your Will



In January 2008, Australian-born actor Heath Ledger died at the age of 28. Ledger left behind millions of fans who remember his intensity in such movies as *10 Things I Hate About You*, *Brokeback Mountain*, and *the Dark Knight*. Most tragically, however,

Ledger left behind Matilda Rose, his two-year-old daughter by former girlfriend and *Brokeback Mountain* co-star Michelle Williams. While the untimely death of a young actor is not a new story, the circumstances surrounding Ledger's death provide an important lesson.

Unlike many twenty-somethings, Ledger thought about his estate plan. In 2003, he executed a short will in Australia that left his entire estate to his parents and sisters. Unfortunately, the will predated the conception and birth of his daughter.

This problem (when a "pretermitted child" is born after the execution of a parent's will) is relatively common. Many states have laws that allow a pretermitted child to inherit a share of the deceased parent's estate—even though the child is not mentioned in the will. Parents are not legally obligated to leave a share to their children, and children can be specifically disinherited. However, in most states, children have a right not to be *inadvertently disinherited*.

In Alabama, a pretermitted child is usually entitled to the same

share that he or she would have received if the parent died with no will (i.e., the intestate share). The Alabama Probate Code provides that a pretermitted child is entitled to the intestate share unless: (i) the child was intentionally omitted; (ii) when the will was executed, the testator had at least one other child and devised substantially all of the estate to the other parent of the pretermitted child; or (iii) the pretermitted child is provided for by a transfer outside of the will and it can be proven that such transfer was intended to be in lieu of a share of the parent's estate. Alabama law is similar to many other states' pretermitted child statutes.

The legal disposition of Heath Ledger's estate is complicated by the fact that he died in New York, spent time in California, and filed the will in Australia. The outcome could depend on complicated choice-of-law considerations. For illustrative purposes, if Alabama law applied, his two-year old daughter would inherit his entire estate (assuming Ledger had no other children). Regardless of his 2003 will, Ledger's parents and sisters would probably be disinherited by operation of law. Under the Alabama intestacy statute, since Ledger died without a spouse, his child would be the sole beneficiary. Would Ledger have purposefully excluded his parents and sisters from his will?

News outlets have reported that Ledger's family agreed to gift their entire share of the estate to Matilda Rose. However, if this had not been the case, the distribution of the estate could have been decided by operation of law—not by Heath Ledger. Ledger could have drafted a new will. Alternatively, he could have provided for the possibility of afterborn children in his will.

One of the most important, yet simple, lessons is that estate planning requires planning. Life changes such as marriage, divorce, birth and death may require the need to revisit your estate plan. Make a point to remember. You and your loved ones will be glad you did.



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**national
philanthropy
day**



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Sirote & Permutt is proud to announce that Estate Planning Shareholder **Judith F. Todd** is among those to be honored by the Alabama Chapter of the Association of Fundraising Professionals (AFP) at the 27th annual National Philanthropy Day. Ms. Todd is being honored for her creativity, hard work and personal giving.

Ms. Todd was selected by AFP as the Community Foundation of Greater Birmingham Outstanding Professional Advisor. Working with people in the specialty of estates and trust law has given Ms. Todd the opportunity to serve others, helping them plan for their own future as well as the future of the charitable organizations they love. She takes her own charitable commitment seriously as well, helping the YWCA set up its endowment, serving on the first board of the Women's Fund of Greater Birmingham and advising in the creation of the Professional Advisors Committee of the Community Foundation of Greater Birmingham.

Fellow Sirote Shareholder **Edward M. "Eddie" Friend III** will also be honored as Outstanding Civic Leader for 2008 by AFP. Friend is a longtime supporter of Big Brothers-Big Sisters and the only two-term chair of the Birmingham Regional Chamber of Commerce. He also has made significant contributions to many civic and charitable organizations, including United Way of Central Alabama and the Community Foundation of

Greater Birmingham, where he currently serves as chair of the board and of the 50th anniversary campaign.

AFP represents 27,000 members in 186 chapters worldwide working to advance philanthropy through advocacy, research, education and certification programs. The Alabama chapter has more than 130 members from 85 not-for-profit organizations, consulting firms and corporations in Central Alabama.

