

Just Like Kobe Bryant's Daughter, Kids Have Rights in the Family Trust

by Kianna Parviz, Esq., Law & Stein LLP



Since Kobe Bryant's tragic passing earlier this year, his wife recently realized their infant daughter was not included in his trust. In the Bryant family trust case, and others we've experienced, more than likely the omission was an accident. Assuming it was an accident, what are the steps you, as the living spouse or child, can take to remedy the situation and include the child in the trust?

The good news is that in order to protect these omitted children, California begins with the assumption that a failure to mention the omitted child in your trust was not intentional. While explicitly omitted children typically do not have legal rights unless they can prove fraud, incapacity, or some other reason for overturning the validity of the will or trust (Top 5 Things to Know When Contesting A Trust), children who are left out by accident, have rights.

[Top 5 Things To Know When Contesting A Trust](#)

Update Your Trust After Major Life Events

In the current filing to the court by Kobe Bryant's wife, Vanessa Bryant, the family's estate planning attorney explains Mr. Bryant's intention in his current trust was to provide for his wife and "any children of (his) marriage to Vanessa". He created his family trust in 2003 while he was married to Vanessa, subsequently amending it upon major life events, including after his first daughter was born. With his second and third daughters, the trust was amended again to include them as beneficiaries.

Mr. Bryant and his wife Vanessa had a fourth daughter, Capri, just seven months before his tragic passing. It is extremely likely that Mr. Bryant planned to amend the trust to include his infant daughter, but simply and understandably had not done so yet. Therefore, Capri is considered an omitted child under California law.

The same law applies to adopted children. If you have a child who is adopted after you create your will or trust, and you have not provided for the child in the will or trust before your passing, the child is considered an "omitted child" and most likely entitled to your entire estate.

When there are no children and your trust or will leaves all your assets to your favorite charity, but later you decide to adopt a child, the adopted child would be considered an omitted child. As such, he/she would be entitled to your entire estate and the charity would get nothing.

If you still want the charity to get a portion of your estate, it is important to amend your trust or will soon after adoption and explicitly state how you want your estate distributed.



Planning for the Unplanned

It happens. Years down the line you may find out you have a child you were unaware of, and then what?

If you are not aware of a child at the time you create a will or trust, the child is considered an omitted child under California law. The Probate Code states that if you fail to provide for a child in a will or trust because you were not aware of the birth of the child, or because you believed they were deceased, the child will receive the same share they would have if you died without a will or trust.

Let's say you make a will leaving your entire estate to your son, who you believe, is your only child. Or you leave it to someone who is not related to you, but was like a son to you. After your passing, a female claims to be your daughter from a previous relationship. Assuming she can prove she is your daughter, she would be entitled to half of your estate, thereby significantly reducing your son's share.

The same can be said even if you knew about her before your passing; the law will assume you simply forgot to amend your will, and that the estate should be split evenly between your children.

Some Exceptions

Below are exceptions in which an omitted child may not receive a share of the estate.

Future Intent - When the intent to not provide for a child is clearly outlined within the will or trust, then the case for an inheritance dispute becomes minimal to none. This requires some forward thinking during your estate planning to explicitly set forth that you do not want any of your estate to go to children born or adopted in the future.

Partner/Spouse Protection - If you have no children and make a will leaving everything to your husband, but later have a child with that same husband, the law will still allow your husband to receive your entire estate, rather than the omitted child.

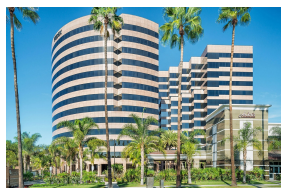
Evidence of Intent - In some cases, people may have had the intent to provide for a child, but it was not written in the will or trust, making it near impossible for the beneficiary to receive assets. If, however, there are other written statements and substantial evidence, such as transferring numerous real properties to them, or in the case of the Bryant family trust where Mr. Bryant diligently updated his trust to include each new child, this may be enough to overcome the rule.



Prepare Now, To Avoid Hassle and Heartache Later

Kobe Bryant had continuously updated his trust after major life events to ensure his family was well taken care of. It appears to be clear he had every intent of updating his trust to include his infant daughter and therefore, most likely, she will be included within the trust in a relatively smooth legal process.

Our attorneys maintain personal, ongoing connections with our clients to be able to amend their trust and will upon major life events like having children, as Mr. Bryant did. And it is our job to work with you to assist in how to plan for the future, like unplanned family extensions. We know that paying attention to the details and providing strategic and innovative counsel will help to avoid heartache and hassle in the future.



We look forward to serving you & wish you the best

Contact us directly to speak with someone who can help and answer your questions:

T (949) 501-4800

Or send us a private email at the link below and we will respond promptly:

info@lawandsteinllp.com

Visit our website for more information and to review our partner and attorney bios:

www.LawandSteinllp.com

The Law & Stein Newsletter is a monthly publication to share useful information with our clients in matters of estate planning, tax planning, inheritance dispute litigation, elder abuse, probate and business litigation, and premises and product liability defense.

LAW & STEIN LLP
2601 Main Street, Suite 1200
Irvine, CA 92614
info@lawandsteinllp.com



This email was sent to {EMAIL}
You received this email because you are registered with Law & Stein, LLP

[Unsubscribe here](#)

