



DON'T TAX YOURSELF

A Publication of Bowditch & Dewey's Estate, Financial & Tax Planning Group

Anne Heche Estate Battle Highlights Importance of Selecting an Executor or Personal Representative for Your Estate

BY ZACHARY M. CHUPAK • SEPTEMBER 29, 2022

In a tragic car accident, at age 53, actress Anne Heche, known best for her roles in *Donnie Brasco*, and *Six Days, Seven Nights*, passed away on August 11, 2022. Heche's two sons, Homer (age 20) and Atlas (age 13), survived her.

An already difficult time for Heche's loved ones was made more difficult than necessary because Heche died without a will. As a result, the administration of her estate will be determined by the laws of California rather than by her choice. This tragedy was brought back into the headlines because her son, Homer, has petitioned a Los Angeles court requesting control of his mother's estate. Homer also asked that a guardian be appointed to represent his younger, half-brother's interests in court, which is a typical request when minors are involved in estates. Atlas' father, James Tupper, has opposed Homer's requests. Among other arguments, Tupper believes that Homer is too young and unqualified to handle the administration of his mother's estate and, further, Tupper asserts that Homer does not have his younger brother's interests at heart.

The lack of a nominated Executor, known in Massachusetts as a Personal Representative (PR), further compounds the difficulty of dealing with the loss. A PR is a person named in your will and chosen by you, who will become responsible for managing your estate after your passing. Estate management includes signing probate paperwork, filing tax returns, protecting and distributing the estate's assets, and much more. Would Heche have chosen her 20-year-old son to be the executor or PR of her estate? It's not common for a 20-year-old child to be given so much responsibility and authority over what could end up being a large estate.

Depending on the size of the estate, estate administration can be a long, complex process. A great PR is trustworthy, responsible and available, highly organized, located in the relevant jurisdiction, and capable of undertaking a one-to-two-year project. Your PR is critically important because that person will make sure your assets transfer to your chosen beneficiaries. It is, therefore, necessary to be aware of the process of choosing a PR and what can happen in Massachusetts if the chosen PR is contested.

In Massachusetts, first priority among persons seeking appointment as PR goes to the person(s) named in your will. If there is no will, Massachusetts law provides a list of persons in the order of priority. If none of those listed people are acceptable to the heirs and devisees, then the “court may appoint a person who is acceptable to the heirs and devisees, or in default of an agreement any suitable person.” M.G.L. c. 190B, Sec. 3-203(b)(2).

An already difficult situation is, therefore, made all the more difficult when you don’t leave a will and, therefore, lose the opportunity to make the important choices yourself. Contesting a PR appointment requires a formal proceeding, prolonging the period before asset distribution and potentially causing hardship between family members. With a little planning, you can ensure a trustworthy and responsible PR is appointed, avoid unnecessary hardship for your loved ones and ensure your property passes according to your own wishes.