

Wealth

## Without a Will, Covid Victims' Families Face Legal Nightmares

Only about a third of Americans have any form of estate planning, forcing those left behind to navigate a daunting bureaucratic process.



Sheryl Pabatao holds a necklace with a photo of her parents Susana and Alfredo Pabatao who both died of COVID-19. *Photographer: Mark Kazlarich/Bloomberg*

By [Donald Moore](#)

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Covid-19 robbed Sheryl Pabatao of both of her parents within four days of each other.

Now, as she deals with the grief and shock of their untimely deaths – both were only in their 60s – she must also face the ordeal of managing their affairs in the absence of a will.

Their finances weren't complicated: some bank accounts, life insurance policies, the odd credit card. Yet several months and two dozen death certificates later, the paperwork just keeps coming.

“It’s overwhelming to come home after an eight-hour shift and go through hundreds of pages of documents,” Pabatao, 30, who lives in Palisades Park, New Jersey, said. “It’s more work than I thought it’d be.”



Sheryl Pabatao *Photographer: Mark Kauzlarich*

Stories like Pabatao’s are the reason why experts are urging everyone to have the difficult conversation over what will happen to their finances if they die. They say you should be asking yourself: Who will inherit my house, my car, my savings accounts? Who is responsible for my estate after I’m gone?

In the U.S., if a person dies without a will, a probate court must decide who inherits any assets. Even in normal times, this drawn-out process can sometimes take years, and involves an exhaustive search for any living relatives and negotiations between the parties.

Add in the impact of the pandemic, not only on the number of deaths but also on court operations – closures have created a backlog of months in

some U.S. states – and it can feel like forever for grieving families.

There isn't official data on how many Americans die without having a will, though surveys suggest only about a third have one. With the U.S. Covid death toll topping 200,000, the issue could be affecting potentially tens of thousands of families.

“Everyone should have a will,” Pabatao, who works in quality assurance for a pharmaceutical company, said. “Especially if you have a lot of assets. My parents didn't have much, but I'm here, still dealing with everything.”

Her parents, Alfredo and Susana Pabatao, hadn't been cavalier. They'd named each other as beneficiaries on accounts – a method commonly used as a way to avoid the probate process for small estates.

Yet when they succumbed in such short succession, their daughter was left handling their affairs. On top of the calls with lawyers and credit card companies, the process required death certificates. Lots of them. These original copies of the documents were needed to prove that her parents were in fact deceased. She ended up ordering a dozen each for her father and mother, who were 68 and 64, respectively, when they died.

Retired social worker Rob Carmona, in the Bronx in New York City, is another person dealing with the fallout of a Covid-related death. His younger brother Raul Carmona, 61, died in April, leaving modest savings, a city worker pension and a lease on a co-operative apartment. For the past six years, Raul Carmona shared his home with their nephew, who now faces eviction if Rob Carmona isn't able to legally take control of the lease soon.



Rob Carmona *Photographer: Gabriela Bhaskar/Bloomberg*

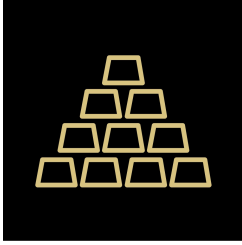
Unlike in a regular condo, where you typically own the apartment outright, a corporation owns the property in a co-operative building. You in turn own a share of the corporation. This adds a whole layer of legal complexity when deciding who can inherit and occupy the unit – especially if their names aren't on the lease.

The name of Raul and Rob Carmona's nephew wasn't on the lease.

Rob Carmona, 68, volunteered to try and sort out the situation, and began petitioning to be named executor shortly after his brother's death; five months later and little progress has been made.

"It's been grueling," he said. "Raul passing away completely blindsided us. We assumed as the youngest of four siblings that he would be the last of us to go."

The Carmona family has at least some solace. Rob Carmona's daughter is an attorney, which means the family doesn't have to pay for outside counsel to navigate the labyrinthine system.



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In New York, when there is no will and relatives are either unavailable or unable to manage an estate, a public administrator is assigned to manage the affairs of the deceased. As well as concerns about fees – which start at 5% of the first \$100,000 – the system has also faced criticism over alleged poor management – and in one case intentional over charging – which has dented confidence among some families.

“Had we not had the resources, we would’ve lost the co-op, the bank account might have gone to the city, and who knows where his pension would have ended up,” Rob Carmona said.

Philip Bernstein, an attorney who handles estate litigation in the Bronx, says Covid-related court closures have caused months-long delays. Several of his cases, scheduled for mid-March, are still pending.

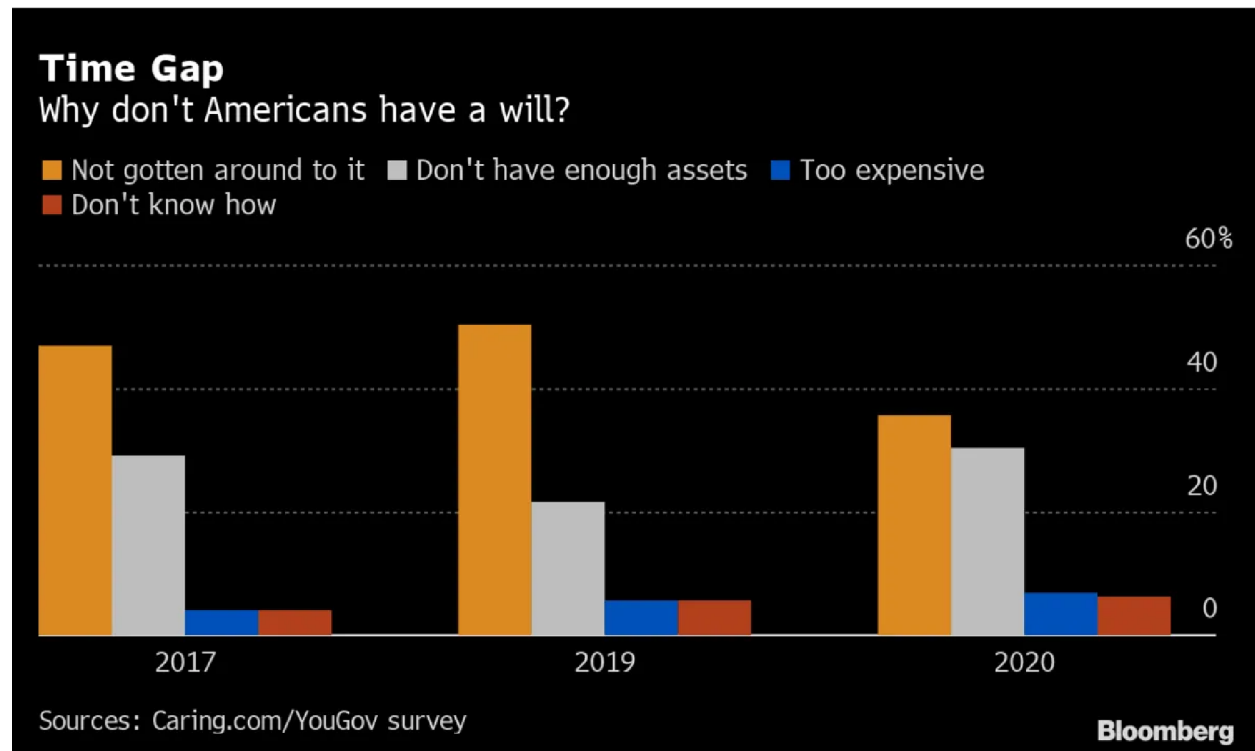
“Things just got bogged down,” he said. “I couldn’t get anyone at the courts to answer the phone until about a month ago.” While courts have reopened and hearings are now taking place over Zoom video conferences, Bernstein predicts it will be a while before the backlog is taken care of.

“Things are getting better,” said Bernstein, “but there’s been a tremendous amount of death and a pile of cases that the courts have to go through.”

Regardless of how much or how little assets you have, the last thing anyone wants is for a judge to decide where they go, said Denise Chambliss, an estate litigation attorney for California-based firm Hoge Fenton. She urges people not to be put off by the perceived cost or complexity of a will, which in addition to covering assets can also deal with matters such as who looks after children.

“All you have to do is identify who you are, who your family is, and where you want your things to go,” Chambliss said. “A will can be written on the back of a napkin, and it can control one hundred dollars, or it can control a multimillion dollar estate.”

Some states do have stricter rules about DIY wills than California, though that isn't what's really stopping Americans. It's more procrastination.



Keith Redding, from Fort Washington, Maryland, was one of many who just never found the right moment to draft a formal estate planning document.

When Redding, who was 59, died on March 25, his wife Dana assumed his possessions, including real estate, would transfer directly to her. But Maryland law dictates that without a will to the contrary, after the first \$15,000, the value of an estate must be split evenly between a spouse and any children. In this case, a daughter from a previous marriage.

There is no animosity between the two survivors, but Dana Redding regrets not making arrangements before it was too late. “We kind of dragged our feet,” she said. “Now I know not to waste any time.”

### Getting Your Plan Together:

- Learn about the estate laws [in your state](#)
- If you don't already have a lawyer, [find one near you](#) OR read the AARP's guide to [online will planning services](#)
- Outside the U.S.? Here are guides for the [U.K.](#), [Australia](#), [Hong Kong](#) and [Singapore](#)

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