

The Battle over Mr. Cub's Estate

Legal Alert
March 9, 2015

Related Services

Trusts & Estates Litigation

Trusts, Estates & Charitable
Organizations

We've seen it before: the caregiver becomes the primary or only heir of the Will executed shortly before death and the family files a contest. That [same drama](#) is being played out before a Probate Judge in Cook County, Illinois over the estate of one of the most beloved of Chicago sports heroes, Ernie Banks.

Regina Rice has been taking care of Mr. Banks for a number of years and filed a Will for probate in Chicago which Ernie executed at the offices of Illinois attorney Byron Faermark just three months before he died. Initially Elizabeth Banks, the estranged wife, had been given control of the estate on the claim that her husband died intestate. The Cubs legend, a member of Major League Baseball's exclusive 500 home run club, was survived by Elizabeth as well as twin adult sons and a daughter from prior marriages. The Will offered by Ms. Rice, whose initial estimate of the probate estate was a mere \$16,000, states that Mr. Banks was making no provisions for his wife and children, "not for a lack of love and affection for them and for reasons best known by them". The minimal probate estate value may not be unusual if there are non-probate assets (for which Ms. Rice will need to account) since the Will is a pour-over instrument to the Ernie Banks Declaration of Trust dated October 17, 2014. The terms of the Trust remain, for now, undisclosed except that Ms. Rice is the trustee and the widow has asked for a hearing on the validity and circumstances of the Will.

At a late February hearing Judge James Riley approved a request from the slugger's widow for leave to file a citation to discover assets (not an order, as widely reported, that the caretaker provide a full accounting of the estate). Also the Judge converted the estate from independent to supervised jurisdiction, which resulted in Ms. Rice needing to seek the Court's permission before selling or moving any assets. Earlier

there had been a battle over the disposition of the body, with Ms. Rice wanting cremation and the family seeking a burial. However, that dispute was resolved with Mr. Banks' burial at Graceland Cemetery and left the funeral home claiming a significant sum. Just this past weekend the Chicago Cubs organization stepped up to the plate and said they would take care of those [funeral expenses](#).

Illinois has joined other states in seeking to protect against caretakers taking advantage of the elderly by recently adding a presumption under its Probate Act (755 ILCS 5/4-a) that there has been undue influence if a Will benefits a caregiver. This is similar to what California has had in place for a number of years (California Probate Code § 21380).

However the Illinois statute only applies to Wills signed after January 1, 2015 and the Will in question was executed in October of 2014.

On a side note, another pending battle over a famous estate is that of Robin Williams who committed suicide in August of 2014. Those litigants are his widow (from a three year marriage) and his three children. Mr. Williams' estate plan has more going for it than many that wind up in Court, including a prenuptial agreement in late 2011 and a Trust, amended in January of 2012 which the spouse claims is consistent with the terms of that agreement. Most recently there have been pleadings to interpret the Trust language as to personal items to go to the children such as memorabilia, jewelry, watch collections and the contents of the actor's home.