

## **What is a Heggstad Petition?**

You may have heard of a Heggstad petition because you or someone you know has run into a problem with title to an asset that is supposed to be part of a trust. Because the trust may not be listed on title to the asset a court confirmation of trust ownership is needed.

The case of Estate of Heggstad 16 Cal.App.4th 943 was decided in 1993. In that case 11 acres of land located in Oakland, Ca were supposed to be held in a trust but the deed still indicated individual ownership. The court reviewed the trust and found that the Trustor had declared in the trust document that the 11 acres were owned by the trust. The Heggstad court declared that this procedure can be used only when the Trustor and Trustee are the same person. In other words, Mom and Dad establish a trust as Trustors and Mom and Dad are also the Trustees at the time the property in question is identified in the trust.

A Heggstad petition is a formal court petition that is ruled upon by a judge. The Heggstad Petitions are quite frequent in our courts as inadequate title designations seem to be commonplace. If your trust meets the Heggstad requirements the court will issue an order stating that the particular asset(s) are in fact owned by the trust. From there you can provide a copy of the order to the institution or Title Company, as the case may be and they will recognize the trust ownership giving the trustee legal access to the asset.