

AFFIDAVIT OF HEIRSHIP

This affidavit concerns the Heirs of the Estate of Jerry Wright ("Decedent"). I, William Orwell, being duly sworn, hereby affirm under penalty of perjury, on this 05 day of January, 2018, that:

1. My date of birth is March 07, 1979. I have personal knowledge of the facts herein and am a disinterested third party. I am not an heir, successor, executor, nor do I have an interest in heirship of any heir, successor, or executor of the Decedent's estate.
2. I knew the Decedent from September 20, 2017 until their death.
3. The Decedent, Jerry Wright, died on January 02, 2018. The place of death was 2371 Hemming Road, San Diego, CA 92881. At the time of death, the Decedent's legal residence was 662 Main Street, San Diego, County of San Diego, State of California 92717.
4. I am familiar with the Decedent's marital history. It is as follows:
 - The Decedent had never been never married.
5. The Decedent did not leave behind a last will and testament.

Signature

NOTARY ACKNOWLEDGEMENT

State of California)

) (Seal)

County of San Diego)

The foregoing instrument was acknowledged before me this _____ day of _____, 20____, by the undersigned, William Orwell, who is personally known to me or satisfactorily proven to me to be the person whose name is subscribed to the within instrument.

Signature

Notary Public

My Commission Expires: _____

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GENERAL INSTRUCTIONS

What is an Affidavit of Heirship?

An affidavit of heirship is a document that identifies the heirs of a deceased person who died without a valid or enforceable will. This document is used to allow a spouse or family member to establish ownership of the person's real property, such as a home or tract of land. In some states, the affidavit of heirship can also be used to establish ownership of personal property, such as bank accounts and automobiles. An affidavit of heirship allows family members to avoid the expensive and time-consuming process of settling the decedent's estate in probate court.

The function of an affidavit of heirship is to present all known information about the decedent, including all known family relations such as spouse, parents, children, siblings, nieces, nephews, etc. in order to appropriately distribute the person's property. The heirs of the decedent must be in agreement on how the property should be distributed. The affidavit must be signed by a disinterested third party, most commonly, a witness who knows the decedent and is not an heir to the estate. The document is then recorded with the court and in the deed record of the county where the real estate is located.

An affidavit of heirship will identify the following terms:

- **Decedent:** the person who has died.
- **Intestate:** when someone dies without leaving a valid will or other legal document that directs distribution of assets after death.
- **Decedent's Estate:** The real and personal property that the person owned at the time of his or her death.
- **Real Property:** All real estate owned by the decedent, including tracts of land as well as all buildings and other fixed features on the property, including houses, barns, outbuildings, business offices, and other developments.
- **Personal Property:** Property that is not connected to the land, such as cars, furniture, bank accounts, clothing, and more.
- **Heirs:** The person or persons who may legally inherit the property of the decedent.
- **Witnesses:** Disinterested third-parties who are not heirs or beneficiaries of the estate.
- **Notary:** The person in charge of administering oaths and affirmations of the decedent and witnesses.

Most states limit the use of an affidavit of heirship to transferring ownership of real property to an heir. However, some states allow the use of this affidavit to distribute personal property amongst heirs, but only when everyone with a claim against the estate agrees on the disbursement.

When is One Needed?

An affidavit of heirship is needed when a decedent dies without leaving a valid, enforceable will. Under these circumstances, their real and personal property cannot be distributed to their heirs, sold, or disposed of. Without using an affidavit of heirship, a decedent risks heirs and other loved ones having to go through a lengthy and expensive probate process to distribute their property. Make note that this document can only be used if all legitimate heirs of the decedent agree as to how the property will be dispersed, otherwise the matter must be presented to the probate court.

An affidavit of heirship may also be necessary when a decedent's will expresses their intent to distribute their real property, but fails to specifically state that ownership will transfer to a specified person. An affidavit of heirship can address such intent in greater detail, minimize confusion, and prevent the property distribution from being determined by a probate court.

The Consequences of Not Using One

Without an affidavit of heirship, the surviving spouse, or other heirs, must use the probate court system to settle an estate. The probate process can be expensive and take months, or even years to resolve. While the estate is in probate, the spouse or heir cannot:

- Sell the real property
- Access bank accounts, retirement accounts, or other funds
- Sell automobile or other vehicles
- Keep, sell, give away or otherwise donate the decedent's personal belongings
- Access safety deposit boxes
- Otherwise distribute assets

Spouses also aren't able to settle outstanding bills, or claims against the estate, because they do not have access to the bank accounts. Therefore, these debts become part of the probate court process.