

# LESSONS FROM LEONA



Recent news accounts have highlighted some of the bequests made in the Will of New York billionaire Leona Helmsley. The Will contained some creative provisions designed to carry out Mrs. Helmsley's intent long after her death. Key terms of the Will include:

- ♦ \$3 Million to a Perpetual Care Trust to provide for the maintenance of the Helmsley Mausoleum and the resting places of some of her family members. Maintenance is to include annual acid washing or steam cleaning of the mausoleum and quarterly inspections.
- ♦ \$5 million and \$10 million, respectively, to Charitable Remainder Trusts for each of two grandsons and her brother.
- ♦ \$5 million directly to each of the two grandsons and her brother.
- ♦ \$100,000 to her chauffeur.
- ♦ \$12 million to a trust, created by a separate document from the Will, which is speculated to be for the benefit of her dog, Trouble. The dog is left to her brother, or if he does not survive, to her grandson, David.
- ♦ The Will states that she has made no provisions for two of her grandchildren "for reasons which are known to them."
- ♦ The entire remaining estate goes to The Leona M. and Harry B. Helmsley Charitable Trust, a charitable foundation.

**Whether or not you have the billions that Mrs. Helmsley left, you can take advantage of some of the planning techniques used in her estate.**

For example, the trusts created for Mrs. Helmsley's grandsons and brother provide a significant charitable deduction for her estate while offering a substantial income stream for those beneficiaries during their lifetime. Interestingly, the Will conditions the grandsons' receipt of their annual income on visiting the grave of their father (her son) at least once per year. The requirements for such a trust to be qualified as a charitable trust specifically allow termination of a trust upon the happening of a "qualified contingency," so presumably these trusts will qualify even with this provision.

It is assumed that the separate trust which received the \$12 million devise directs that the funds are to be used for the care of Mrs. Helmsley's dog, Trouble.

She took advantage of the ability to use a separate revocable trust, which, unlike her Will, is not public record; thus its terms remain private. In Alabama a revocable trust can be used to dispose of the entire estate, preventing public access to the terms of the disposition of the estate.

As of this year, the State of Alabama allows pet owners to create trusts for the benefit of their beloved pets. The pet trust will operate for the animal's benefit until its death. The trust can appoint a person to serve as an enforcer of the trust to make sure that the trust is operated in accordance with its terms and conditions; in other words, to make sure that the pet is cared for properly. The trust terminates upon the pet's death, and the remaining trust property can be distributed to any beneficiary designated by the grantor.

Mrs. Helmsley specifically disinherited two of her grandchildren. In Alabama, any beneficiary can be disinherited. However, absent a prenuptial agreement, a surviving spouse is entitled to claim a certain portion of the estate, even if excluded from the Will. Minor children also may have certain claims to the estate. If a family member who is being excluded would have been entitled to inherit under Alabama law if the decedent left no Will, it is important to mention that family member and make clear that he or she is being intentionally disinherited, in the same way that the Helmsley Will provided.

Finally, the Will contained a "no-contest" provision. This provision states that if any beneficiary contests the Will, his or her inheritance is forfeited. These provisions are often included if a Will does not dispose of property in a way that the family may expect. It is designed to eliminate challenges to the Will and long and costly litigation. "No contest" provisions are enforceable in Alabama.

Leona's Will has lessons that can benefit everyone.

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