

# R-E-S-P-E-C-T-I-N-G WILLS: THE ARETHA FRANKLIN ESTATE DISPUTE

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Beyond the worldwide musical contributions of Aretha Franklin, the “Queen of Soul” left behind an ambiguous estate plan when she passed away in 2018. The five-year posthumous legal battle surrounding her estate in Michigan highlights the challenges that unclear estate planning documents can cause for families.

## The Legal Battle

Aretha’s estate was initially opened as an intestate administration. Thereafter, three handwritten wills were discovered in Aretha’s home. These wills were in various locations, one in a locked cabinet and another in between her couch cushions. Shortly before her death, Aretha engaged an estate planning attorney. She reviewed drafts of her estate planning documents and directed verbal revisions through voicemail messages before she became ill and passed away. However, these recent drafts of Aretha’s estate planning documents were never officially finalized or executed. This left the handwritten will in the couch as Aretha’s most recent executed estate planning document – the authenticity of which was naturally questioned. During the five-year legal battle, handwriting experts and legal professionals weighed in to ascertain Aretha’s intentions and determine which estate planning documents would govern her valuable estate. Some of her children supported the validity of her most recent handwritten will. Her other child challenged its validity and argued the unfinalized and unexecuted draft estate planning documents illustrated her most recent estate planning intentions and should govern her estate administration.



## Holographic Wills Generally

Holographic wills are a type of last will and testament entirely handwritten and signed, lacking witnesses or notarization. While holographic wills can capture the testator's personality and unique circumstances, their informality causes a greater likelihood to present enforceability challenges and unintended consequences. Holographic wills are statutorily recognized only in some jurisdictions. However, holographic wills face greater scrutiny compared to formally drafted wills due to concerns of authenticity and ambiguity. Therefore, holographic wills are not a sound means of estate planning and should be avoided.

## Aretha's Holographic Will

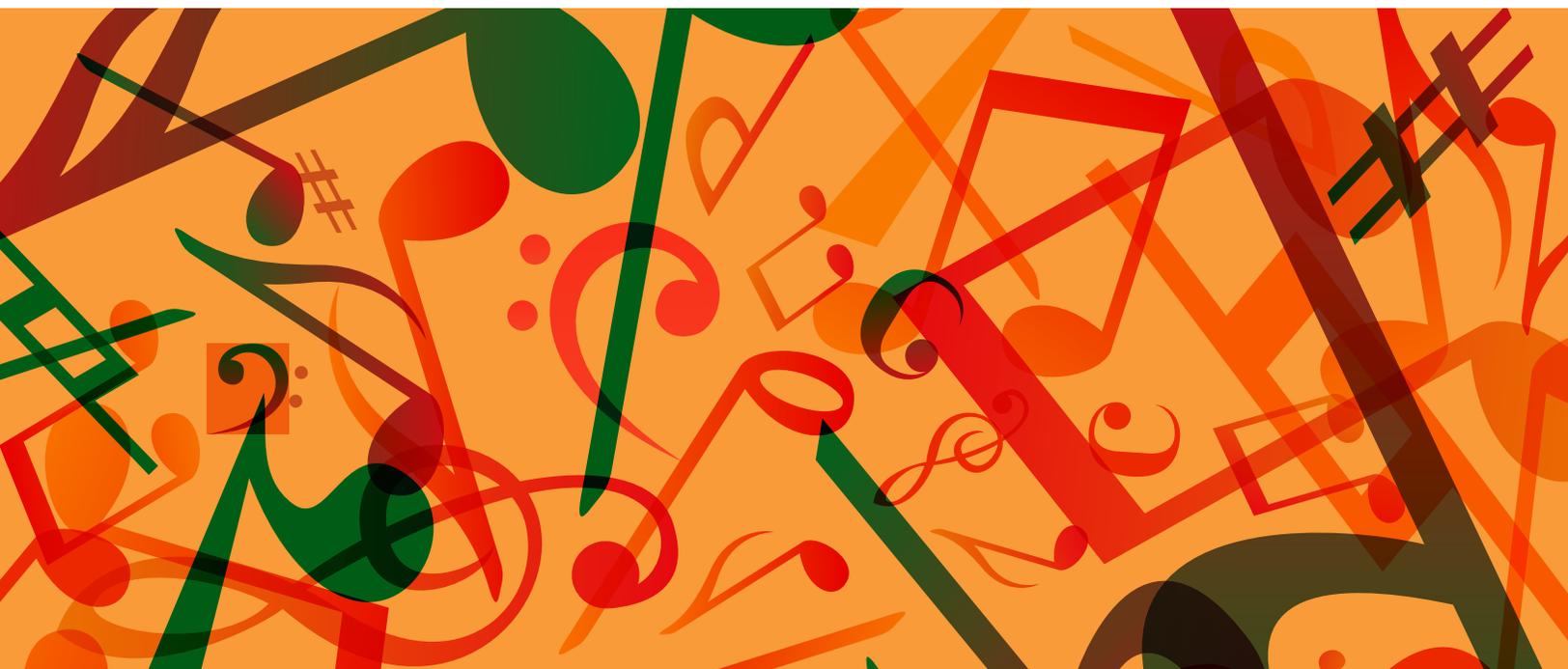
Michigan law applied to Aretha's legal battle. Michigan is one of the jurisdictions which recognizes holographic wills. Under Michigan law, a holographic will is valid if it is signed, dated, and the material portions are in the testator's handwriting. In Michigan, a holographic will does not need to be witnessed. Ultimately, a jury declared Aretha's most recent holographic will, kept with the loose change in her couch, was a valid will and testament and therefore, governed her

estate administration. The argument that her revised, but unexecuted, draft estate planning documents should govern her estate administration because it best illustrated her latest intentions, failed.

## Holographic Wills in Ohio

In Ohio, the law on holographic wills is different from Michigan. Ohio law attempts to combine the principles of testamentary freedom, while still emphasizing the need for clarity and authenticity. To be valid in Ohio, a holographic will must meet all the same requirements as a traditional will. A traditional will is in a writing, signed by the testator, and attested by two or more competent witnesses. Ohio law also includes a provision acknowledging the validity of a will that is "handwritten or typewritten ..." and "attested and subscribed in the conscious presence of the testator, by two or more competent witnesses, who saw the testator subscribe, or heard the testator acknowledge the testator's signature."

While Aretha's handwritten, yet unwitnessed will, was admissible and valid under Michigan law, the result would have been very different in Ohio – it would have been invalid.



## Avoiding Unintended Consequences

Errors, illegible handwriting, or vague language can all call a holographic will's validity and interpretation into question. An ongoing will or trust contest matter leaves the administration of the estate or trust in a state of limbo - who gets what? It also brings private matters in the public eye through court proceedings and often results in an emotional toll on already grieving loved ones.

Regardless of one's wealth or fame, having a clearly drafted estate plan is critical to ensuring one's wishes are honored after passing. The lack of clarity may lead to complex legal battles, strained family relationships, and financial setbacks. Estate planning encompasses preserving one's legacy, ensuring the well-being of loved ones, and minimizing potential conflicts. Aretha's estate planning and subsequent holographic will contest matter serves as a reminder that even a celebrity can face uncertainty when it comes to their final wishes. It is advantageous to contact an estate planning attorney to draft and execute formal estate planning documents to provide a clear and unambiguous understanding of your intentions.



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