

CALIFORNIA LAST WILL & TESTAMENT

DISCLAIMER:

You use FindLaw's self-help services, forms, and information under your own direction and at your own risk. FindLaw and its affiliates are not a law firm or a substitute for an attorney or law firm and do not represent you or provide legal advice on any matter. The use of FindLaw's self-help services does not create any attorney-client relationship. Communication between you and FindLaw is not protected by attorney-client privilege or as a work product. If you need legal advice or representation, please seek the assistance of an experienced attorney.

**CALIFORNIA LAST WILL AND TESTAMENT
OF**

I, _____, of _____, being of sound mind, declare this to be my LAST WILL AND TESTAMENT. I revoke all prior wills and codicils previously made by me.

ARTICLE 1.

MY FAMILY

My Spouse.

I am not married.

I am married. My spouse is _____. Any reference to “my spouse” in this will refers to this person unless we are no longer married at the time of my death. If I am married to someone else at the time of my death, “my spouse” will refer to that person.

My Children.

I DO NOT have any children.

I have the following children: _____

All references in this will to “my children” are to my children named above and any other children of mine born or adopted after the signing of this will, and any of my spouse’s children adopted by me. All references to “my descendants” are to my children and their descendants.

I have carefully considered those I wish to benefit from this will. My failure to provide for anyone not named, whether now living or born after the date of this will, is intentional and not caused by accident or mistake.

ARTICLE 2.

PAYMENT OF DEBTS, ESTATE ADMINISTRATION, AND TAXES

I direct my personal representative to pay all valid claims against my estate. This includes but is not limited to my legal debts, expenses for funeral, memorial, burial, and last illness, expenses of administration of the estate, any owed state and federal taxes, as well as any inheritance, estate, or other death taxes and associated interest and penalties. I authorize my personal representative to maintain real estate as needed, and complete improvements if needed for the sale of the real property. I authorize my personal representative to pay as an expense of the estate the cost of selling, advertising for sale, packing, shipping, and insuring any property of the estate.

ARTICLE 3.
SPECIFIC GIFTS

I give the following gifts from my estate:

Personal Property.

I give a gift of _____ to _____, with a current address of _____.

Monetary Gifts.

I give a gift of _____ to _____, with a current address of _____.

Charitable Bequests.

I give a gift of _____ to _____, a nonprofit organization with a current address of _____.

If any named charity organization does not exist at the time of my death, or if such organization is not at that time an organization described in the Internal Revenue Code section 2055, the gift to said organization will lapse and the personal representative shall distribute that gift to an organization identified by the Personal Representative with a similar purpose and function that then exists and is described in the Internal Revenue Code section 2055.

Real Estate.

I give the real property located at _____ to _____, with a current address of _____. This gift includes all interests in property, including buildings, fixtures, and improvements to the property, including all real property contiguous to or used in connection with such property, whether evidenced by deed or otherwise, and including all insurance policies related to it.

Pets.

I give to _____, with a current address of _____, any pet(s) I own at the time of my death, along with the sum of _____, to provide for the care of my pet(s).

If any of these beneficiaries do not survive me, then any property they would have received shall lapse and become part of the residuary estate. The cost of packing, shipping, and/or delivering the above gifts shall be paid out of the residuary estate.

ARTICLE 4.
RESIDUARY ESTATE

I give my entire residue and remainder of my estate as follows:

To _____, with a current address of _____, my residuary estate. If _____ does not survive me, I give the same to _____'s descendants per stirpes.

All gifts of the residuary estate are given per stirpes. However, if a beneficiary predeceases me and does not have any children, that beneficiary's gift will be distributed pro rata to the remaining beneficiaries who survive me.

If any property cannot be reasonably distributed, sold, or donated, my personal representative may dispose of such property at their sole discretion without liability.

ARTICLE 5.

PERSONAL REPRESENTATIVE

Personal Representative. I appoint _____, with a current address of _____, to be the personal representative of my will and estate. They can be currently reached at _____.

Bond. There shall be no requirement to post bond or security.

Reimbursement and Compensation. My personal representative shall be entitled to reimbursement for out-of-pocket expenses incurred in the administration of my estate, as well as reasonable compensation for time spent on the administration of my estate.

Powers of Personal Representative. In addition to all the powers given to them by state law, I authorize my personal representative to perform any act in the best interest of my estate, including:

- To retain, sell, lease, or otherwise exercise authority over any real estate in my estate, and to sell without license of the probate court;
- To employ lawyers, accountants, and other professionals as my personal representative may find necessary, and to pay professional fees as an expense of administration;
- To otherwise have the same power over the title to property of the estate that an absolute owner would have, in trust however, for the benefit of the creditors and others interested in the estate, and to exercise that power without notice, hearing, or order of the court;
- To serve as custodian under any applicable Uniform Gifts to Minors Act; and
- To access and otherwise exercise authority over my digital assets in accordance with state law including email, social media, or other online accounts, for the purpose of settling my estate and permanently closing the accounts on my behalf.

ARTICLE 6.

GUARDIAN DESIGNATIONS

Guardian. At the time of my death, if my children are under the legal age of majority and it is necessary to designate custody of my children during their minority, I appoint _____, with a current address of _____ to be granted custody of my children and to serve as guardian of my children. They can currently be reached at _____.

Bond. There shall be no requirement to post bond or security.

ARTICLE 7.

DEFINITIONS AND GENERAL PROVISIONS

Definitions. As used in this will, these words have the following meanings:

- **Per Stirpes.** Property to be distributed “per stirpes” means the property is divided into as many equal shares as there are (i) surviving children of the designated ancestor and (ii) deceased children who left surviving descendants. Each surviving child, if any, is allocated one share. The share of each deceased child with surviving descendants is divided in the same manner, with subdivision repeating at each succeeding generation until the property is fully allocated among surviving descendants.
- **Descendants.** Except as provided in Article I of this will, references to “descendant” or “descendants” mean lineal blood descendants of the ancestor designated and shall include descendants who have been conceived, at any specific point in time and who survived birth; and further shall include both a person legally adopted when a minor and a minor person in the process of being adopted by my descendant.

Advancements. Any gifts of real or personal property which I shall have made during my life, before or after the execution of this will, to any person, shall not be deemed to be advancements and shall not be taken into account in settling my estate.

Simultaneous Death. If any beneficiary and I die from a common disaster or under such other circumstance where it is impossible to determine which of us died first, or if any beneficiary survives me but dies within 120 hours of my death, all my property passing to the beneficiary shall be disposed of as if the beneficiary had died before me.

Inventory and Accounting. No fiduciary will be required to file any inventory or accounting or other report with any court except as required by law. Nor will any fiduciary be required to audit or investigate the acts of any predecessor fiduciary or to make claims against them.

Apportionment of Estate Taxes. Any estate taxes shall be apportioned against the persons interested in the assets of my probate and non-probate estate. My personal representative shall seek reimbursement from said persons for their proportionate share of the estate taxes.

Binding Agreement. Any decision by my personal representative regarding any discretionary power in this instrument or provided by law shall be final and binding on all interested persons. Unless due to the personal representative’s own willful default or gross negligence, no personal representative will be liable for their own acts or omissions or those of any co-personal representative or personal representative preceding them.

Controlling Law. This will shall be governed by the laws of the state of California.

Severability. If any of the provisions of this will should be held invalid, the invalidity of such provisions shall not affect any of the other provisions hereof, it being my intention that each of the provisions shall be independent of the others.

Headings, Gender, Singular/Plural. The headings used are intended solely for reference and are not intended to be part of this will. Words of any gender shall include any other gender. Singular and plurals words shall be interchangeable.

I, _____ [Name of Testator], declare that I sign and execute this instrument as my LAST WILL AND TESTAMENT (“Will”) and that I sign it willingly in the presence of the witnesses named below, and that I execute it as my free and voluntary act for the purposes therein expressed.

Testator Signature

Printed Name of Testator

We, the undersigned, hereby certify that on this ____ day of _____, 20____, the Testator declared to us that this instrument consisting of ____ pages was the Testator's Will and requested us to act as witnesses to it; that the Testator signed the Will in our presence, all of us being present at the same time; that we now sign this Will as witnesses in the presence of the Testator, and in the presence of each other, and that the Testator is over age eighteen (18), appears to be of sound mind and under no duress, menace, fraud or undue influence.

First Witness Name

First Witness Address

Second Witness Name

Second Witness Address