



LEGACY LAW

Protecting the assets in your family tree

## David Rofe's Legacy

A recent case regarding the Estate of the Late David Rofe QC, a prominent barrister and former local mayor of Woollahra, has publicly examined the “suspicious circumstances” in which his twelve Wills and two Codicils were drafted and executed. While the last Will was found to be valid, it was only after very private arrangements were held up to scrutiny. For more information see [full judgment here](#). We quote from it below.

Mr Rofe was never married and had no children. His Estate is worth an estimated \$27 million and yet the Court was told he was known as “famously tight with money”.

**KEY PLAYERS**

 <p><b>THE LOVER</b> Gregg Hele</p> <p>Friend and former partner of David Rofe from the early 1980s to 2000 who re-entered Rofe's life in mid-2014 as his dementia worsened. Hele moved into Rofe's Woollahra home and was paid \$10,000 a month as his carer, along with two nannies and a cook, and served in that role until Rofe's death. Hele was a beneficiary in all Rofe's wills and named to receive two-thirds of his estate – or \$6m – in the barrister's last will.</p>	 <p><b>THE BARRISTER</b> David Rofe QC</p> <p>Wealthy Sydney barrister known for high-profile cases, diagnosed with dementia in October 2010. Died in July 2017 aged 95, leaving an estate valued at \$30m. No children, never married. The beneficiaries of two main wills signed before Rofe's dementia diagnosis, and dozens more signed between then and December 2014, were a changing cast of relatives and friends.</p>	 <p><b>THE VIRTUAL SON</b> Nick Llewellyn</p> <p>Former Rofe friend and self-described Rofe “dependant” who met the barrister in 2002 and started appearing in his wills in 2006. Rofe paid Llewellyn \$10,000 a month for living expenses, plus \$6,000 a month rent for a Paddington house where Llewellyn lived with his boyfriend. Llewellyn brought Michael Lawler and Kathy Jackson into Rofe's life after Rofe's health breakdown in late 2012, but Llewellyn later fell out with the couple.</p>
<p><b>THE GUARDIAN</b> Michael Lawler</p> <p>Former vice-president of the Fair Work Commission and partner of Kathy Jackson 2008 to 2019. Served as a barrister in Rofe's chambers before his FWC appointment in 2012. Lawler served as Rofe's power of attorney, financial controller and alternate guardian from July 2013 to August 2014, during which he used \$1.1m of Rofe's money to buy a house in Rofe's name next door to the Jackson-Lawler Sydney residence and a \$1.1m apartment at Surfers Paradise as a residence for Llewellyn.</p> 	<p><b>THE DAY WIFE</b> Kathy Jackson</p> <p>Former Health Services Union leader who filed for bankruptcy in 2010 shortly before the Federal Court ruled she owed \$2.4m to the HSU. Michael Lawler's partner from 2008 to 2019. Jackson met Rofe in May 2012 and later became part of his life as a self-described “day wife” and “companion” along with Lawler to help Rofe as a dementia patient. Jackson first appeared in Rofe's wills less than a year after they first met, with a \$45,000 inheritance. Her inheritance was boosted to one-tenth (\$3m) plus \$100,000 in Rofe's last will signed in December 2014.</p> 	

Medical assessments carried out in or about late 2009 revealed that Mr Rofe was suffering from cognitive impairment, recognised as a form of dementia associated with vascular disease, aggravated by a lifetime of heavy alcohol intake.

Mr Rofe's medical condition paired with the number of Wills and Codicils he executed resulted in deep controversy as to his testamentary capacity, and his knowledge and approval of the several instruments signed by him.

An assessment of the nature and quality of Mr Rofe's personal relationships is complicated by the complexity of his personality. The Judge said that his personality was in full agreement with his chosen profession as a common law advocate, armed with an ability to display a range of personae. Throughout his life, until fully captured

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by dementia in about mid-2015, he was an inveterate social animal. By all reports, he loved to be the centre of attention, and to indulge his contrarian tendencies in banter which, aided by a cruel tongue, could savage friend and foe alike.

Mr Rofe drank too much and too often was not assisted by his love of wining and dining. His routine domestic life depended upon paid staff and the good grace of friends. Dependency on social connections in the domestic sphere was not entirely a dementia-induced innovation. The nature and extent of his dependency changed, but not the fact of dependency.

A Mr Hele and Mr Rofe were in a relationship between 1980 and 2000. Mr Hele prepared a note for Mr Rofe's geriatrician which included very personal details which were published in the judgement. Mr Hele indicated that Mr Rofe devoted his life to the law and unfortunately nothing else.

The judgment stated: "Mr Llewellyn appears to have regarded an exploitative relationship between an older man and a younger one in the gay community in which he and the deceased lived as entirely normal. He told a friend of the deceased, Ms Katherine Jackson, that he knew what buttons to press to get what he wanted from the deceased, and he confirmed as much in his cross-examination."

The judgment found that Mr Rofe's closest associates described Mr Llewellyn as someone who often played on the deceased barrister's susceptibility to flattery and often made "dramatic threats of suicide" or threats to "out him" as a homosexual man if he did not get his own way with the deceased, which at some point included his presence in Mr Rofe's Will.

Ms Jackson, is a controversial public figure. She is former national secretary of the Health Services Union who was found to have misappropriated funds and ordered to repay \$1.4 million in compensation. In May 2012 the broadcaster Mr Alan Jones introduced Ms Jackson to the deceased. Ms Jackson's partner at the time, who regarded the deceased as his mentor at the Bar (Mr Michael Lawler), says that Mr Jones conveyed to her an offer of the deceased to act for her as counsel.

Ms Jackson may now receive more than \$3 million from Mr Rofe's Estate but we note that the Health Services Union may be seeking to recover money from her.

For someone who held the law in such high regard, the deceased was unwilling to spend money on seeing a solicitor to draft and provide advice on his Will and was more confident in his own abilities.

The lesson from this case is to avoid having your dirty linen (including allegations of blackmail, mental health diagnoses, HIV infection etc) aired in public if possible.

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