

[SAMPLE ATTACHMENT 7 FOR SPOUSAL PROPERTY PETITION]

ATTACHMENT 7

ESTATE OF _____

[Name of Husband] and [Name of Wife] were married on __ [date], ____, in [insert city and state] and were married on the date of [Decedent's] death on [date]

IF there is a will: The decedent's Will provides that his entire estate passes to the decedent's spouse. [Quote relevant portions of will.]

IF there is no will: State the intestate succession chain that entitles the spouse to inherit, e.g. if separate property, decedent must not have had any surviving descendants or parents. If community property, surviving spouse is entitled to inherit all under intestate succession statutes.

IF there is separate property: Decedent acquired the property described in [list item number in 7a] prior to marriage to his spouse [or as a gift or inheritance][specifically as his/her separate property]. [Add details such as statement of title in deed or other circumstances in which property was acquired.]

If there is community property:

1. At the date of their marriage, neither the decedent nor spouse owned any assets of substantial value.
2. Decedent and spouse have resided in the State of California since [date], ____, and accumulated all of their property for marital earnings of the parties.
3. Decedent and spouse had no agreement concerning the subject of property but always understood that all for their property was jointly owned community property in which they each held a one-half interest.
4. No legal proceedings were ever instituted to terminate the marriage or to determine the rights of the parties to their community property, nor did the parties ever separate.
5. Accordingly, the decedent and Petitioner each have an undivided one half community property interest in [refer to items 7a and 7b]. The decedent's one-half interest passes to the Petitioner pursuant to decedent's Will, [or pursuant to the laws of intestate succession] and the Petitioner should be confirmed in his/her one-half interest.