

One last time Ernie Banks swung and missed

The life and death of Ernie Banks is truly instructive on many levels. Universally acclaimed as a perennial optimist with the sunniest disposition, he was the most beloved Cubs player in Chicago. He was the first African-American player for the Cubs, and the first Cub to have his jersey retired in recognition of his achievements on the field during his 19-year-career. He was named Most Valuable Player by the National League early on in his career in back-to-back years, he was named an All-Star in 11 seasons, and he was elected to the Baseball Hall of Fame on his first nomination. Banks started his own foundation that raised money to give to charities and received the Presidential Medal of Honor in 2013.

Banks was divorced three times and had four children, one adopted with his fourth wife, and two twin sons and a daughter with his second wife. When Banks died in January 2015 of a heart attack, just short of his 84th birthday, he was in the midst of a divorce from his estranged fourth wife. Apparently, three months before he died, he prepared a new estate plan that bequeathed everything to his agent and caregiver. The caregiver has been variously called a lounge singer, talent manager, and trusted confidant. She stands to inherit whatever assets remain at Banks' death, and also financial control over his memorabilia, name, image, likeness and reputation.

Banks' estranged wife and his twin sons claim that the caregiver exploited Banks in his declining years, and unduly influenced



RICHARD SUGAR
Spoonful of Sugar

him to cut out his family to her own personal advantage. They are suing in Cook County Court. Ironically, in August 2014, the Illinois General Assembly enacted a new law called "Presumptively Void Transfers," which targets the very circumstances like those surround-

ing Banks' will. It would have made it extremely difficult for a non-family-member caregiver to inherit anything more than \$20,000 from an Illinois citizen. The caregiver must prove that no fraud, duress, or undue influence took place to induce the gift to the caregiver. That is a mighty big burden. And if the caregiver is challenged and loses, the caregiver must pay all the legal fees of the challenger. Unfortunately for Banks' heirs, the law applies only to estate planning documents created after Jan. 1, 2015, so it does not apply to Banks. Instead, the challenger must first endure the costs and efforts of proving Banks was susceptible to fraud, duress and undue influence, and then the caregiver can defend against those charges, giving the caregiver a much easier chance to win than under the new law.

This is one time, the last time, when Ernie Banks swung at the ball and missed. Did he disappoint his fans and the crowd, or will we learn that he missed on purpose, to allow a runner to steal third base?

Richard A. Sugar is a freelance columnist for Pioneer Press. He is a North Shore resident who practices law in Chicago.

Email: RAS.Sugar1898@gmail.com