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Article # 3: Significance of Making a Will for
Unmarried Couples

We are continuing the series of legal publications.

Today we discuss some matters of protecting your family and your heirs. Your questions are answered by **MARINA AMBRIDGE, M.Sc., LL.B., Barrister and Solicitor, Notary Public.**

What could happen if you are not legally married and did not make a will?

If you are not legally married or treated as married, you do not share in partner's estate if he or she dies without a will. The laws of each province are clear: when a person dies without a will (inestate), family members (e.g., legally married spouses and children) have priority claims. So in Ontario, common-law and same-sex partners must protect their partners by having an up-to-date will to avoid provincial intestate laws. Common-law and same-sex spouses do not have the same rights as married spouses. In some provinces, these partners are recognized as married only for tax or support purposes.

Without a will, your partner could receive absolutely nothing from your estate. The succession laws do not give a legally unmarried partner a share in an intestate estate. Your partner would have to commence legal proceedings to get anything, even support.

Look at what happened to Antonio and Mary, common-law spouses.

Antonio went to the hospital for a routine procedure and never went home. He was a forty-nine-year-old man who left a small daughter for Mary to care for. Antonio just started his own business and could not make the mortgage payments on their home, which title he owned alone. Mary had loaned him money each month to get by. She never obtained anything in return or in writing. Antonio died without mentioning his common-law spouse in his old will. Mary had to sue his estate to recoup her money and obtain support for their common daughter.

As I mentioned in my previous article, when a person gets married, any will that he or she has made is automatically revoked. Since the common law couple did not get married, any previous will made by him is not automatically revoked. The deceased may have left a will that was made before he or she ever met the new common-law partner.

One of the biggest mistakes people in common-law relationships make is not having will. Same-sex couples are in the same situation as common-law couples. In the absence of a will that leaves specific gifts to the surviving partner, the right to make against the estate of a diseased partner is very limited. **PROTECT YOUR PARTNER WITH A WILL.**

To ask questions, obtain information and legal help for FAMILY LAW (Marriage, Cohabitation, Separation agreements, Divorce, Custody, Access, Support, Adoption, and other family law issues), WILLS and ESTATES (Wills; Powers of Attorney;

Estate Planning, Administration and Litigation), and BUSINESS LAW (Registration of Business Entities, Commercial Contracts, Partnership and Shareholder Agreements, Purchase and Sale of Business) you can contact AMBRIDGE LAW legal firm at (416) 590-1777. Address: 40 Sheppard Ave. W., Suite 601 (beside Yonge-Sheppard subway station).

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