

It seems like people call me a lot to say mom and dad had a trust but died with assets OUT of their trust. Luckily I know all the tools to help them!

As an estate planner I try hard to help my clients get all their assets into their trusts but, of course, stuff is often omitted after death. People forget about things, people change title or change assets, people re-fi their house, and (my favorite) people assure me it's in the trust and I should not spend a dime checking their deed to verify if it's in the trust.

Sadly the loved ones are faced with finding a way to get the asset into the trust after death and, like most of us, they want to avoid probate! Well, it's hard to avoid probate if you have real estate or other assets exceeding \$100,000, out of the trust, after death. In those cases there will be some type of probate Court action.

I always analyze the documents, and assets, with a Heggstad petition in mind. That's my first thought, my go-to move, my bread and butter! I have successfully performed dozens of Heggstad petitions throughout California; including but not limited to: Sacramento, Placer, Yolo, El Dorado, Sonoma, Los Angeles, Santa Clara, San Mateo, Solano, Riverside, San Bernardino, San Joaquin and the list goes on and on. I have actually successfully performed Heggstad petitions in a majority of California counties!

When a Heggstad doesn't work we have other options but if your documents support a Heggstad it should be your attorney's first move for sure! Look for written intent to include the assets in the trust. The best intent is an asset clearly identified on a signed schedule of assets attached to the trust. Next best would be something else in the trust clearly identifying the asset specifically. Then look to non-trust documents that clearly identify the asset. Lastly, a "general transfer" or other statement of intent.

In the end if you have an asset out of a trust, after death, and your attorney did not mention the word "Heggstad" to you I suggest you ask them why.

If you want me to evaluate your case to see if a California Heggstad petition would work for you let me know!