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Pour-over wills ensure safe transfer of assets

An Alabama court recently unsealed American novelist Harper Lee's will after [The New York Times filed a lawsuit](#) to review the document.

Lee, who was 89 when she died in 2016, set up a living trust in 2011. Author of the Pulitzer Prize-winning novel, "*To Kill A Mockingbird*," Lee directed that her estate - including her literary property - be transferred into her trust via a pour-over will, the *NYT* reported.

A trust is private, so by using a pour-over will, the notoriously private Lee ensured that what happens to her assets will remain closed, too. "*To Kill A Mockingbird*" earns about \$3 million a year in royalties, and her novel, "*Go Set A Watchman*," sold 1.6 million hardcover copies when it was published in 2015, meaning that the trust is likely worth tens of millions of dollars.

For clients with significant assets, the use of a revocable or living trust and a pour-over will are a way to ensure that personal estate assets become part of the trust estate upon a client's death.

Benefits

A pour-over will is especially useful if assets are wide and varied, and by transferring those properties into a trust, it ensures that they will be distributed according to the trust provisions.

Assets might not make it into a trust before death for a variety of reasons. They might be acquired after the trust is set up, such as a painting or property. Sometimes, items are left out of a trust by mistake - or even left out intentionally. Or, items such as a car or boat could fail to be titled to the trust, meaning that they will be looked at as personal property.

Without a pour-over will - assuming there is no simple will that distributes property to individuals - heirs will inherit according to specific state law. This means that someone not named in the trust may inherit assets in a way the client never intended.

Using a pour-over will can help simplify things. Because the assets are transferred into the trust, everything is controlled by one document, and the executor or trustee has an easier time distributing assets.

Drawbacks

One disadvantage to a pour-over will is true for a simple will as well: Most pour-over wills that transfer assets must go through probate. Depending on how long probate takes - weeks, months - the process can put assets in limbo while waiting for the case to be resolved, leaving beneficiaries in a holding pattern.

Leaving too many assets in the pour-over will can complicate and draw out proceedings, so a client and heirs are better off if nearly all assets are transferred into the trust.

Despite these small issues, clients who establish a trust are well-served by setting up a pour-over will to protect assets for the long haul. If you have clients with questions about the different protections a simple will, a pour-over will, and a trust can provide, we are happy to help explain how to devise a strategy that meets their unique planning needs.

We hope this information is useful to you and helps your clients and their families. If you have a specific case or a question, please don't hesitate to call our office.

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