



7 Things Family Law Attorneys Need to Know About **Prenups & Estate Planning**

The biggest risk? ----->
Unintentional spousal disinheritance.

A Prenup Does NOT Control Distribution of Assets on Death

In California:

Prenup → Divorce

Probate Code → Death

If there is no will or trust,
intestacy controls distribution.

The Separate Property Trap

Clients with prenups often have:

- 🍏 Pre-marital assets
- 🍏 Inherited wealth
- 🍏 Family real estate

They assume their spouse inherits.
Not always.

Who Inherits Separate Property Under California Intestacy?

Community property

→ 100% to surviving spouse

Separate property →

If 1 child	$\frac{1}{2}$ to spouse/ $\frac{1}{2}$ to child
If 2+ children	$\frac{1}{3}$ to spouse/ $\frac{2}{3}$ to children
If no children but living parents	$\frac{1}{2}$ to spouse/ $\frac{1}{2}$ to parents
If no children or parents but siblings	$\frac{1}{2}$ to spouse/ $\frac{1}{2}$ to siblings

This surprises almost every client.

This Is Where Unintentional Disinheritance Happens

Clients believe:

*“I’m married. Of course my
spouse gets everything.”*

A Prenup Doesn't Fix This

A prenup defines property rights in divorce.

It does not direct inheritance.

Only a coordinated estate plan can override intestacy.

Beneficiary Designations Must Match Intent

Retirement accounts
Life insurance
If not updated,
assets pass by beneficiary
designation.

Estate Planning Is Risk Mitigation

If your client:

- 🍏 has a prenup or postnup
- 🍏 thinks they have separate property
- 🍏 are newlywed

without a will or trust, the Probate Code writes the distribution plan.

Early referral protects your client -
and your work.

Every couple should to an estate planning attorney before they get married and before they sign their prenup!

Take out early referral.