

Law Offices of



John Hardy

Attorneys At Law

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What to Do When a Loved One Dies

Speak with an Attorney for FREE about...

- 1. What to do if there is No Will?*
- 2. Probate - the legal process after death.*
- 3. Protect your Family after you pass away!*
- 4. Do I need a Will or Trust?*
- 5. Estate Planning - How to Save \$\$\$*

*Simple explanations on **Probate, Wills, or Trusts** to help you make powerful preparations for your family's future!*

www.ProbateAttorneyCA.com

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Mention this AD to receive a 50% discount (\$2500.00 Value) on your
Will & Living Trust!*

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Steps to Take When A Loved One Dies

AN ACTION PLAN

Before we begin: Allow the **Law Offices of John Hardy** to introduce ourselves with our sincere condolences for your loss; we have empathy, and we walk with you through this season as closely as you choose for us to be.

This **Action Plan** is your legal guide for what to do after the death of a family member, relative, or close friend. If you have a specific legal question you can contact us directly at (818) 756-0999 – Ask for John. Send your probate, or wills & Trusts, written questions to: www.probateattorneyca.com

DISCLAIMER: THIS ACTION PLAN COVERS ONLY THE LEGAL ASPECTS OF PROBATE COURT, AND LIMITED INFORMATION ON WILLS & TRUSTS. *If you have an emergency, and/or your loved one has just died, you need to contact a 911 operator and explain for them your emergency.* Nothing contained herein is intended to answer a specific legal questions. Moreover, by using this Action Plan, no relationship, including an attorney/client relationship, has been formed. **A signed written contract is required by our law firm before we may represent you in any legal matter.**

First Things First

Is the value of all assets \$150,000.00 or more? If the decedent (your loved one that has passed away) owned a home in Southern California (or anywhere in California) it is likely their total assets will exceed \$150,000.00. If so, and there is no Trust, the Case belongs in Probate Court. If the value is under \$150,000 you may avoid probate.

If there is No Will, and No Trust:

1. If there is no Will or Trust and the value of the decedent's estate (all assets) is valued at \$150,000 or more, in California a court case (Probate filing) is required. The court will appoint an administrator to manage the estate during the probate process. The person who wants to be the administrator must file a *Petition for Letters of Administration* ([Form DE-111](#)). The administrator is usually the spouse, domestic partner, or close relative of the dead person.
2. Someone, called "the petitioner," must start a case in court by filing a *Petition for Probate* ([Form DE-111](#)). The case must be filed in the county where the person who died lived (or if the person lived outside of California, in the California County where that person owned property).

The *Petition for Probate* has different options, like:

- *Petition for Probate of Will and for Letters Testamentary*
- *Petition for Probate of Will and for Letters of Administration with Will Annexed*
- *Petition for Letters of Administration*

Note: To start a probate case you will need more forms than just the *Petition for Probate* document. **Call the Law Offices of JOHN HARDY today at (818) 756-0999 Ask for John, for answers to all your probate questions.**

3. After a probate case is filed:
 - The probate clerk sets a hearing date.
 - The petitioner must give notice of the hearing to anyone who may have the right to get some part of the estate, plus the surviving family members even if there is a will and they are not named in it. Any person who is interested in the court case may file a *Request for Special Notice* ([Form DE-154](#)), which means that they must receive a copy of paperwork filed by the person who is chosen to manage the estate.
 - The petitioner CANNOT mail the notice. It must be mailed by any other adult who is not a party to the case.
 - The petitioner must arrange for notice to be published in a newspaper of general circulation.
 - A court probate examiner reviews the case before the hearing to see if it was done correctly.
 - Once all the paperwork has been reviewed by the examiner and corrected, if necessary, the judge decides who to appoint to be in charge as the personal representative of the estate (also called the “administrator” or “executor”).
 - The personal representative gathers up the assets and prepares an *Inventory and Appraisal* ([Form DE-160](#)) to be filed. The personal representative usually will also need to contact a probate referee to value the nonmonetary assets. We can help you find the information for a probate referee in your county. (Call (818) 756-0999 ask for John.)
 - The personal representative provides formal notice to creditors with the *Notice of Administration to Creditors* ([Form DE-157](#)) and pays the debts.
 - A final personal income tax return is prepared for the person who died.
 - The probate court figures out who gets what property.
 - A *Report of Sale and Petition for Order Confirming Sale of Real Property* ([Form DE-260](#)) is filed with the court so that sales of real property are confirmed by the court.
 - If the estate earned any money (such as interest or profit in a sale), the personal representative will have to submit a final estate tax return.
 - The personal representative reports to the court on how the estate was handled. This report is a final plan and accounting. The report is scheduled for hearing so the judge

can review how the personal representative handled everything. The judge needs to be satisfied that everything has been properly taken care of.

- After filing with the court any required final receipts to show that everyone received their property from the estate, the court discharges the personal representative from his or her duties.

If there is a Will:

1. The custodian of the will (the person who has the will at the time of the person's death) MUST, within 30 days of the person's death:
 - Take the original will to the probate court clerk's office within 30 days. Contact the **Law Offices of John Hardy (818) 756-0999. Ask for John**, and we will help you to contact your County Superior Courthouse to find out where the probate court clerk's office is located.
 - Send a copy of the will to the executor (if the executor cannot be found, then the will can be sent to a person named in the will as a beneficiary).

CAUTION: If the custodian does not do these things, he or she can be sued for damages caused by their failure(s) to act.

References include:

<https://www.courts.ca.gov>

<https://www.probateattorneyca.com>

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For More Information call the **Law Offices of JOHN HARDY** today at **(818) 756-0999**