that courts take seriously the requirement of proof by clear and convincing evidence.

As a matter of autobiography, Prof. Wendel tends towards the traditional, but two California cases have shaken his confidence. In 2009, the California Superior Court decided *Estate of Caspary*.[2] A Jewish refugee to the United States in World War II, Gerard Caspary had no children, was unmarried and lacked close family. He wanted to leave his estate to the Holocaust Museum in Washington, D.C. Unfortunately, between 2005 when he did his own typewritten, not perfectly clear, will leaving the bulk of his estate to the Museum and engaged an attorney who drew up a proper will with that result, and 2008 when he died, Gerard never signed the proper will. Gerard did turn out to have some very distant family. Three of his friends testified that his typewritten will set out his true wishes. The court concluded that under the traditional rule, there was no valid will, but while the case was pending, California adopted the harmless error doctrine, at least in a limited form. The case settled, and the Holocaust Museum received some portion of the estate.

Then along came *Estate of Duke*,[3] which involved the 1984 holographic will of Irving Duke. Irving left one dollar to his brother (and didn't mention his deceased sister at all) and everything else to his wife Beatrice, but if both Irving and Beatrice died together, then all would be divided between two charities. Not covered was what actually happened, namely Beatrice dying first. She died five years before Irving died, but he didn't revise his will. What to do? Irving's deceased sister had descendants who thought they would be worthy recipients in intestacy, and both the trial court and appellate court agreed, but the California Supreme Court reversed. The court found by clear and convincing evidence that the one dollar bequest meant family was to receive nothing and that Irving wanted all of his assets to pass to charity.

Prof. Wendel is troubled by these cases, yet is unwilling to give up his traditionalist inclination and heritage. And, he thinks he's found a way out of his dilemma: These California cases both involve charity! Perhaps we should allow harmless error and reformation when charity is involved because the law generally gives a preference to charitable gifts, and charity is more sympathetic than private takers.

Whether the reader finds Prof. Wendel's conclusion convincing—and I suspect few will—the article is an excellent discussion of the debate, the background and the stakes involved.

Endnotes

1. Professor John Langbein, "Substantial Compliance With the Wills Act," 88 *Harv. L. Rev.* 489 (1975).
2. *Estate of Caspary*, unpublished, and best accessed through David Horton, "Partial Harmless Error for Wills: Evidence from California," 103 *Iowa L. Rev.* 2027 (2018).
3. *Estate of Duke*, 352 P.3d 863 (Cal. 2017).

REVIEW BY: **Avi Z. Kestenbaum**, partner at Meltzer, Lippe, Goldstein & Breitstone, LLP in Mineola, N.Y. and New York City and adjunct professor at Hofstra University School of Law in Hempstead, N.Y.

AUTHOR: Ben Laney, research assistant, Texas Tech University School of Law

ARTICLE: "Bringing the Dead Back to Life: Preparing the Estate for a Post-Mortem Acting Role," *Texas Tech University School of Law Estate Planning and Community Property Law Journal*, Vol. XII (June 2020)

In this very interesting and entertaining article, the author, Ben Laney, discusses the fascinating science and legal issues regarding "bringing the dead back to life." The author isn't referring to zombies, Frankenstein or any type of macabre mad science. Instead, he's referring to advanced technology, which can bring deceased actors such as James Dean, Tupac Shakur, Audrey Hepburn and Bruce Lee, to name a few, back to life in movies and commercials through computer-generated imagery (CGI).

Modern technology has allowed recreating deceased individuals in their former selves to play new roles on the silver screen. This begs many questions, including who owns the legal rights both to the deceased actors, as well as to the characters they played. Additional issues include how these rights can be protected by the actors and their estates and

for how long. Numerous legal issues exist under still sparse federal and state laws in this new and evolving area, and there's much gray and a lot to think about for actors to better protect their likenesses.

Some actors, such as Robin Williams, have or had specific provisions in their estate-planning documents dealing with their persona after their passing. In Williams' case, he forbade the use of his likeness for 25 years following his passing to avoid misappropriation. Other performers, perhaps, aren't aware of all the legal issues surrounding the commercial uses of their images as well as the possible protections of these images after death, but they should be. Even those who are aware, and who may want effectively to deal with these issues, might be disappointed to learn there are currently only limited protections and statutes under state and federal law.

This thought-provoking article not only delves into the legal issues and uncertainties but also the science behind CGI. Additionally, the article provides many examples of famous deceased actors, as well as some living ones, who had controversial issues come up in this complex legal area. The author also advocates the enactment of further laws and protections in this fledgling and ambiguous area of the law, though his main focus is how to protect likeness and image under current law.

I found the article a very interesting and applicable read not only for actors and their legal advisors but also for all individuals who have likenesses or any other post-life data and imagery that one day may be valuable and useful to both their heirs and the general public. This article will help practitioners better learn, understand and contemplate the legal issues regarding post-mortem imagery, data and likeness. Many estate planners may also need to advise their clients regarding the necessary steps and provisions to include in legal documents to effectively deal with these often controversial issues. Therefore, both as a truly fascinating read and because of the guidance and helpful information in the article as it relates to a new area of the law that's important to consider even if we aren't representing celebrities, I encourage estate planners to read this article. In fact, current law students and younger lawyers will undoubtedly deal with these and similar issues more and more as technology continues to evolve at a rapid and unprecedented rate, and the law struggles to keep pace.

REVIEW BY: **Elizabeth K. Miller**, founder and head of Summit Place Financial Advisors, LLC, in Summit, N.J.

AUTHOR: Emily S. Taylor Poppe, assistant professor of Law, Irvine School of Law in Irvine, Calif.

ARTICLE: "The Future is ~~Bright~~ Complicated: AI, Apps & Access to Justice," *Okla. L. Rev.*, Vol. 72, No. 1 (2019)

Study after study reports that most Americans don't have a financial plan or an estate plan. In recent years, the explosion of "robo-advisors" has promised widespread, low cost access to financial planning. The financial profession has struggled to determine the quality of this technological development, its potential to increase access for quality advice and its threat to highly educated and trained professionals. Professor Poppe addresses the same emerging phenomenon and potential threat to the legal industry in "The Future is ~~Bright~~ Complicated: AI, Apps & Access to Justice." In this useful read for anyone considering the future of the industry, the author considers whether online providers driven by sophisticated machine learning and artificial intelligence (AI) will expand access to estate planning, drive doctrinal reform or threaten estate-planning professionals.

From research platforms to document management, Prof. Poppe details that emerging technologies are changing the daily work of all legal specialties, often increasing efficiency, especially of young lawyers. Will these innovations, however, ultimately fully automate work to the detriment of the legal professional? To investigate these trends in more depth, Prof. Poppe focuses on current consumer-facing legal technologies for will preparation. She starts by exploring whether, as promised, these technologies successfully expand access, reducing existing social inequities in estate planning. She then asks how we should assess the quality of the product given strict doctrinal requirements. How will we know that these wills meet the legal requirements and testamentary needs of the users? Finally, she suggests the profession deliberate carefully whether fully "substitutive