



# Intestate Succession

California Probate Code §6402 and §6402.5

Presented by Bryan C. Hartnell and J. Daniel Schwartz

## J. Daniel Schwartz

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The senior of four Schwartz brothers, Dan serves as ARB's Research Director. Dan joined the company in 1987 while working on his business degree at Brigham Young University. One of the foremost experts in the field of forensic genealogy, Dan has testified as an expert witness in more than 75 estate proceedings throughout the U.S. He counts among his greatest thrills solving difficult cases, including research on the recent Bruce's Beach case.

Dan loves boating, is an avid sports fan and youth sports coach. Dan speaks Korean and enjoys Korean food and culture. You'll find him in jail on Sundays with his wife - where they serve as volunteer clergy to inmates in the jail.



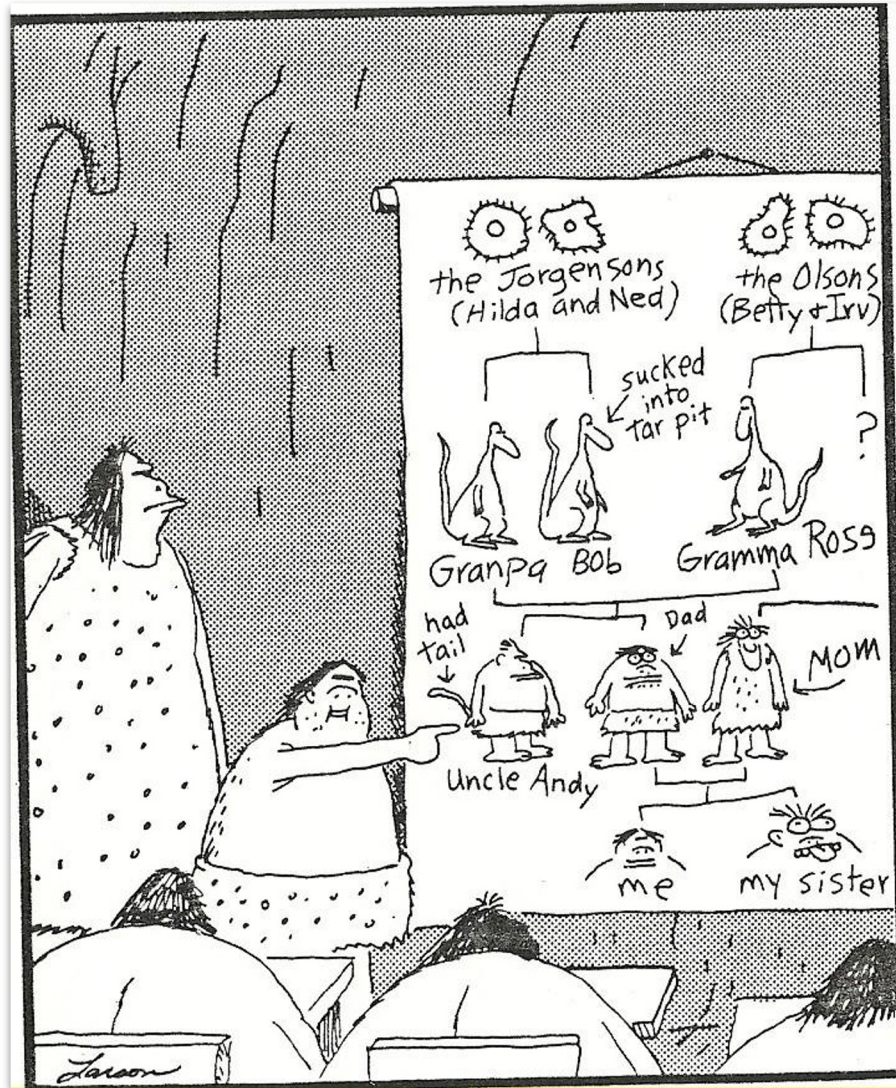
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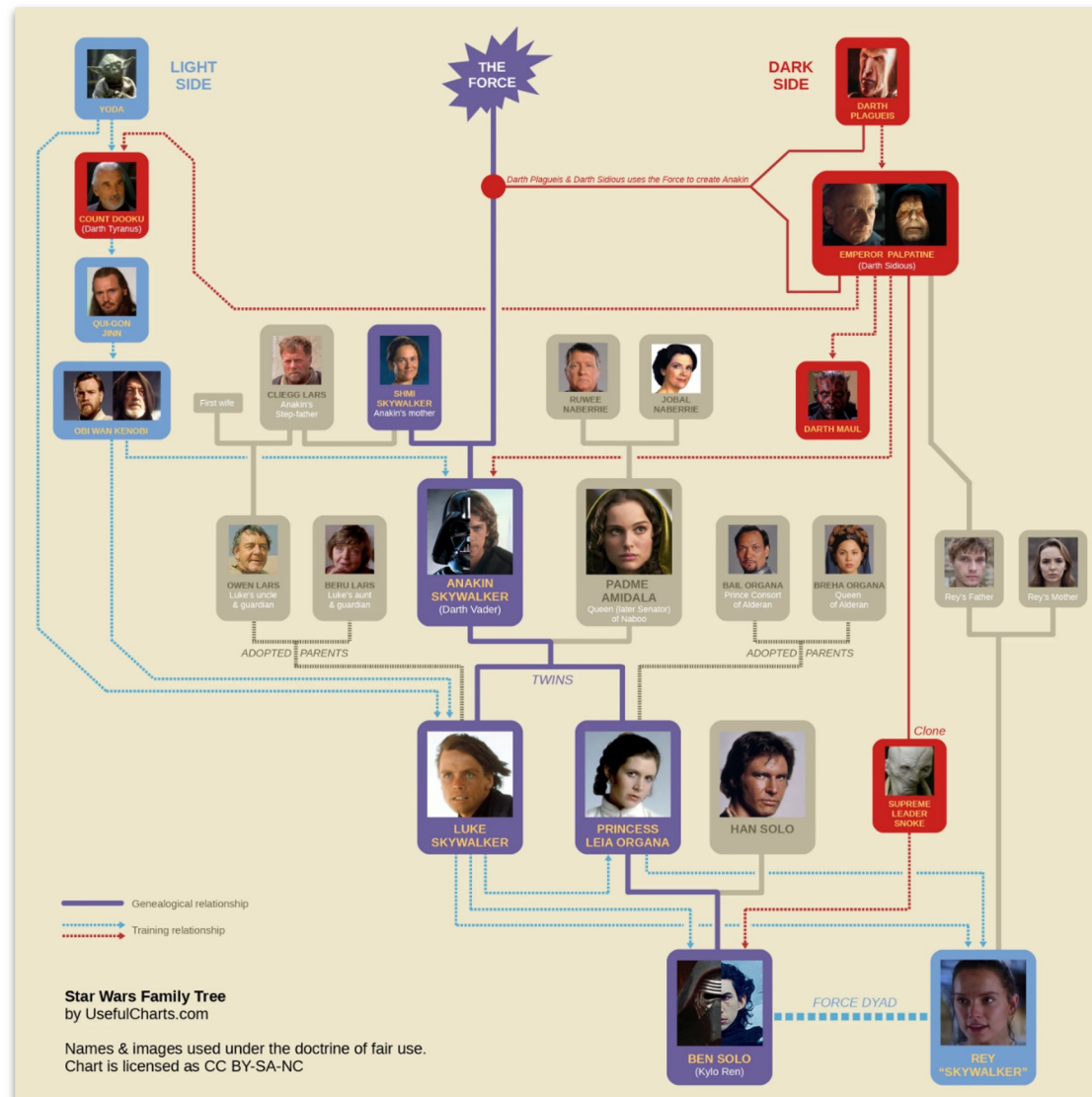
**What tool is most useful  
when determining intestate  
succession?**

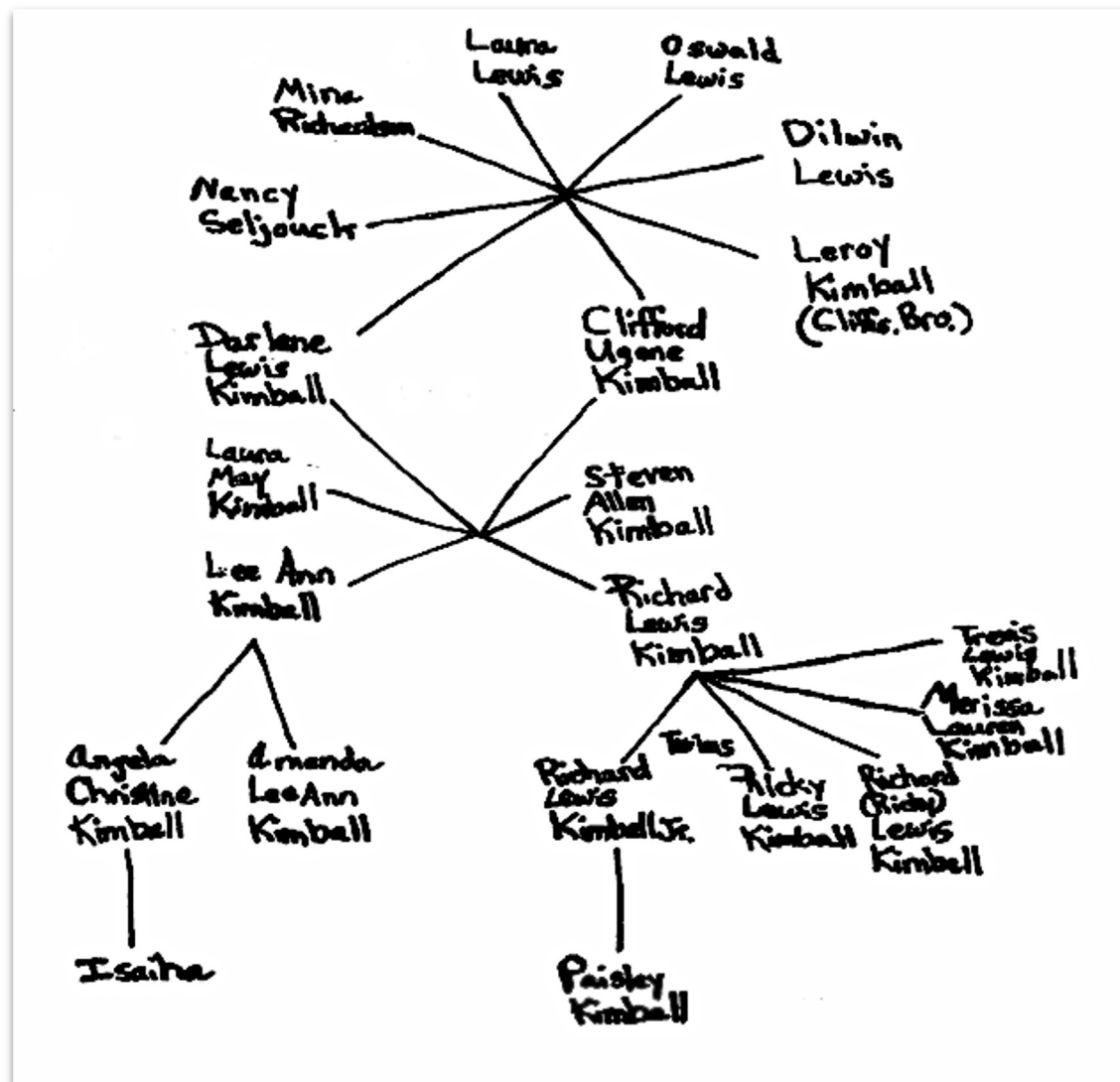
# Charts

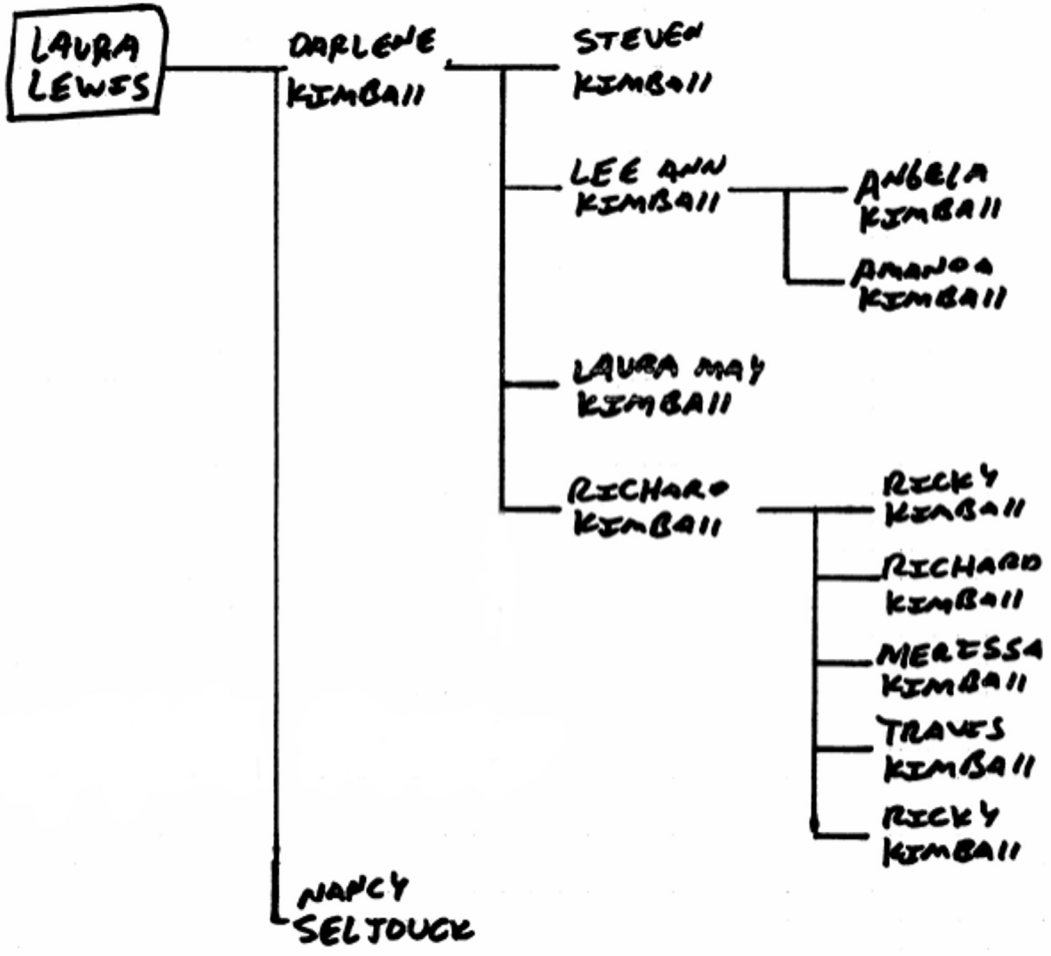


- Organize family information
- Clarify information and relationships
- Visually see how to apply the law



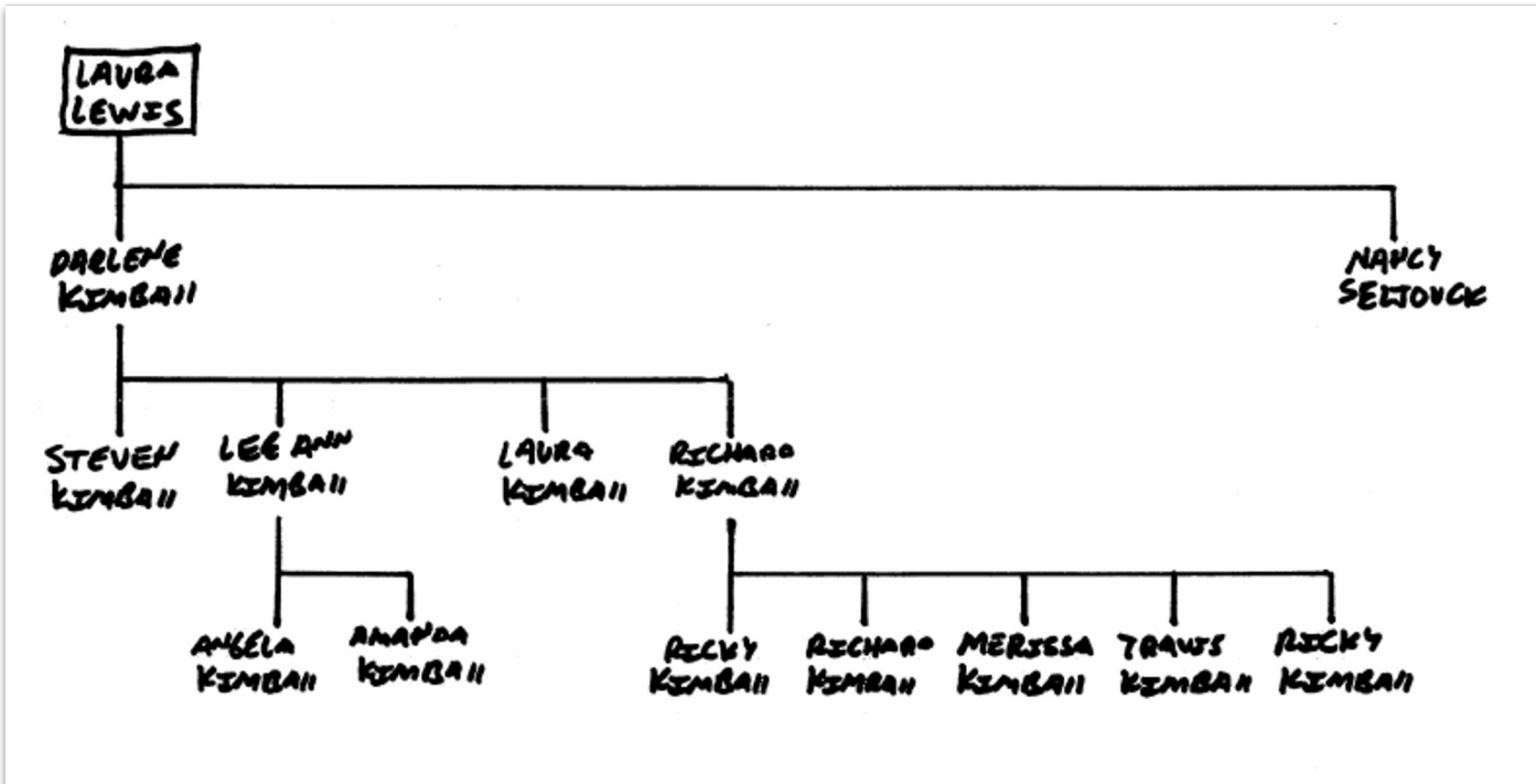






Vertical





Horizontal

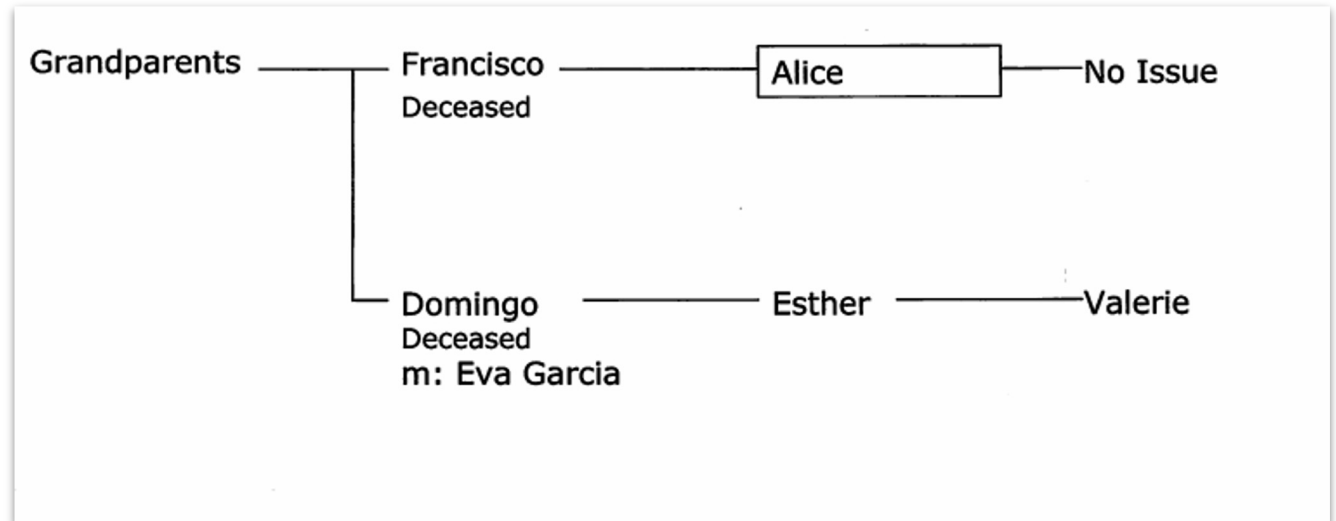
# Value of Charting

What was learned after charting the family information:

## Estate of Alice Sample

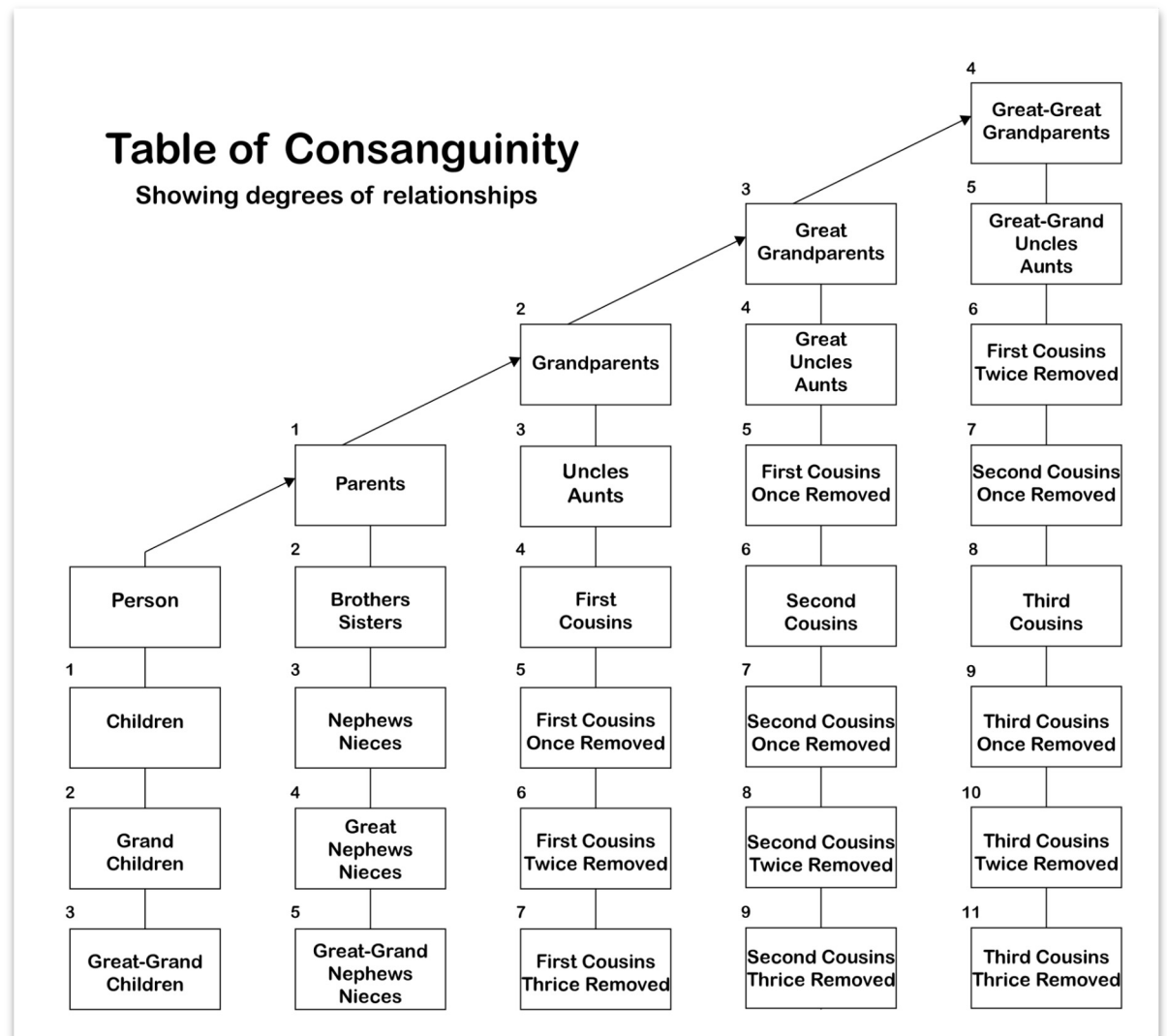
Information provided:


Decedent was survived by a second cousin named Valerie and a paternal aunt named Eva Garcia



**Consanguinity** = "blood relation", from Latin consanguinitas

It is the characteristic of having a kinship with a relative who is descended from a common ancestor.





# California Probate Code §6402

Sections A - D

# 6402 (a)



## Issue of the Decedent

To the issue of the decedent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in section 240.

### Section 240:

If a statute calls for property to be distributed or taken in the manner provided in this section,

the property shall be divided into as many equal shares as there are living members of the nearest generation of issue then living and deceased members of that generation who leave issue then living,

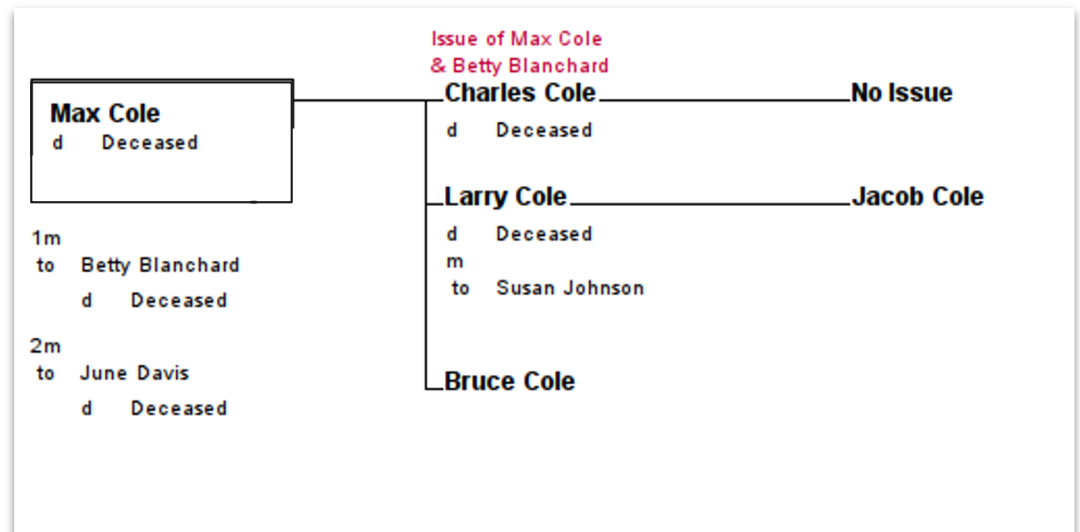
each living member of the nearest generation of issue then living receiving one share

and the share of each deceased member of that generation who leaves issue then living being divided in the same manner among his or her then living issue.

# 6402 (a)

## Issue of the Decedent

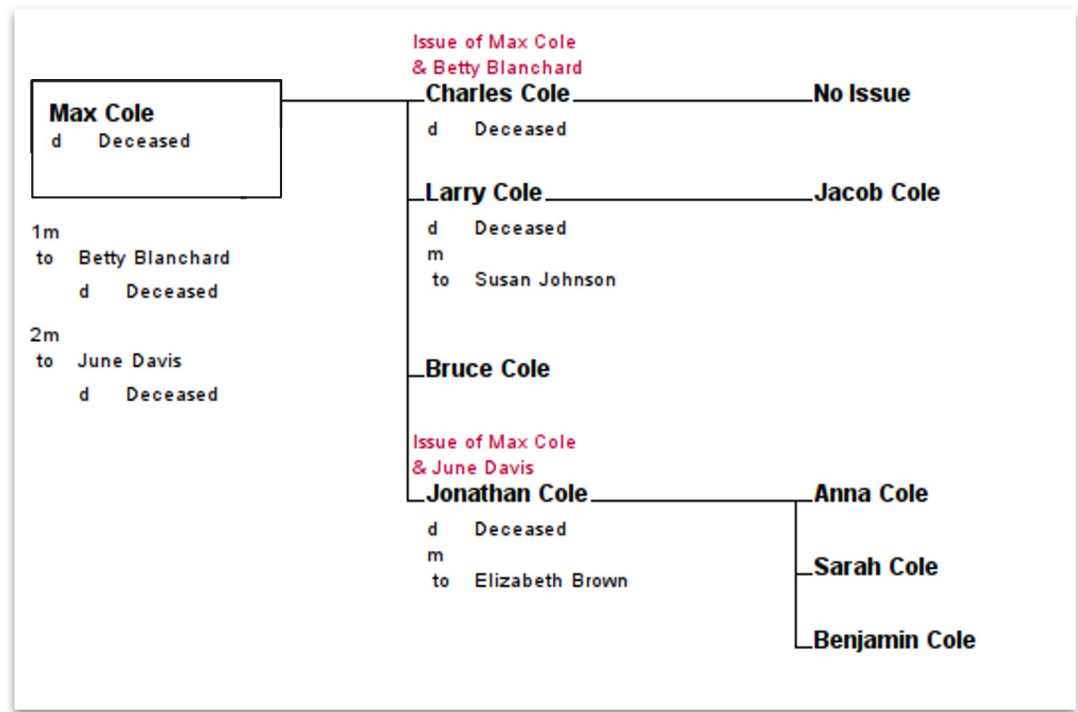
To the issue of the decedent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in section 240.



# 6402 (a)

## Issue of the Decedent

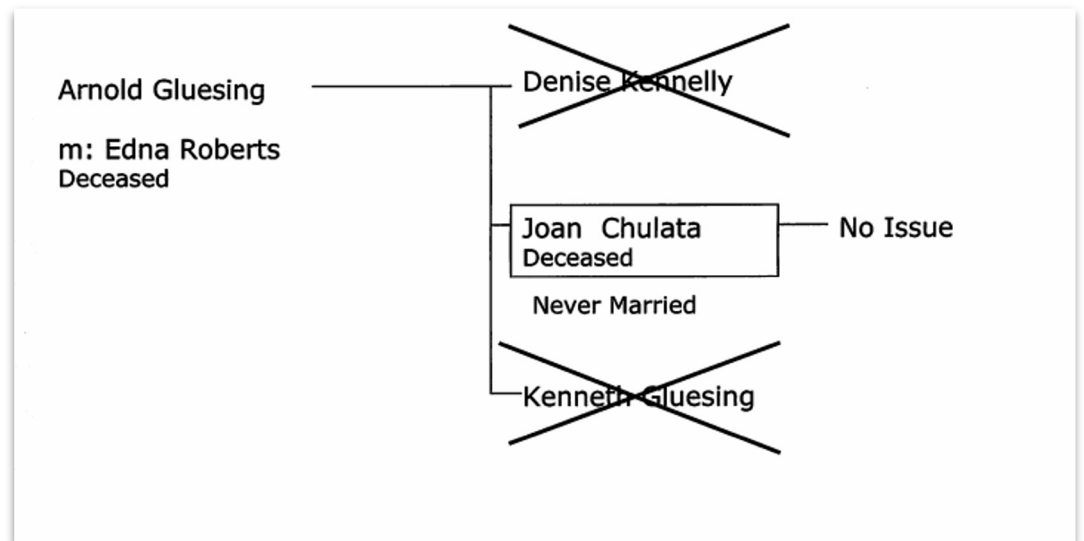
To the issue of the decedent, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in section 240.



# 6402 (b)

## Parent of the Decedent

If there is no surviving issue, to the decedent's parent or parents equally.

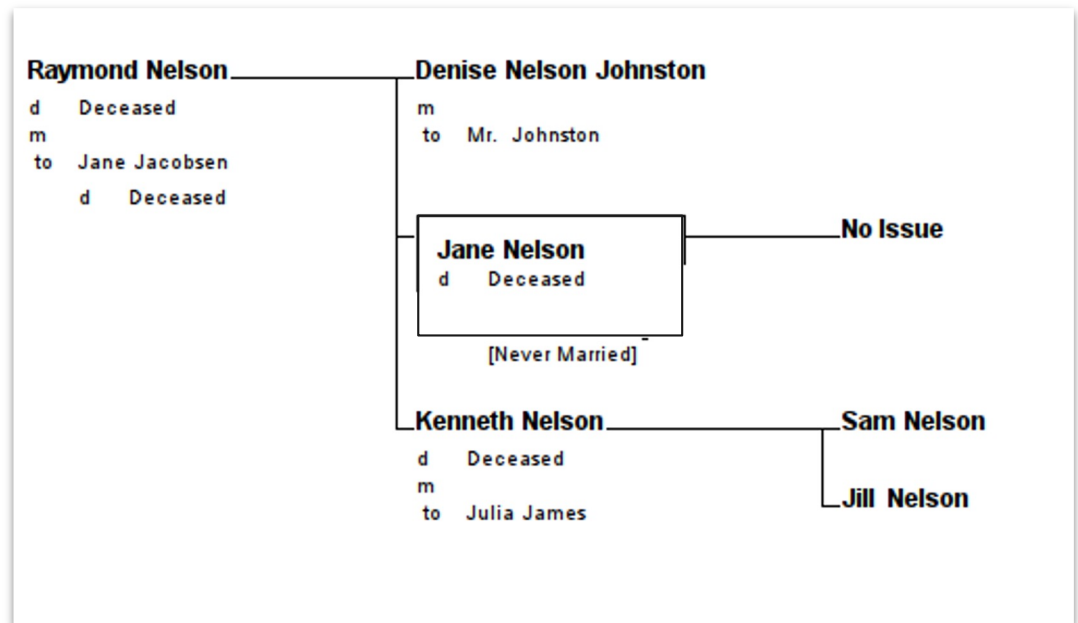




# 6402 (c)

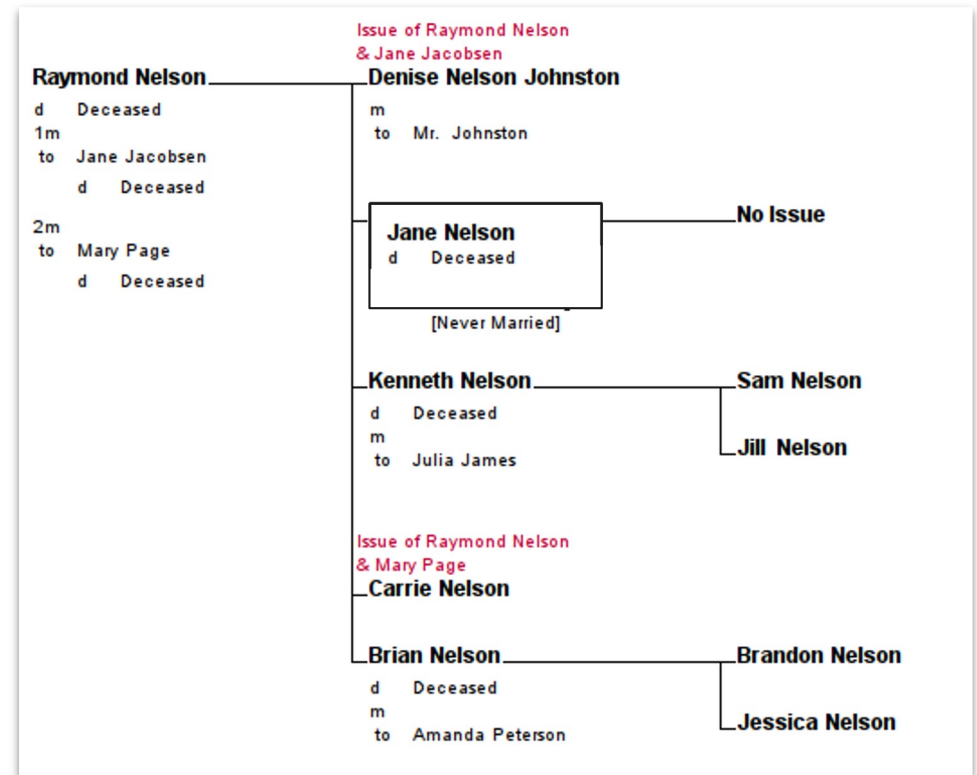
## Issue of Parents of the Decedent

If there is no surviving issue or parent, to the issue of the parents or either of them, the issue taking equally if they are all of the same degree of kinship to the decedent, but if of unequal degree those of more remote degree take in the manner provided in Section 240.



# Halfblood – Section § 6406

Except as provided in Section 6451, relatives of the halfblood inherit the same share they would inherit if they were of the whole blood.

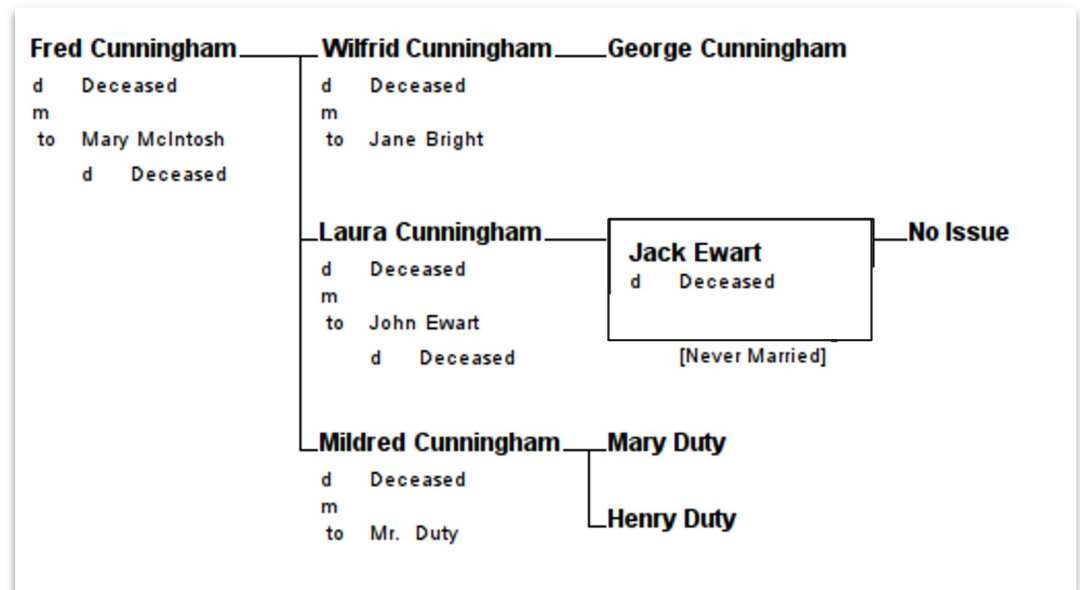


# 6402 (d)

## Grandparents or Issue of Grandparents of the Decedent

If there is no surviving issue, parent or issue of a parents, but the decedent is survived by one or more grandparents or issue of grandparents, to the grandparent or grandparents equally, or to the issue of those grandparents if there is no surviving grandparent, the issue taking equally if they are all the same degree of kinship, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

Maternal Family Chart

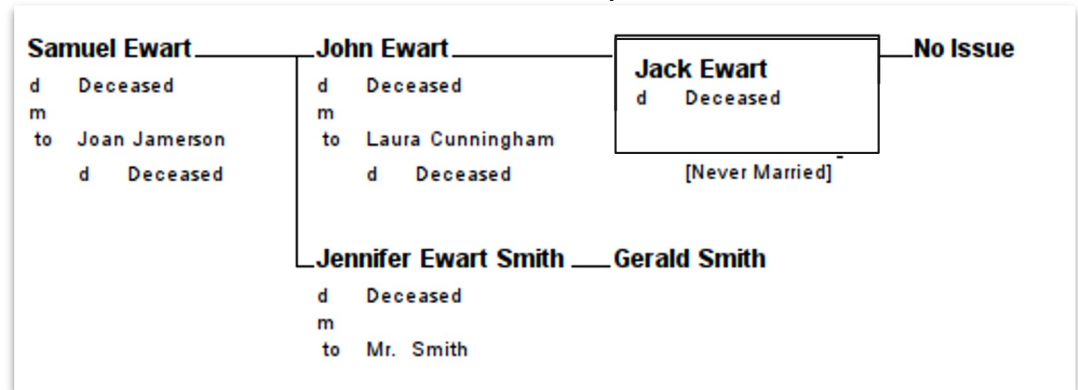


# 6402 (d)

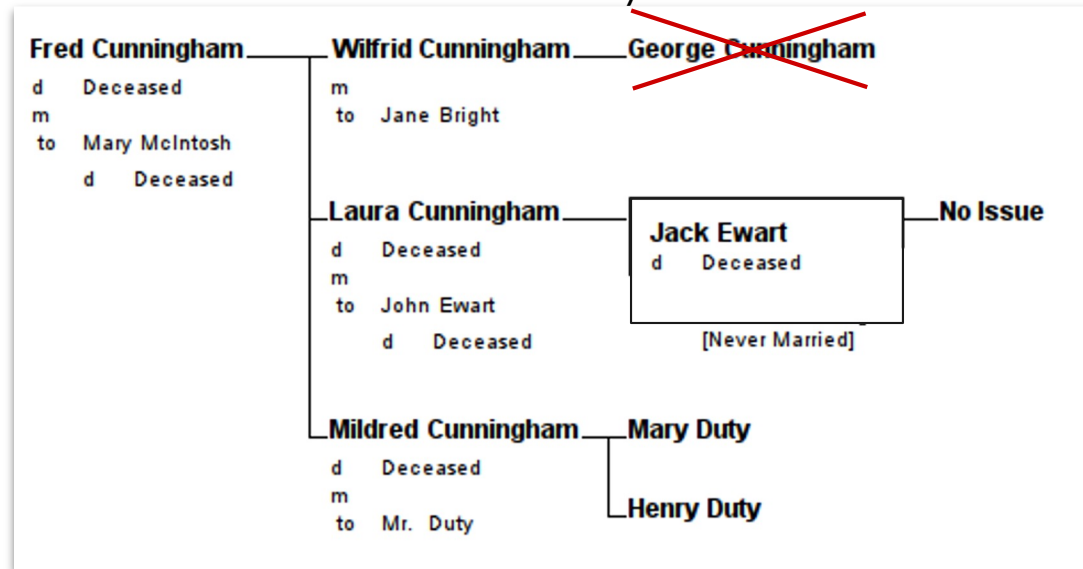
## Grandparents or Issue of Grandparents of the Decedent

If there is no surviving issue, parent or issue of a parents, but the decedent is survived by one or more grandparents or issue of grandparents, to the grandparent or grandparents equally, or to the issue of those grandparents if there is no surviving grandparent, the issue taking equally if they are all the same degree of kinship, but if of unequal degree those of more remote degree take in the manner provided in Section 240.

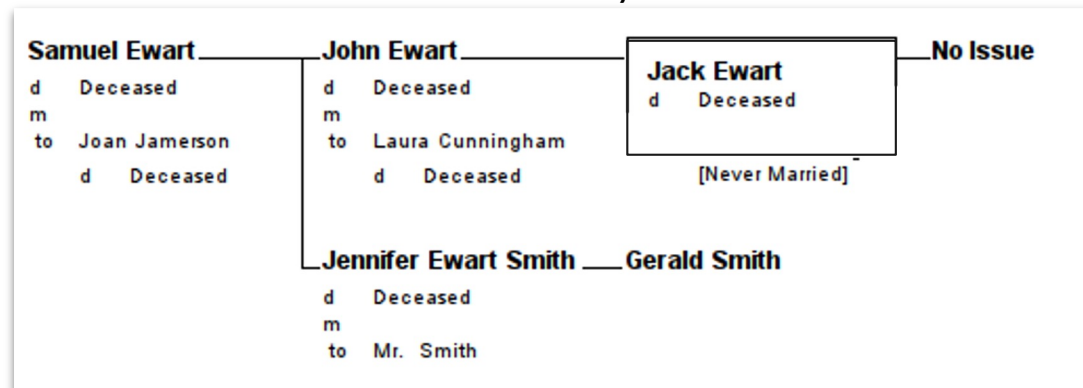
Paternal Family Chart

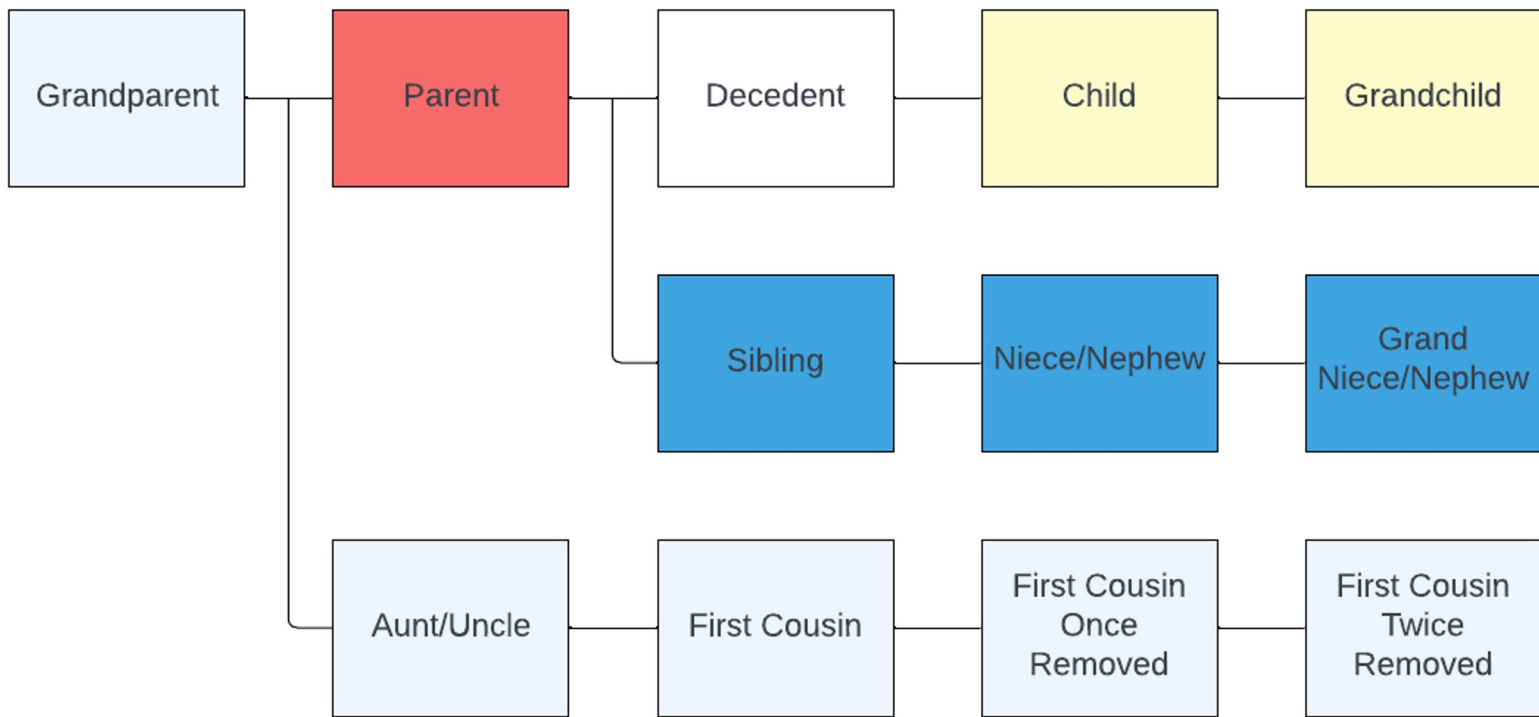


## Maternal Family Chart



## Paternal Family Chart





6402 (a)

Issue

6402 (c)


Issue of Parents

6402 (b)

Parents

6402 (d)

Grandparents or Issue



# California Probate Code §6402.5

Sections A (1 - 3) and B (1-3)

Portion of decedent's estate  
attributable to the predeceased  
spouse

## 6402.5 (a) and 6402.5 (b)



### (a) REAL PROPERTY

For purposes of distributing **real property** under this section

if the decedent had a predeceased spouse who died not more than 15 years before the decedent,

**and** there is no surviving spouse or issue of the decedent

### (b) PERSONAL PROPERTY

For purposes of distributing **personal property** under this section

if the decedent had a predeceased spouse who died not more than five years before the decedent,

**and** there is no surviving spouse or issue of the decedent



## Examples – 6402.5



a) Entitled to Real Property?

15 Years

a) Entitled to Personal Property?

5 Years

## Examples – 6402.5



John Doe  
d: 20 Jun 1997

Jane Doe  
d: 27 Nov 1996

Entitled to Real Property? **YES**

Entitled to Personal Property? **YES**

## Examples – 6402.5



|                            |
|----------------------------|
| John Doe<br>d: 20 Jun 1997 |
| Jane Doe<br>d: 27 Nov 1981 |

Entitled to Real Property? **NO**

Entitled to Personal Property? **NO**

## Examples – 6402.5



|                            |
|----------------------------|
| John Doe<br>d: 20 Jun 1997 |
| Jane Doe<br>d: 27 Nov 1991 |

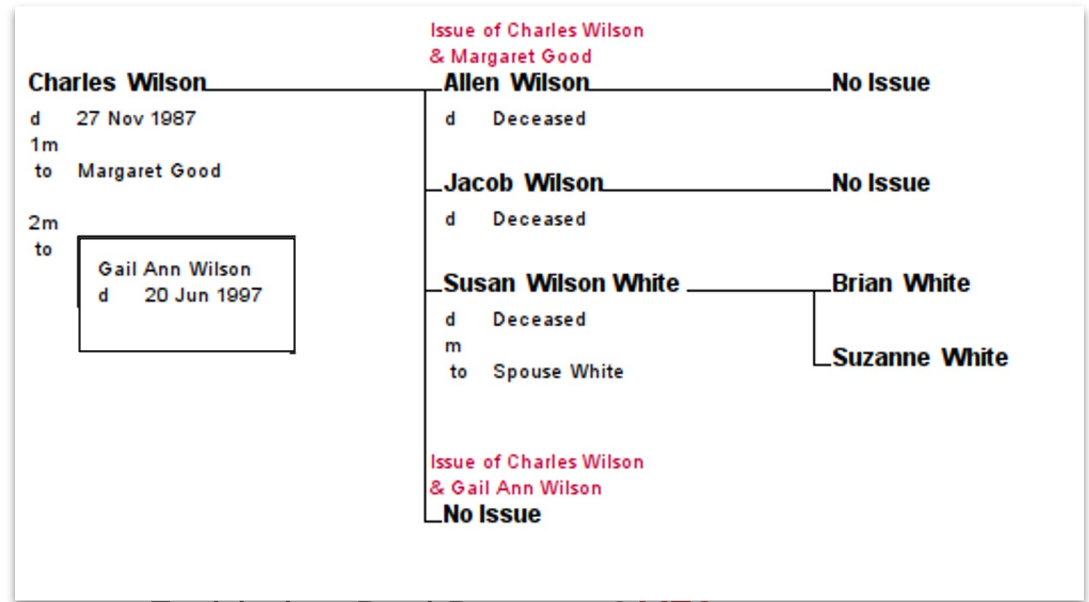
Entitled to Real Property? **YES**

Entitled to Personal Property? **NO**

# 6402.5 (1)

## Issue of the Predeceased Spouse of the Decedent

If the decedent is survived by issue of the predeceased spouse, to the surviving issue of the predeceased spouse; if they are of the same degree of kinship to the predeceased spouse, they all take equally, but if of unequal degree those of more remote degree take in the manner provided in Section 240.



Entitled to Real Property? **YES**

Entitled to Personal Property? **NO**

## 6402.5 (2)

### Parents of the Predeceased Spouse of the Decedent

If there is no surviving issue of the predeceased spouse, but the decedent is survived by a parent or parents of the predeceased spouse, to the predeceased spouse's surviving parent or parents equally.

|                       |             |                                  |             |   |                  |               |
|-----------------------|-------------|----------------------------------|-------------|---|------------------|---------------|
| <b>Thomas Raphael</b> | _____       | <b>Adalyne Raphael Dahlstrom</b> | _____       | <b>No Issue</b>   |                  |               |
| m                     |             | d                                | 11 Dec 1999 |   |                  |               |
| to                    | Helen Appel | m                                |             |   |                  |               |
| d                     | Deceased    | to                               |             |   |                  |               |
|                       |             |                                  |             | <table border="1"><tr><td>Walter Dahlstrom</td></tr><tr><td>d 10 Sep 2001</td></tr></table> | Walter Dahlstrom | d 10 Sep 2001 |
| Walter Dahlstrom      |             |                                  |             |   |                  |               |
| d 10 Sep 2001         |             |                                  |             |   |                  |               |

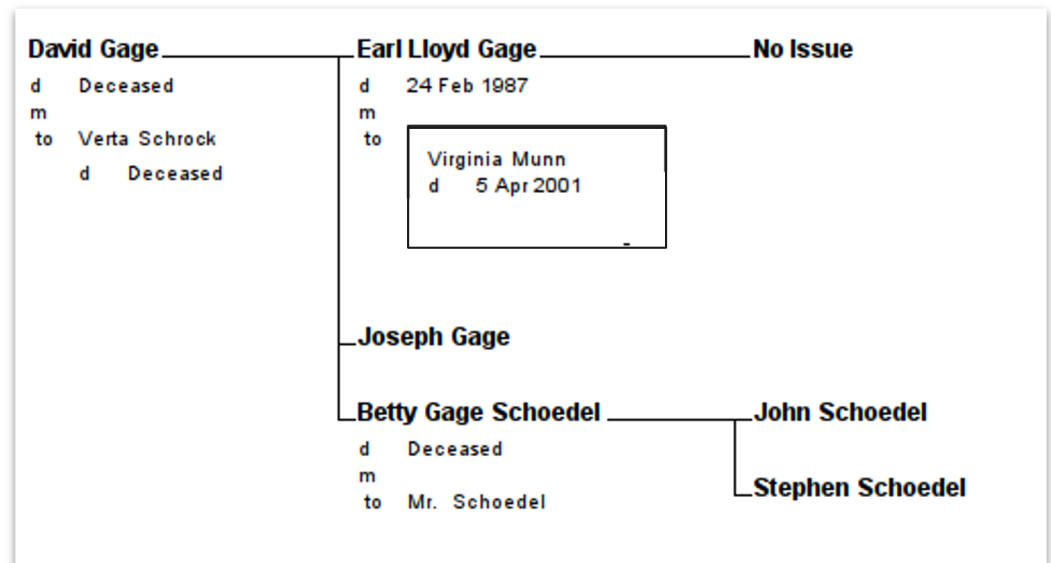
Entitled to Real Property? **YES**

Entitled to Personal Property? **YES**

## 6402.5 (3)

### Issue of Parents of the Predeceased Spouse of the Decedent

If there is no surviving issue or parent of the predeceased spouse, but the decedent is survived by issue of a parent of the predeceased spouse, to the surviving issue of the predeceased spouse or either of them, the issue taking equally if they are all of the same degree of kinship to the predeceased spouse, but if of unequal degree those of more remote degree take in the manner provided in Section 240.



Entitled to Real Property? **YES**

Entitled to Personal Property? **NO**

- 6402.5 (a) Issue of PDS
- 6402.5 (b) Parents of PDS
- 6402.5 (c) Issue of Parents of PDS

