

Planning Ahead



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Unexpected Heirs Without a Will

If you die without a Will, your estate will go to your heirs determined according to California law. If you have close relatives (children, parents, brothers or sisters, grandparents or grandchildren), your estate may not go as you would have intended, but there are usually no surprises. But there can be a big surprise if you are a widow or widower with no living descendants and your spouse died less than 15 years earlier. If you don't leave a Will, any real property you received from your predeceased spouse will go back to his or her heirs, not your heirs.

In a recent case, nieces were extremely close with their childless aunt who was like a second mother. In their aunt's last years, the nieces regularly visited her in her board and care home, bringing her special treats and taking care of her personal needs. Their aunt's husband died before her, by 14 years, 11 months and 27 days – only 3 days short of 15 years. It had been a loving, later-in-life second marriage for both of them. They bought a home together that he left to her when he died. The aunt lived in the home until she moved to the board and care and she continued to own the home up until her death.

Unfortunately, the aunt did not make her own Will. Her nieces were her sole heirs. Imagine their surprise when the heir hunters notified them that their aunt's predeceased husband had distant nephews of his own whom the nieces had never met and never knew about. The nephews had never had any relationship with their uncle. But the 15-year rule applies and his half of the home that passed to their aunt when he died will go to the distant nephews, not to her nieces.

If only the aunt had lived 3 more days and if only she'd made a Will.

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