



WILLS

Matter

COMMON LAW SPOUSES HAVE RIGHTS TOO!

There are frequent court battles brought by common law spouses against the Estate of their former spouses. An existing or former common law spouse may have rights over the Estate of their former spouse.

In Estate Law, a common law spouse is defined as:

“a person who is living and cohabitating with another person in a marriage-like relationship, including a marriage-like relationship between persons of the same gender, and has lived and cohabitated in that relationship for a period of at least 2 years.”

However, simply living with someone for 2 years does not automatically mean that you become a common law spouse. The law requires something more: a “marriage-like relationship”. In order to determine whether two people lived together in a “marriage-like” relationship, the law asks a critical question:

“If each partner had been asked, at any time after living together for 2 years, whether, if their partner were to be suddenly disabled for life, would they consider themselves committed to life-long financial and moral support of that partner, and the answer of both of them would have been ‘Yes’, then they are living together as husband and wife.”

Determining whether or not you are (or were) a common law spouse requires legal advice. It is important to talk to an experienced Wills or Estate Litigation lawyer about your rights and obligations if you think that you might be a common law spouse.

Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

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