

Wills, Trusts & Estates**The rights of Larry King's seven wives**By **Peter Askew**

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(February 12, 2021, 8:29 AM EST) -- It was recently announced that Larry King, the famous talk show host known for interviewing movie stars, musicians, authors and world leaders, has passed away at the age of 87. King's show, *Larry King Live* was CNN's longest standing program of 25 years, with over one million viewers per episode.

King amassed a significant fortune over the course of his illustrious career and is estimated to have had a net worth of approximately US\$50 million at the time of his passing.

In addition, King's professional career was matched by what some may call an equally eventful personal life. He was married eight times, to seven different women and had five children. As King said himself "I'm not good at marriage, but I'm a great boyfriend."

Two years prior to his death, at age 85, King reportedly filed for divorce from his seventh wife, Shawn Southwick, with whom he had been married since 1997 and had two children. However, apparently their divorce was

never finalized.

As a result, there has been considerable interest regarding who may stand to inherit King's sizable estate. While we cannot provide any sort of definitive answer as to how King's estate is likely to be distributed, which will depend on his own estate planning and the laws of his home state of California, his circumstances raise legal issues worthy of broader discussion.

Rights of a married spouse to an estate

A useful starting point in our discussion is to outline the rights of a married spouse to the estate of his or her deceased husband or wife.

In Ontario, a surviving spouse has the right to choose between accepting his/her entitlement under the deceased's will or on an intestacy (where there is no will) or claiming an "equalization payment" representing an equal sharing of their net family property under the *Family Law Act* R.S.O 1990, c.F.3 (the FLA). This is referred to as the spousal election.

Where there is no will, a surviving spouse must consider whether the intestacy provisions of the *Succession Law Reform Act*, R.S.O 1990, c.S.26 (the SLRA) are more favourable or less favourable than a division of the property of the respective spouses. The SLRA provides that a surviving spouse, where there is no will, is entitled to the entire estate if the deceased had no issue. If the deceased had one or more children, the surviving spouse is entitled to a preferential share (currently the first \$200,000 of the estate value), together with a percentage of the balance of the estate depending on the number of children the deceased had.

Effect of divorce or separation

As noted above, it has been reported that King sought a divorce from his last wife, Southwick, in 2019, but that the divorce was never finalized. It is unclear whether he had a will.

Where a couple separates or divorces prior to death, the rights of the surviving spouse may be

affected. The various scenarios and their probable implications are outlined below.

Divorce prior to death (deceased had a will)

In Ontario, if the deceased was divorced after the will is made, then the will is read as if the divorced spouse predeceased the testator. As such, any appointment of the former spouse as executor is ineffective and all bequests to the former spouse are revoked.

Note that the former spouse may be a creditor of the estate pursuant to any support agreement, and, may be entitled to claim support as a dependent of the deceased.

Married then separated, but not divorced (deceased had a will)

Where, as in the case of King and Southwick, a separation has occurred but no divorce order has been made, the surviving spouse may retain the right to make a spousal election for equalization of net family property. This is because separation (in the absence of a separation agreement dealing with such issues) does not revoke a will or any gifts made to a separated spouse.

It is unclear whether King and Southwick entered into a separation agreement.

Married then separated, but not divorced (no will)

If the couple did not enter into a separation agreement releasing each spouse's interest in the other's estate on intestacy, the normal rules of intestate succession will apply. As such, the spouse will be the most likely estate trustee and would be entitled to the spouse's preferential share of the estate.

Multiple spouses

The question remains whether any of King's previous six previous wives, prior to Southwick, may have a claim against his estate (outside of any bequest in his will).

Pursuant to s. 34 of the SLRA, a surviving spouse, whether common law or married, may enforce a spousal support order against the estate of a deceased. Similarly, a domestic contract may be filed with the court under s. 35 of the FLA and the spousal support provisions in it can be enforced as if they were a court order.

As such, the answer to the question posed above is that King's former wives would be able to go to court to enforce against his estate any spousal support obligation he owed to them on death.

Takeaways

Marriage, separation and divorce can have real implications for estate planning, even for those who have less of a proclivity for marriage (and divorce) as King.

As such, even where there have not been eight marriages, it is important for clients and their lawyers to consider the possible impacts that separation and divorce may have on an estate plan, particularly soon after separation and prior to a formal divorce.

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