

## **Wealth, Legacy, and Family Drama: Inside *The Descendants***

When you are discussing the importance of estate planning with clients, one strategy is to present statistics, such as the oft-repeated data point that only around one-third of Americans have an estate plan—despite almost two-thirds of them saying that estate planning is important.<sup>1</sup>

But most people think in stories—not in statistics. Research suggests that we are about 20 times more likely to remember facts when they are part of a story.<sup>2</sup>

One such story, the 2011 movie *The Descendants* starring George Clooney and based on a novel of the same name, offers estate planning lessons about trusts wrapped up in a comedic drama.

### ***The Descendants* Movie Showcases Trustee Challenges**

Clooney plays Matt King, a Hawaii attorney and sole trustee of a family trust established by his great-great-grandparents, a Hawaiian princess and an American banker. The trust's most valuable asset is a 25,000-acre parcel of pristine coastland on the island of Kauai. The land has been in the family since the 1860s, but the trust is set to end in seven years due to the rule against perpetuities (a legal principle that prevents someone from making a will or trust that controls how property is used for an indefinite period of time).

Matt, one of about 20 beneficiaries of the trust, is not reliant on it for income and does not want to sell the land. However, many of his cousins have squandered their inheritance and need the money.

Worried that distributing the land to his cousins would be a “trainwreck”—alluding to the likelihood that the co-owning cousins would end up in a complicated and costly partition lawsuit—Matt must decide what to do with the land.

Right before he is about to sell to a developer, Matt has a change of heart. He decides against selling the family's “piece of paradise,” which his ancestors would not have wanted developed; he then has seven years to find a way to preserve it.

Matt's decision sets the stage for litigation between him and his cousins, who want to sell.

### **Lessons about Trusts from *The Descendants***

Although the family in *The Descendants* is fictional, the story is inspired by history and actual law. To this day, large pieces of land are still held in Hawaii by so-called Ali'i trusts, set up more than a century ago to hold the assets of Hawaiian royalty.

Here are a few of the basic lessons from the movie that you can reference when discussing financial planning and trust administration issues with your clients:

- The rule against perpetuities is notoriously arcane, but its purpose is simple: to prevent someone from controlling property indefinitely. Some states have abolished this rule.

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<sup>1</sup> Rachel Lustbader, *2023 Wills and Estate Planning Study*, Caring (Aug. 21, 2024), <https://www.caring.com/caregivers/estate-planning/wills-survey/2023-survey/>.

<sup>2</sup> Vanessa Boris, *What Makes Storytelling So Effective For Learning?*, Harvard Bus. Pub. (Dec. 20, 2017), <https://www.harvardbusiness.org/what-makes-storytelling-so-effective-for-learning/>.

However, some states that have opted out of the rule against perpetuities still only allow trusts to last for a set number of years. The rule against perpetuities applies to trusts where the beneficiaries are individuals (i.e., family trusts), rather than charities (as in the case of the Ali'i trusts).

- Whenever property must be distributed among multiple family members like the land held in Matt King's family trust, the potential for family conflict exists. The "trainwreck" that Matt King envisions centers on the likelihood of his cousins fighting over how to divide their interests in the land when they become co-owners. This situation can put tremendous pressure on a family trustee, especially one who is also a beneficiary, to remain objective in the face of family demands.
- A third-party professional trustee or co-trustee may be better suited than a family member to navigate the types of real-life family inheritance issues depicted in *The Descendants*. A corporate trustee from a bank or trust company can also provide continuity over multiple generations.
- As the sole trustee, Matt has a legal duty to carry out the trust's purpose in a way that serves the beneficiaries' best interests. When he asks his cousins what they view as being in their best interests, almost all of them want to sell. However, just because a beneficiary says they want something or consents to a trustee's proposed action does not mean they cannot later sue the trustee for a perceived breach of duty if their decision was bad in hindsight.

### **Turn Estate Planning into a Story that Stars Your Client**

You can present a client with facts and figures about financial planning that appeal to their intellect. However, framing this information in a narrative that connects with their life story and resonates emotionally can make your efforts far more persuasive.

Your clients probably are not descendants of a Hawaiian princess, and you would be hard-pressed to make estate planning as alluring as Clooney did in *The Descendants*. But you can make it more interesting, memorable, and personalized using storytelling elements in your sales pitch.

If you have a client preparing to place family accounts or property in a trust for long-term protection, you could recommend *The Descendants* book or movie as a fun way to approach the topic. To discuss this and other narrative-based estate planning strategies, schedule a time to talk with us.