

***Planning Ahead***



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**Estate Planning –Heirs by Law, Beneficiaries by Design**

When talking about their estate plans, people tend to use “heirs” and “beneficiaries” interchangeably. While heirs and beneficiaries are often the same, they are not always.

If you don’t have a Will or Trust, California law dictates how your estate will be distributed when you die. This is called “intestate succession”. Heirs will be immediate family first, followed by more distant relatives. It is important to know that someone who is not legally related to you will never be an heir. This includes step-children and people in relationships without marriage, even when they’ve lived together for years. California does not recognize common law marriage. These loved ones will never inherit from you unless you make them a beneficiary.

Beneficiaries are people and charities named in a Will or Trust. If you want to include step-children, partners, former in-laws, or anyone who is not related to you by blood or marriage, you must affirmatively name them in your Will or Trust. The same goes for your favorite charities. They are not your heirs.

Some people without immediate family think they have no heirs. Or people forget about the descendants of a predeceased child, sibling, aunt or uncle. I had a client in a probate who started out thinking she was helping her mother inherit what she thought would be the entire estate of her mother’s nephew. The nephew’s parents were deceased and my client’s mother was his only living aunt and they had been very close. But it turned out there were several deceased aunts and uncles with living children who lived all over the country. The client and her mother never even knew about some of the relatives and were out of touch with the rest. Certainly the decedent had never met many of the extended relatives who eventually inherited from him. Much time and money was spent trying to locate all of the decedent’s cousins and the client’s mother ended up with only about 10% of the estate.

When people die without a Will or Trust, finding all the heirs can sometimes be so difficult that we have to engage an heir locator firm to assist in finding them. All of this can be avoided with a proper estate plan that names your intended beneficiaries to inherit from you. Wouldn’t it be nice if your inheritance went to your family of choice, people close to you and favorite charities, rather than leaving it to the laws of intestate succession to determine your heirs.

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