

The 101 Biggest Estate Planning Mistakes

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Herbert E. Nass, [The 101 Biggest Estate Planning Mistakes](#) (2010).

What fun! That was my first reaction to this new book by Herbert Nass, the famous New York attorney who has worked on the estate plans of countless celebrities. By using the wills of the rich, famous, and infamous as examples, Nass guides readers through the most common and significant mistakes individuals and their attorneys make during the estate planning process.

In the span of eleven chapters, Nass sets out his top 101 missteps which individuals and their attorneys are prone to take when planning an estate. A good way to get a flavor of the scope of his coverage is to peruse the titles of his chapters:

- The Single Biggest Mistake is Not Planning for the One Certainty in Life ... Death
- Mistakes Involving Tangible Personal Property
- Mistakes Involving Real Estate
- Mistakes Involving Executors and/or Trustees
- Mistakes Involving Guardians, Minors, or Step-Children
- Mistakes Involving Prior Marriages, Prenuptial Agreements, and Significant Others
- Estate Planning Mistakes Involving Tax and Copyright Issues
- Estate Planning Mistakes Involving Disgruntled Friends and Family
- Mistakes Involving Funerals, Burials, or Cremation
- One-of-a-Kind Mistakes by Celebrities and Icons
- Rookie or Boneheaded Mistakes

Perhaps the best feature of this book is the inclusion of real-life examples for most of the mistakes which often include reproductions of the actual wills or other documents which contain the errors. Significant to note is that most of these are *not* from the wills typically reproduced such as those of Elvis, President Kennedy, and Anna Nicole Smith. See [Wills of Famous and Influential People](#). Here are some examples showing the novelty and diversity of the samples reproduced: Jackie Gleason, Phil Silvers, W.C. Fields, Mae West, Rock Hudson, Gloria Swanson, James Morrison, and John Cassavetes,

Not only is *Biggest Mistakes* an entertaining read for its intended lay audience, it also serves as a useful resource for practitioners and a learning tool for law students.

Although most practitioners will not learn anything earthshaking, the examples serve as reminders of what happens if they do not exercise proper care in each step of planning an estate. I predict, however, that almost every estate planner will come away with something previously unconsidered. Here is one of the insights I gained. I consistently warn my students not to unstaple a will once it is stapled together because contestants use multiple staple holes as evidence of fraudulent page substitution. I had not thought of what to do once removal is done – how does one “unring the bell.” Nass provides a wonderful suggestion – obtain an affidavit from the person who removed the staples which explains the circumstances behind that removal. He even includes a sample affidavit.

For law students, this book brings to life many of the key pitfalls typically discussed by their professors

such as executing documents improperly, naming an even number of co-fiduciaries, and failing to plan for out-of-state real property. One important warning, however, is in order. In Nass's attempt to make the book accessible to a wide audience, he often generalizes legal rules. These overstatements may be confusing at times such as the admonition that serving as a witness to a will in which the witness is a beneficiary would void the gift. Although still true in many states, students who study primarily the Uniform Probate Code which provides in § 2-505(b) that this fact is irrelevant may be left wondering "what's going on here?"

Learning from your own mistakes is good, learning from the mistakes of others is better, and not making mistakes in the first place is best. *Biggest Mistakes* helps readers avoid making the mistakes themselves by learning from the errors of others in both an informative and engaging manner. Definitely, a good deal!

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