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The State of the Estate

June 2015



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Determining Heirship of a California Estate

If a person dies without a will or trust in place, potential heirs may sometimes find themselves on the outside looking in if an estate administrator refuses to acknowledge them as rightful heirs. However, the California probate system offers legal remedies when reasonable discussion fails:



1. A potential heir can file an "affidavit of heirship" in the court that has jurisdiction over the property location or where the estate administration is taking place. The affidavit should contain evidence that supports the potential heir's status as a rightful heir; a description of the property; the name, age, and residence of the potential heir (a copy of their birth certificate may be beneficial); and the names and pertinent information of other potential heirs, if known. The affidavit should be notarized.
2. The potential heir petitions the appropriate court to issue a "decree of determination of heirship" at a future hearing. If granted, it establishes the petitioner as an heir to the estate and that their claim to property is valid.
3. The potential heir must notify other interested parties that the petition was filed, usually at least 15 days before the hearing date. If these parties have any objections to the petition, they can raise them at the hearing.
4. If the court issues a decree confirming heirship, it serves as legal proof that the party who submitted the petition is a legal heir. Multiple heirs of equal status within the state will each receive an equal share of the property.

Potential heirs frequently include a spouse, registered domestic partner, and children, but can cover a broad range of other possibilities, depending on the circumstances. To help establish your rights as an heir, contact the experienced estate attorneys at the **Grossman Law Firm**—(888) 443-6590.



Eva's Graduation

In honor of our young graduate (Eva, "promoting" from middle school to start high school in the fall), I started looking up famous commencement speeches. Everyone seems to agree the best one from last year was Admiral McRaven's speech at University of Texas at Austin about the value of the deceptively insignificant chore of making your bed:

"If you make your bed every morning you will have accomplished the first task of the day. It will give you a small sense of pride and it will encourage you to do another task and another and another. ... And, if by chance you have a miserable day, you will come home to a bed that is made—that you made—and a made bed gives you encouragement that tomorrow will be better."

Of course there's the famous "Everyone's Free to Wear Sunscreen" commencement speech from 1997. This "commencement speech" wasn't even actually a commencement speech, but rather, a Chicago Tribune column by Mary Schmich about the hypothetical advice she would give if she were ever asked to deliver one. It was incorrectly attributed to Kurt Vonnegut and became an urban legend that he gave it at MIT. (The rumor was so persistent that he was often asked to reprise it. Vonnegut's response: he didn't write it but would have been proud of it if he had.)

Some advice is pithy, like this one from Sheryl Sandberg: "If you're offered a ride on a rocket ship, don't ask what seat. Just get on."

My favorite advice is from Neil Gaiman in 2012, about doing something only you can do:

"I hope you'll make mistakes. If you're making mistakes, it means you're out there doing something. And the mistakes in themselves can be useful. I once misspelled Caroline, in a letter, transposing the A and the O, and I thought, 'Coraline looks like a real name ...'

Life is sometimes hard. Things go wrong, in life and in love and in business and in friendship and in health and in all the other ways that life can go wrong. And when things get tough, this is what you should do: Make good art.

I'm serious. Husband runs off with a politician? Make good art. Leg crushed and then eaten by mutated boa constrictor? Make good art. IRS on your trail? Make good art. Cat exploded? Make good art. Somebody on the Internet thinks what you do is stupid or evil or it's all been done before? Make good art. Probably things will work out somehow, and eventually time will take the sting away, but that doesn't matter. Do what only you do best."



Special Needs Trusts and Trustee Considerations

A California resident who has a disability may be eligible for various government-assistance programs, such as Supplemental Security Income (SSI) and Medi-Cal, among others. However, these programs are needs-based; if the disabled person's assets rise above a certain threshold (e.g., \$2,000 for SSI and Medi-Cal), their benefits may be reduced or completely eliminated. Receiving an inheritance, personal injury award, or gift may prove to be a curse rather than a blessing.

One tool at a family's disposal to avoid this scenario and also provide for the needs of a disabled family member—who may require lifetime assistance—is to set up a special needs trust. This type of trust holds assets that can provide for the needs of the disabled person without those assets counting as property of the disabled person, keeping them eligible for government assistance.

Trustees should ask themselves the following questions:

- Does the trust require court approval of the trust accountings?
- Does the trust require court approval for attorney fees before they are paid?
- Does the trust contain a standard for determining when and how to provide beneficiary distributions?
- Does the trust need a modification in order to meet the requirements of the Medicaid agency?
- Does the trust contain a clause that requires repayment of the California agencies for Medicaid benefits after the beneficiary's passing?
- Does the trust require that you post bond?

It is critical that a special needs trust be drawn up correctly; a loved one's future health and well-being may be at stake. Call on the experienced, compassionate estate attorneys at the **Grossman Law Firm**—(888) 443-6590—for guidance on the matter.

Angel Oak a Sight to Behold

The oldest living thing east of the Rockies reportedly resides on St. John's Island outside of Charleston, South Carolina. It's a live oak called Angel Oak, also known simply as "The Tree." Angel Oak is estimated to be close to 1,500 years old. Truth be told, some cypress trees are likely older than Angel Oak, but they can't hold a candle to its majesty.

Angel Oak is over 65 feet high, but this plant chooses to spread out more than shoot up. Its sprawling branches covered in Spanish moss cover a diameter of 160 feet and an area of over 17,000 square feet. Its trunk has a circumference of 25 feet—large enough to have completely obscured the entire company, 19 dancers, of the Charleston Ballet Company during a park performance. Because the branches are so large, some of them rest on the ground, with a few disappearing under the surface for a few feet, then reemerging a short distance later.

To lend some support, metal and wooden posts have teamed up with steel wires to hold some branches aloft that otherwise may have become unstable and broken off. With over 50,000 tourists visiting Angel Oak Park each year (there is no charge to visit The Tree), a stable tree equals happy, healthy tourists.

Angel Oak has withstood the ravages of natural disasters and war to reach its ripe old age, but its most menacing foe may be mankind and encroaching development. All living things eventually die, but if humans keep their distance, Angel Oak may be around for a good while longer.



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This newsletter is intended to educate the general public about probate, trusts, wills, and other issues. It is for information purposes only and should not be construed as legal advice. Prior to acting on any information contained in this publication, you should consult with experienced, competent counsel regarding your specific situation.



Sunbrella

If you're wanting to take advantage of the "great outdoors" in your own backyard, utilizing Sunbrella fabrics in your new décor might just fit the bill!

Originally designed and used in awnings, and then boating, Sunbrella fabrics have been in existence since 1961. And, as today's homeowners began creating additional living spaces outdoors, Sunbrella fabrics began taking on a whole new look. Featuring many fabulous designs, colors, and patterns, you're sure to find a fabric that will fit your new décor beautifully.

Even before "green" became a prominent element in home decorating products, the manufacturers of Sunbrella fabrics were committed to exceeding industry standards for environmental stewardship. Here are a few ways that Sunbrella fabrics protect air, earth and water, while producing beautiful, high performing textiles:

You'll find this fabulous fabric available for use throughout your home. From decks, patios and poolside to dining rooms, family rooms, and even the kitchen and bath.

So, if refreshing your outdoor décor is in your future, why not give this fabulous fabric a look! You won't be disappointed.

