

# DisSed

BY  
DISINHERITANCE

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## When Estate Planning Hurts the Ones They Love





**I**t is something that even a French man would regard as rude. A French rock 'n' roller, no less.

That was the judgment of Eddy Mitchell, speaking of fellow French rock pioneer and friend **Johnny Hallyday**, whose children found out they were excluded from his estate after he died of lung cancer at 74.

"I don't understand how someone can disinherit his children," Mitchell told the BBC, after Hallyday, aka French Elvis, left his entire estate to his fourth wife. Although Hallyday died on Dec. 5, 2017, the children were still fighting over the estate at press time.

It is a familiar refrain in many celebrity estates. The past year alone saw quite a few headlines featuring famously disowned children. And although the public expects such dramatics from actors and musicians, advisors are also seeing it more often with their own clients.



Some advisors

have seen it up close. Ted Bernstein can talk to his clients of his advisory, Life Cycle Financial Planners, about the

pain caused by disinheritance because it happened to him.

The Boca Raton advisor actually did not mind. In fact, he told his parents they did not need to leave him anything because he was financially secure.

That wasn't the case, though, with one of his four siblings. His brother often relied on their parents' help. Bernstein advised his father to at least provide for that brother, mostly because of his brother's three children.

Instead, his father cut all of the children out of the estate and left everything to the grandchildren.

The disinheritance blindsided Bernstein's three sisters. Whether their father intended it or not, the cut hurt.

"Even though my three sisters really didn't need anything financially from my father," Bernstein said, "all of them were pained by being skipped over."

But Bernstein's brother also wanted to share the pain.

"My brother has wreaked havoc, and half of the assets that my father had at the time of his death that were intended

for the grandchildren are gone because of the legal challenges that my brother has made in every aspect of the planning," Bernstein said. "He's lost every challenge that he's made."

When the family sued the estate, Donald Trump stopped paying medical expenses for Fred Jr.'s grandson, who has cerebral palsy, according to The New York Times.



**Johnny Hallyday** may have introduced rock 'n' roll to France but unIntroduced his children from his estate.

APS-Medias/ABACA

Bernstein advocated for keeping his brother in the will, but Fred Trump Jr. was not so lucky. Or at least his children were not.

## All in the Fractured Family

Trump died young at 43 of a heart attack related to his alcoholism. He was the eldest son of **Frederick C. Trump Sr.**, an exacting father who built a real estate empire in and around New York City. But as Fred Jr. withered under his father's demands, his younger brother Donald thrived.

Donald Trump grabbed the baton of golden boy and ran out of Queens and into Manhattan to build upon his father's legacy. After **Fred Jr.** died in 1981, Donald helped his father draft a will that excluded Fred Jr.'s family.

The family claimed Donald Trump had undue influence, but it was not because he was a brother with a vested interest. Generally speaking, that in itself does not constitute undue influence, according to Andy Mayoras, a Michigan estate attorney who wrote the book *Trial & Heirs: Famous Fortune Fights!* with his wife, Danielle, a fellow attorney. They are also working on a TV documentary series called *Fortune Fights* set to appear late this year.

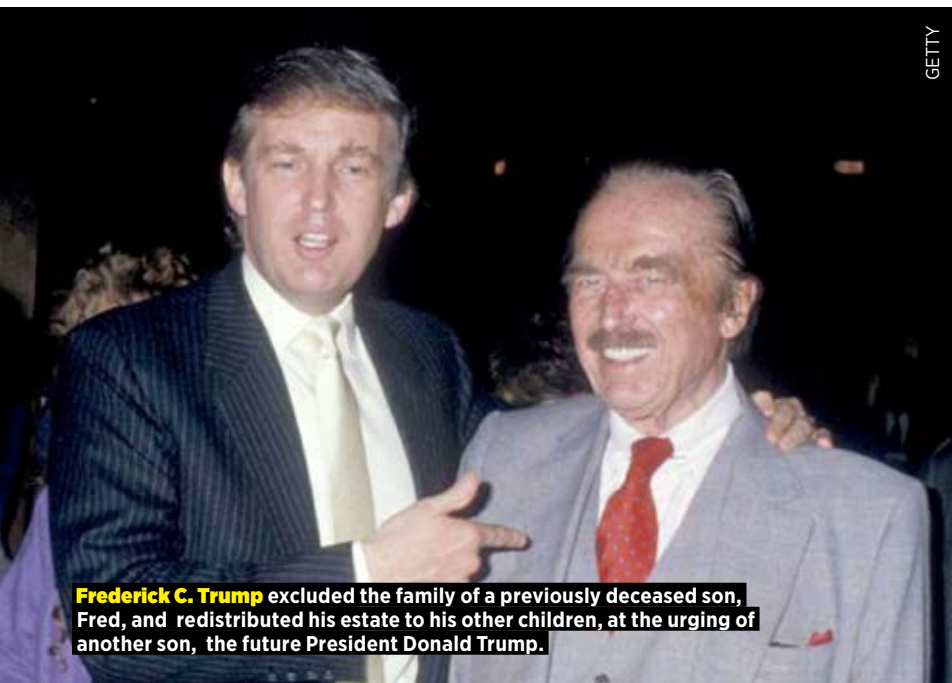
"When one sibling suggests cutting out somebody else, that's not undue influence," Mayoras said. "That's just influence."

The charge of undue influence is common when estates are challenged, particularly if people leaving the estate were elderly and near death when they changed the documents. But it is not as simple as someone using influence in making a suggestion.

"You have to do it in such a way using improper means that overcomes the person's own wishes where



The siblings Trump circa 1970s: from left, Robert, Elizabeth, Fred Jr., Donald and Maryanne.



**Frederick C. Trump** excluded the family of a previously deceased son, Fred, and redistributed his estate to his other children, at the urging of another son, the future President Donald Trump.

in effect you're substituting your own wishes," Mayoras said. "It can be through coercion, undue threats, flattery and bribery. The classic example is 'Mom, if you don't want to go into a nursing home, well, you better change your will and leave everything to me or I'm going to put you in a home.'"

The Fred Trump Jr. family alleged Donald Trump used undue influence because the patriarch had Alzheimer's disease. The suit was amicably settled, Donald Trump told *The New York Times*.

**Glen Campbell's** family is also fighting over his estate because of accusations of undue influence. The country music star's Alzheimer's diagnosis was disclosed in 2011 and documented in the movie *I'll Be Me*.

Campbell was married four times and had eight children, so his will was bound to be challenged when he excluded the three children from his second marriage.

That and other issues have kept the estate in court since his August 2017 death. In March, Campbell's widow, Kim, had to ask the court to grant her more than \$500 million to pay for expenses.

Although the Trumps and Campbells might be atypical families, they had typical estate issues. Sometimes we see atypical families with atypical issues.

That would be the case with the Manson family.

With **Charles Manson**, "family" has a couple of meanings. Of course, there is the Manson family of the grisly murders

in 1969. The crime spree in the bohemian canyons of Los Angeles was considered one of the epitaphs marking the passing of the '60s "innocence."

But actual family members want to be associated with Manson since he died at 83 on Nov. 19, 2017.

One is Jason Freeman, a grandson. Mayoras said Freeman is contesting a 2002 will that disowned Manson's family and gave everything, including his body, to a collector of "murderabilia" — memorabilia related to notorious killers.

Another man, Matt Lentz, claimed he is Manson's son given up for adoption and has a 2017 will naming him as beneficiary and another memorabilia collector as executor. Mayoras said Lentz's will would supersede earlier ones if he can prove his case. Yet another man, Michael Brunner, also claims to be Manson's son.

A judge in March released Manson's body to his grandson. Another judge still has to decide who gets the objects and rights to Manson's estate, which includes earning royalties on Manson's music.

## Not Always a Fight

Complex families often lead to estate challenges. Usually it is because the last family gets favored. In the case of NBA broadcaster **Craig Sager**, the children from his first family called foul on how



**Glen T. Campbell** wasn't too "gentle" on his children, excluding three of them from his estate.





**Charles M. Manson, known as the head of a murderous “family,” had people who wanted to be recognized as his actual family.**

Sager left his estate after he died of leukemia at 65 on Dec. 15, 2016. But it was clear those offspring would not be happy with just about any outcome.

Sager left his first wife for his second, who was welcomed into the network and NBA “family,” according to children from the first marriage.

The children were cut from the will but said they wanted no part in their father’s estate and want no part of the court proceedings that keep drawing them back in.

The notably generous **Jerry Lewis** left a last gift for headline writers as they gleefully reported that he had the last laugh by excluding the six children from his first marriage.

His children have not contested the will, according to reports. And Lewis, who died at 91 of heart disease on Aug. 20, 2017, certainly had the right to do what he wanted with his estate.

But the public exposure is not a laughing matter for those left behind. In fact, disinheritance is becoming depressingly

familiar with multiple marriages and relationships.

**David Cassidy** is associated with The Partridge Family theme song but he was a bit miserable for a big chunk of his life as he struggled with substance abuse. Along the way, he had three marriages and a son. He also had an out-of-wedlock daughter, Katie Cassidy, who became an actress best known for her role in the TV series *Arrow*.

Before he died of liver and kidney failure on Nov. 21, 2017, Cassidy cut his daughter from the estate and left most of it with his son. Whether she was aware of the exclusion or not, she was at his bedside as he passed. She texted days later that her father’s last words were “so much wasted time.”

Unproductive is what many estate planners and lawyers would say about the public exposure of private pain, which is why many advocate for trusts.

### **Solid Trusts Add Structure**

A will is a public document, but trusts

generally are not. They can contain the details of the client’s wishes and also the mechanisms to fulfill those wishes.

Many advisors find their wealthy clients are worried about the impact of their money on their heirs, particularly troubled ones. Clients might be tempted to withhold money from an heir not only because of impairment like substance abuse, but also deflated ambition.

Some high-profile billionaires have said they will not be leaving the bulk of their estate to their children.

“Warren Buffett’s probably the most famous example,” Mayoras said, adding that many wealthy people are worried about affluenza. “They’ll say, ‘I’m not going to leave an inheritance to my kids because I don’t want trust fund babies. I want them to be hardworking and build their own lives and their own careers and not just be a sponge off of this money,’ which is a very valid concern, but there are other ways to address it than simply disinheriting.”

With a trust, it does not have to be all or nothing.

**Jerry Lewis**, aka the Nutty Professor, wasn't too crazy about the six children from his first wife — he cut them all out.



"Trusts can be very creative," Mayoras said. "We had somebody who was successful. He built up a small business and made a good amount of money. His kids were already financially well off, but he didn't want the grandkids to be lazy. He wanted them to value hard work like he did. So he set up his trust so that they would get a distribution each year by bringing their tax returns to the trustee, and the trustee would match whatever they earned."

Trusts can also add flexibility for the trustee.

"You can have exceptions for the military or teaching where somebody wasn't necessarily in a position to make as much money but was still a hardworking, productive member of society," Mayoras said. "There may be some exceptions or some extra credit."

The flexibility can extend to limits and conditions, such as for behavior.

"A lot of times we put in drug and alcohol language," Mayoras said. "Somebody has a drug or alcohol problem, and they need to produce a clean drug or alcohol screen each year."

The possibilities are endless, he said: "How money is distributed to the next generation can really be limited only by your imagination."

### Life Insurance Feeds the Trust

David Szeremet, a vice president of advanced planning at Ohio National Life, calls the behavior-modifying instruments "incentive trusts," and they are becoming popular.

"I review a lot of trust documents in my daily activities," said Szeremet, who

has a law degree. "And I'm seeing more and more of these incentive trusts that parents are setting up for even adult children. And of course, life insurance is usually a crucial part of that plan because it's often the most efficient asset to fund that trust."



In case of an impaired heir, a trust can also help manage a life insurance payout — a lump sum of danger to



**Craig G. Sager's** children from his first marriage would call foul for how he left their mother for another woman and cut them from his will.





Former teen heartthrob **David B. Cassidy** might have been known for *I Think I Love You* but don't tell that to his daughter, Katie Cassidy, who was dumped from the estate.

someone with an issue such as a substance abuse problem.

"What we see more often is having the life insurance payable to a trust," Szeremet said. "The trust can hold, manage, protect those assets from the beneficiary's creditors and predators. And in many cases, it protects the beneficiary from himself."

Special needs trusts are also often funded by life insurance. Because developmentally disabled adults are outliving their parents more often, parents are anxious about the care their children will need later in life. This is where a lump sum paid into a trust is especially useful.

"Trustees can then use those funds over time to supplement government benefit programs — medication that perhaps isn't covered by programs," Szeremet said. "And basically they protect the individual's standard of living and their dignity. Life insurance is flexible and efficient from the trustee's perspective."

Another way life insurance helps is to settle what could otherwise be seen as an inequitable distribution of a large asset. The answer might be disinheriting — but with love.

"I would call it the family business scenario, where you have children who are

active in the business and children who aren't active in the business," Szeremet said. "The active children are the ones who are pouring their blood, sweat and tears into the business, and they are the logical successors."

But just leaving the business to the active children would be seen as unfair.

Quite often, the family does not have the cash to make up for the difference because the money is in the business.

"The idea would be to leave the business to the active children through the estate planning documents and potentially disinherit the inactive children," Szeremet said. "But equalize things with life insurance. Quite honestly, the inactive children on the cases I've worked on, they'd rather have the life insurance money, anyway."

The rule of thumb is the death benefit would be 50 percent of the business's value.

"Let's say it's a million-dollar business," Szeremet said. "This kid inherits the million-dollar business. On the other hand, this other child is going to get \$500,000 tax-free cash in hand. So would you rather have a million-dollar illiquid business that you may not be able to find a buyer for and you have no idea how to run it? Or would you rather have \$500,000 cash in your hand?"

It takes quite a bit of discussion beforehand, and that's where an insurance agent comes in.

"The idea there is to work with the family and communicate with everyone to reach a figure that people can say, 'Yeah. That's fair.' But admittedly, not every family can reach these well. Not a perfect world out there," Szeremet said.



The English baroness **Veronica Duncan** rudely dismissed her children from her estate for bad manners.

Terry Fincher/Daily Express/Hulton Archive/Getty Images

"If agents have a good enough relationship and are in a strong enough position, they can be the catalyst for these conversations. The advisors I work with who have the best relationships with their clients really have no difficulty bringing up these issues. And it's often welcomed by the families."

## Abeyance of Malice

Talking could also help dial down the anger that fuels much of the disowning. Or perhaps even simple annoyance.

That was the situation with the case of the cranky British baroness.

**Veronica Duncan**, aka Lady Lucan, achieved macabre fame in 1974 when her husband, John Bingham, the seventh earl of Lucan, apparently killed their nanny because he mistook her for his wife. Duncan was also assaulted when she interrupted the attack.

Bingham ran off, left a bloody car and incriminating evidence and disappeared. Since the event Duncan had been reclusive, living in the London house where the assault occurred and where she sat under the gaze of her presumably late husband's portrait.

When she committed suicide at age 80 in September 2017, she left her entire estate to a homeless shelter. In her will, she cited etiquette as the reason to exclude her three children.

"In view of the lack of good manners and reverence shown to me as their parent," the will said, "I do not wish any of my three children to benefit from my death any more than they have to."

In response, at least one of the disinherited heirs displayed the grace the baroness said they lacked. "I applaud the decision by Mother to make a legacy to Shelter, a fantastic and worthwhile charity," said John Bingham, the eighth earl of Lucan.

But some of the disinherited do not take the dissing so lightly. In fact, one case resulted in a long-lasting laugh: *Mommie Dearest*.

That was the book Christina Crawford wrote about her mother, **Joan Crawford**, and changed the elegant movie star forever into a drunken, wire-hanger-obsessed, shrieking shrew. She had excluded two of her four adopted children from her will.



George Hurrell

**Joan Crawford** left a meager sum to two children and nothing to two others, one of whom got the last word with her book *Mommie Dearest*.

## Including Rather Than Excluding

Ted Bernstein, the Florida insurance agent, said it is usually better to leave people something rather than excluding them.

Some planners use a clause in which heirs will forfeit the inheritance if they challenge the estate, a no-contest technique nicknamed the Sinatra clause after the no-nonsense crooner who popularized it.

But Bernstein is looking at it more as a way to break a cycle of anger that loops back on the family. He speaks from experience because of his family's situation.

Bernstein's father cut people out of the estate and left them to wonder why. In Bernstein's case, not only was he excluded but so was his son from his second marriage — the only one of 11 grandchildren to be dropped from the estate. His son was left to struggle with why the man he thought of as his grandfather apparently did not like him.

Bernstein's father also drained some of

his legacy by excluding the son who was destined to sue if he was cut out of the estate. Bernstein's three sisters also dealt with their own sense of rejection as the drama ricocheted through the family.

Much of the hurt in some estates comes from unspoken conversations about unapproached issues, something that advisors can help draw out.

"During life, I think it gets repressed and nobody wants to talk about this," Bernstein said. "You can't do your planning effectively without stopping the repression and letting the issues come to the surface and start to deal with them." [in](#)

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