

Admin.

February 16, 2012

Second Supplement to Memorandum 2012-5

New Topics and Priorities (Material Distributed at Meeting)

The following material was distributed at the Commission meeting on February 9, 2012, in connection with the discussion of new topics and priorities, and is attached as an Exhibit:

- Marlynne Stoddard, Newport Beach (2/8/12) *Exhibit p.* 1

Respectfully submitted,

Barbara Gaal
Chief Deputy Counsel

Any California Law Revision Commission document referred to in this memorandum can be obtained from the Commission. Recent materials can be downloaded from the Commission's website (www.clrc.ca.gov). Other materials can be obtained by contacting the Commission's staff, through the website or otherwise.

The Commission welcomes written comments at any time during its study process. Any comments received will be a part of the public record and may be considered at a public meeting.

EMAIL FROM MARLYNNE STODDARD TO BARBARA GAAL (2/8/12)

Re: Equal Protection Under The Law

Hi Ms. Gaal,

I did not receive a copy of your supplement to Memorandum 2012-5 which should contain my additional comments to the Law Revision Commission about inheritance by half-blood siblings from a decedent when there has been no proven relationship between them as is required by the State of California under other CPC Sections 6450, 6451, 6452, 6453, & 6454. The current intestate inheritance statute CPC Section 6402 distributes a decedent's Estate, if he has no issue, to his parents if they are living, or if not, to their issue equally. This is unconscionable. My brother and I have two half-siblings with whom we had no relationship, they did not grow up in our household, and they are the issue of my father and the woman who broke up my parent's marriage. They are the last people on earth that my brother would want his Estate distributed to. Intestate succession law is supposed to distribute a decedent's Estate to those whom he would have given it to had he made out his Will. This law contradicts common sense; an Estate should be distributed to those with whom a decedent had a close relationship. A proven relationship is the California requirement for the CPC sections cited above and should be included in CPC Section 6402. Until the State decides to amend this statute to include a proven relationship, a decedent's Estate in California will continue to be distributed unjustly and the Commission will continue to have to re-visit this issue. Put yourself in my position. I would not be writing the Commission if these half-siblings were someone that we had known and had grown up with. They were strangers to us, and they were estranged to us. Please amend Section 6402 to include the requirement of a proven relationship before a decedent's Estate is distributed to half-siblings.

My supplemental comments to Memorandum 2012-5 also included observation that CPC Section 6452 is in violation of the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution which requires that a state provide equal protection under the law to all people within its jurisdiction. Since California does not provide equal protection under CPC Section 6452 to marital children whose father refused support as it does to non-marital children in the same circumstance, it is unconstitutional. This is clearly in violation of the Fourteenth Amendment to the U.S. Constitution and needs to be immediately amended to include the same protection to marital children in this situation. Other states have already done so, and the Uniform Probate Code Article II Section 2-114 states if a father failed to provide support for his child, **neither he nor his kindred are allowed to inherit from that child**. Please recommend that this unconstitutional California statute be immediately amended so that the half-siblings who are claiming 2/3rds of my deceased brother's Estate might be stopped. My father refused to pay my mother the Court mandated Child Support payments and CPC Section 6452 should protect us also, like it does non-marital children in this instance, from him or his kindred being allowed to inherit from my brother's Estate. Please help me.

If the Commission were to agree with me that **CPC Section 6452 is unconstitutional** and that **CPC Section 6402 needs to require that there be a proven relationship before**

a half-sibling can inherit from a decedent, and were to recommend that they be amended, how long would this take, and would this occur in time to benefit me since the Probate of my brother's Estate is still ongoing, or would this amendment have to be made retroactive to the date of my brother's death (on 10-29-10)? I hope that an amendment of either, or both of these sections, would benefit me if it/they were to occur while my brother's Probate is continuing.

Would it be to my advantage to attend the public meeting at the State Capitol tomorrow; would I be able to address the Commission; how much time would I be given to speak, and would this meeting be recorded? Please reply as soon as possible since the public meeting is tomorrow morning. I am not certain that I will be able to attend, but I thought that I might ask if you felt that the Commission gives more attention to a person's commentary if he/she shows up in person, or if it gives the same attention since it already has that person's comments in writing.

Thank you so very much for everything that you are doing for me,

Marlynne Stoddard