
The Groucho Marx Story® by Robert E. Alderman, Jr.

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The Groucho Marx story is a graphic example of the consequences that can arise when a person ignores life time planning for himself and his loved ones!

Groucho Marx was infirm in his old age - which can also happen from accident or illness. No matter the cause, the result for Groucho was that the last three years of his life were spent in and out of probate court on issues of "living probate" - while his "live-in friend" and family fought over who would control his estate. The consequences were draining on both Groucho's health and finances.

The "live-in friend", who had been a constant companion of Groucho in his later years was Erin Fleming. She began the living probate process (known in California as a conservatorship or guardianship proceeding) in 1974 when she filed court papers in Santa Monica seeking to have Groucho declared incompetent to handle his own affairs. Her goal was to have both Groucho and his assets placed under her care and control.

Every state in the nation has laws that allow a relative or "friend" to petition the probate court judge for an order declaring a person incompetent to handle his or her own affairs. If the court makes that determination, the rights of the person to manage his/her assets are taken away and given to another person - under the court's supervision. Once that occurs, it continues indefinitely, until the ward proves his/her recovered competency in court, or dies.

Now, in Groucho's situation, he already had a Will. But, a Will does absolutely nothing with respect to controlling one's estate while the person is still living. As far as the law is concerned, a Will does not even exist - until after the person dies and is found by the court to have been properly written, witnessed and created without undue influence or other outside manipulation. Many people mistakenly believe that by having a Will in place, they will be protected against both living probate and death probate. They are wrong on both counts!

While Groucho's competency was being judged (the process is similar to a regular trial), Groucho's feelings and dignity were not important. For months, Groucho's housekeeper, deliverymen, cooks and anyone else who had contact with him were brought into court to testify about Groucho's state of mind. There were film clips presented of Groucho in various activities and there were even allegations of murder plots, sex for hire and drugs.

Initially, Erin Fleming was named to be Groucho's personal guardian and the Bank of America was named guardian of his finances. This lasted for three years, until Erin Fleming decided she wanted to have control of everything, so she went back to court to try to have the Bank removed from the picture. This was fought by both the bank and Groucho's family who claimed that Erin was less than nice to Groucho and was greedy.

The cost of this battle was enormous with probably an even greater negative effect on Groucho's health. At the end of this second go-around, Erin was removed as Groucho's personal guardian and was replaced by Groucho's grandson; however, it did little good for Groucho. Less than five months later, Groucho was dead!

Unfortunately, Groucho's death signaled only the end of the conservatorship proceedings. There was still the death probate process to be completed in order to determine the validity of his Will and who would inherit his estate. Thus, the battles began all over again with many of the same witnesses, duplicated costs and days in court - but this time, it was to determine Groucho's competency and freedom from duress at the time he created his Will.

The moral of this story is that Groucho's advisors thought they were taking the right steps for Groucho in the preparation of a Will for him. However, they made no plans for the potential of Groucho's disability (whether because of age infirmities, accident or illness), since a Will provides no protections against such matters. Even at time of death, a Will must go through the probate process and be subjected to the possibility of untold contests as to the Will's structuring, signing, witnesses, etc. as well as the mental capacity of the deceased person when the Will was signed.

If any of those issues are found to be lacking or incomplete, the Will is null and void - resulting in distributions and other handling of the deceased person's estate that he or she very likely never intended.

Though the probate records show that Groucho's estate was fairly substantial, compared to most Americans, all of Groucho's money did not help him and his family avoid the circus of the probate courts. If better planning had been done - for both Groucho's potential disability as well as his death - the wear and tear on his finances and health through the court battles could have been avoided. The way it should have been done was through a loving trust estate plan.

Whether young or old, rich or poor, the completion of a comprehensive estate plan - after a thorough evaluation of family, finances and each person's or couple's goals and objectives - can save untold heartache, financial loss, bitterness and loss of control.

Robert E. Alderman, Jr. has a Jurist Doctorate degree from Loyola University School of Law and has been in private practice since 1973.

His office phone number is 661/268-2000.

THINK ABOUT IT CORNER

**"Age has little to do with achievement
and nothing to do with commitment."**

**- Charles R. Swindoll -
Living Above the Level of Mediocrity**

