

ESTATE PLANNING 101

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ESTATE PLANNING 101

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For More Information (pink)

WHAT YOU NEED TO KNOW - GETTING STARTED

LAWYER'S CAVEAT

This Lecture:

For education and discussion.

NOT imparting legal advice to you.

Please:

Seek your own counsel before acting on any topic discussed today.

Guidelines for today:

Please put cell phones on stun.

Please ask questions to clarify.

WHAT YOU DECIDE & WHAT YOU PROVIDE

CONFIDENTIAL PERSONAL DATA

ESTATE PLANNING QUESTIONNAIRE

Please use n/a to indicate not applicable.

GENERAL INFORMATION

YOU

Full name: _____

Any other name(s) used: _____

Date of Birth: _____

Place of Birth: _____

Social Security Number: _____

Are you a United States citizen? [] Yes [] No

If no, country of citizenship: _____

YOUR SPOUSE

Full name: _____

Any other name(s) used: _____

Date of Birth: _____

Place of Birth: _____

Social Security Number: _____

Are you a United States citizen? [] Yes [] No

If no, country of citizenship: _____

Date and Place of Marriage: _____

Location of Marriage Certificate: _____

ADDRESS AND TELEPHONE INFORMATION:

Home telephone number: _____

Business telephone number:

You: _____

Your Spouse: _____

Permanent residence:

Address: _____

Own or rent? _____

How long have you resided there? _____

Other residence(s): _____

Own or rent? _____

If you have residences in more than one state:

State in which you are registered to vote: _____

When did you first register to vote in that state? _____

State in which your car is registered: _____

Address used on your federal tax return: _____

Address to which your credit card bills are sent: _____

Names and addresses of clubs and associations to which you belong:

If any of these memberships are on a nonresident basis, please list:

Describe each home in each state (size of building, land, etc).

Residence 1: _____

Residence 2: _____

PRIOR MARRIAGE(S)

YOU:

Name of Former Spouse: _____

Date and Place of Prior Marriage: _____

If marriage ended by divorce, list date and location of judgment papers:

If marriage ended by death, list date and location of death certificate:

YOUR SPOUSE:

Name of Former Spouse: _____

Date and Place of Prior Marriage: _____

If marriage ended by divorce, list date and location of judgment papers:

If marriage ended by death, list date and location of death certificate:

CHILDREN AND OTHER RELATIVES

LIVING CHILDREN AND GRANDCHILDREN

Please note that children of your present marriage are listed first. Children of prior marriage(s), whether of yourself or your spouse, are listed separately. In all cases, please provide the following information:

If the child is not living with you, the child's address.

If the child is married, list the name of the child's spouse and the names of their children, if any.

If you have children from a prior marriage, indicate with whom the child resides if not with you.

If any of your children are adopted, list the date of adoption and the location of documents.

If any child has special needs because of developmental, physical or mental disability, please indicate here, and separately list information regarding doctors, guardians and other pertinent data.

Children of Existing Marriage:

1. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

2. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

3. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

Children of Prior Marriage(s):

You:

1. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

2. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

Children of Your Spouse:

1. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

2. Full name: _____

Address: _____

Date of birth: _____

Gender: Male Female

Name of spouse (if any): _____

Name(s) of children (if any): _____

Other information requested above (if any): _____

DECEASED CHILDREN

You:

Child's Full Name: _____

Date of death: _____

Spouse's Name: _____

Address: _____

Any living issue of this child? Yes No

Name of grandchild: _____ Date of birth: _____

Name of grandchild: _____ Date of birth: _____

Name of grandchild: _____ Date of birth: _____

Your Spouse:

Child's Full Name: _____

Date of death: _____

Spouse's Name: _____

Address: _____

Any living issue of this child? Yes No

Name of grandchild: _____ Date of birth: _____

Name of grandchild: _____ Date of birth: _____

Name of grandchild: _____ Date of birth: _____

PEOPLE RAISED BY YOU

Are there people you and/or your spouse have raised as children who are not legally your children? (Note: An adopted child is legally your child.) If so, please list.

1. Full name: _____
 Address: _____

Gender: Male Female

Date of birth: _____

Legal relationship: _____

For purposes of your Will and/or Trust, do you wish this person to be considered your child?

Yes No

2. Full name: _____
 Address: _____

Gender: Male Female

Date of birth: _____

Legal relationship: _____

For purposes of your Will and/or Trust, do you wish this person to be considered your child?

Yes No

OTHER FAMILY MEMBERS

List other members of your family who are closest in relationship to you (i.e., parents, siblings). If any are dependent upon you for support, please specify.

If you have friends that you consider as close as family members, include them here.

You:

1. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

2. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

3. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

Your Spouse:

1. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

2. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

3. Name and address: _____

Relationship: _____

Date of birth: _____

Other information: _____

FURRY, SCALEY AND FEATHERY FAMILY MEMBERS

List other members of your family who FURRY, SCALEY and FEATHERY, THEN COMPLETE A Pet Information Sheet (courtesy of the Estate Planning for Pets Foundation) – Pet information sheets are provided on your request. ADD TO PET INFORMATION SHEET LIST AND DATES OF ALL SHOTS AND VACCINATIONS AND THE MICROCHIP IDENTIFIER, if any.

Pet Form Done	Name	Species/Breed	Coloring	Male/Female/Cut	Age
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____
Yes	No	_____	_____	_____	_____

INFORMATION REGARDING IMPORTANT DOCUMENTS

The documents listed below are very important and are often needed when you are not available or not able to tell others where to find them. If you have executed any of the following documents, please provide me with a copy or give its current location. If you don't know, take time now to find it or give enough information about it so that someone else can find it when needed. If the document does not apply to you, put "n/a" next to it.

ESTATE PLANNING DOCUMENTS

Document **Location**
WILL Yes No _____

If yes, please provide me with a copy.

TRUST Yes No _____

If yes, please provide me with a copy.

DURABLE POWER OF ATTORNEY
FOR ASSET MANAGEMENT
 Yes No _____

If yes, please provide me with a copy.

POWER OF ATTORNEY FOR
HEALTH CARE (ADVANCE DIRECTIVE),
DIRECTIVE TO PHYSICIAN and/or LIVING WILL
 Yes No _____

If yes, please provide me with a copy.

If any powers of attorney have been granted by you to another:

Date: _____

Holder of power: _____

State where executed: _____

Special powers granted or withheld: _____

Location of original(s): _____

Number of originals executed: _____

OTHER DEATH-RELATED DOCUMENTS

Document **Location**
FUNERAL AND BURIAL
ARRANGEMENTS _____

CEMETERY PLOT and DEED TO
PLOT _____

ORGAN DONATION DIRECTIONS _____

PERSONAL DOCUMENTS

Document **Location**
BIRTH CERTIFICATE _____
MARRIAGE CERTIFICATE _____

DIVORCE DECREE	_____
PREMARITAL AGREEMENTS (Please provide me with copies)	_____
COMMUNITY PROPERTY AGREEMENT(S) (please provide me with copies)	_____
MARITAL PROPERTY AGREEMENT(S) (please provide me with copies)	_____
NATURALIZATION OR CITIZENSHIP DOCUMENTS	_____
PASSPORT	_____
YOUR CHILDREN'S BIRTH CERTIFICATES	_____
YOUR CHILDREN'S ADOPTION PAPERS	_____
PET INFORMATION SHEETS	_____
MILITARY SERVICE RECORDS (DISCHARGE PAPERS)	_____
EMPLOYMENT RECORDS	_____
TAX RETURNS	Location
COPIES OF INCOME TAX RETURNS	_____
COPIES OF GIFT TAX RETURNS	_____
ASSET AND LIABILITY RELATED DOCUMENTS	Location
BROKERAGE STATEMENTS	_____
STOCK CERTIFICATES AND BONDS (Not held in a brokerage acct)	_____
DEED TO RESIDENCE and/or VACATION HOME	_____
LEASE TO RESIDENCE	_____
CREDIT CARD INFORMATION LIST (issuers and account numbers)	_____

INSURANCE POLICIES

Location

LIFE INSURANCE POLICIES

PROPERTY INSURANCE POLICIES

DISABILITY INSURANCE POLICY

KEY ADVISORS

Lawyer:

Name and address: ___James R. Hastings_____

*Law Office of J.R. Hastings
851 Irwin Street, Suite 206
San Rafael, CA 94901-3343*

Telephone number: (415) 459-6635

Fax number: (415) 459-6756

e-Mail address: jrhastings@pacbell.net

Web: jrhastingslaw.com

If listing this office:

Who referred you to this office?

Name, address and telephone number: _____

Relationship to you or to office staff: _____

Accountant:

Name and address: _____

Telephone number: () _____

Fax number: () _____

WHAT YOU PROVIDE

INFORMATION NEEDED FOR ESTATE PLAN

Banks and Savings and Loans

___ A copy of the statement for each bank and savings and loan account (preferred) or name, address, branch and account number of each bank and savings and loan account.

Credit Unions

___ A copy of the statement for each credit union account (preferred) or name, address and account number of each credit union account.

Real Property

___ Copies of your real property deed(s).

___ Copies of your real property tax statement(s).

Investments

___ Copies of recent statements for each investment.

___ Copies of any ownership certificate for an investment (please bring originals to the signing appointment).

___ Copies of any stock or ownership certificates in your possession (please bring originals to the signing appointment).

___ Copies of any bearer or registered bonds (please bring originals to the signing appointment).

___ Listing of any U.S. government bonds (amount and bond number).

Life Insurance

___ Name of company, address, type of policy, name of owner, name of insured and policy number for each policy of life insurance.

___ Original/Copy of life insurance policy.

Pension Plans, Annuities and Individual Retirement Accounts

___ Copies of recent statements for each pension, annuity and Individual Retirement Account.

___ Original/Copy of pension/annuity.

DISTRIBUTION OF YOUR ESTATE

EXECUTORS:

ADULT; TRUSTWORTHY; HANDLE ASSETS YOU OWN, ABLE TO SEEK ASSISTANCE (in other words, not handle everything on his or her own); CHOOSE SUCCESSORS; NOT PREFER CO-EXECUTORS; PREFER SAME PEOPLE IN SAME ORDER FOR HUSBAND AND WIFE; BANK TRUST OFFICE IS LAST SUCCESSOR.

In order of preference, please list the full names, relationships and address of your Executors:

Your spouse first: Yes No

1. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

2. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

3. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

TRUSTEES:

ADULT; TRUSTWORTHY; HANDLE ASSETS YOU OWN; ABLE TO SEEK ASSISTANCE (in other words, not handle everything on his or her own); CHOOSE SUCCESSORS; NOT PREFER CO-TRUSTEES; PREFER SAME PEOPLE IN SAME ORDER FOR HUSBAND AND WIFE; BANK TRUST OFFICE IS LAST SUCCESSOR.

In order of preference, please list the full names, relationships and address of your Trustees:

Same as above: Yes No

1. Name: _____

Relationship: _____

Address: _____

Telephone: _____

2. Name: _____

Relationship: _____

Address: _____

Telephone: _____

3. Name: _____

Relationship: _____

Address: _____

Telephone: _____

ATTORNEY IN FACT, DURABLE POWER OF ATTORNEY FOR ASSET MANAGEMENT

ADULT; TRUSTWORTHY; HANDLE ASSETS YOU OWN; ABLE TO SEEK ASSISTANCE (in other words, not handle everything on his or her own); CHOOSE SUCCESSORS; NOT PREFER CO-ATTORNEYS IN FACT; PREFER SAME PEOPLE IN SAME ORDER FOR HUSBAND AND WIFE.

In order of preference, please list the full names, relationships and address of your Agents for your General Durable Power of Attorney (asset management if you are incapacitated):

Same as Executors: Yes No

If no, Spouse First: Yes No

1. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

2. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

3. Name: _____
 Relationship: _____
 Address: _____

 Telephone: _____

GUARDIANS OF MINOR CHILDREN:

ADULT; WOULD RAISE YOUR CHILDREN AS YOU WOULD; RESPONSIBLE FOR RAISING YOUR CHILDREN; CHOOSE WHERE YOUR CHILDREN RESIDE.

In order of preference, please list the full names, relationships, and address of Guardians of any Minor Children:

1. Name: _____

Relationship: _____

Address: _____

Telephone: _____

2. Name: _____

Relationship: _____

Address: _____

Telephone: _____

3. Name: _____

Relationship: _____

Address: _____

Telephone: _____

CARETAKER FOR FURRY, SLIMY AND FEATHERY RELATIVES.

ADULT; PROBABLY CLOSE FRIEND OR RELATIVE, WILLING; KNOWS AND CARES FOR YOUR FS&F; HAS KNOWLEDGE AND RESOURCES TO CARE FOR YOUR FS&F; WOULD RAISE YOUR FS&F AS YOU WOULD; RESPONSIBLE FOR CARING FOR YOUR FS&F; CHOOSE A HOME FOR YOUR FS&F.

In order of preference, please list the full names, relationships, and address of Caretakers:

1. Name: _____
Relationship: _____
Address: _____
Telephone: _____
2. Name: _____
Relationship: _____
Address: _____
Telephone: _____
3. Name: _____
Relationship: _____
Address: _____
Telephone: _____

Do you want to gift money to the Caretaker? Yes No

Should the money be held in trust? Yes No

ALTERNATIVE CARETAKERS FOR FURRY, SLIMY AND FEATHERY RELATIVES.

Some of us have no one to designate as Caretaker, then what? The answer is explore and coordinate organizations. Here are some contacts:

1. CANINE COMPANIONS (2965 Dutton Avenue, Santa Rosa, CA 95402) even if not a golden retriever or lab, may work with you on a case by case basis to find a new home and caretaker for you FS&F. Contact the National Charitable Gift Planning Officer (1-707-577-1789).
2. MARIN Humane Society Guardians for Life Program (171 Bel Marin Keys Blvd., Novato, CA 94949). They collect all the information they possibly can about your pet, so that if you should die they would be able to place your animal in a home best suited to your animal. They accept all legal animals into their program. (415) 883-4621.
3. SONOMA Humane Society (5345 Highway 12 West, Santa Rosa, CA 95407) (707) 542-0882.
4. SOUTHBAY Humane Society (12 Airport Blvd., San Mateo, CA 94401) (650) 340-8200.
5. SAN FRANCISCO SPCA SIDO SERVICE (2500 26th Ave., San Francisco, CA 94116) (415) 490-1744.
6. UC Davis (contact Dr. Rick Timmins) (530) 754-5251.
7. Guide Dogs for the Blind (350 Los Ranchitos Rd., San Rafael, CA 94903) A young Lab retriever, Golden retriever, or German Shepard might find a good home and learn to be a service dog through guide dogs for the blind (415) 499-4000.

AGENT, ADVANCE HEALTH CARE DIRECTIVE

ADULT; KNOW THE CARE YOU PREFER (talk to them); EACH SPOUSE HAS OWN LIST.

In order of preference, please list the full names, relationships and address of your Agents for your General Durable Power of Attorney (health care management if you are incapacitated):

Same as Executors: Yes No

If no, Spouse First: Yes No

1. Name: _____
 Relationship: _____
 Address: _____
 Telephone: _____

2. Name: _____
 Relationship: _____
 Address: _____

Telephone: _____

3. Name: _____
 Relationship: _____
 Address: _____

Telephone: _____

HEALTH/SPECIAL NEEDS

Does either you or your spouse desire to give anatomical gifts? Yes No

If yes, please explain your preferences: _____

Please explain your preferences for cremation or burial; scattering of ashes; services (funeral and memorial):

Husband: _____

Wife: _____

Does either you or your spouse have health concerns? Yes No

If yes, please explain: _____

Do any of your children have special needs you would like to address in your estate plan? Yes No

If yes, please explain: _____

DISINHERITANCE

Do you wish to specifically disinherit an individual or group of people?

Yes No

If yes, please list their full names, relationships to you, and addresses. You may provide a brief explanation if you like:

1. Name: _____

Relationship: _____

Address: _____

Explanation: _____

2. Name: _____

Relationship: _____

Address: _____

Explanation: _____

3. Name: _____

Relationship: _____

Address: _____

Explanation: _____

DISTRIBUTION OF PROPERTY ON DEATH

Bequests of Personal Property

IF YOU DESIRE TO MAKE SPECIFIC BEQUESTS OF PERSONAL PROPERTY YOU WILL WRITE YOUR OWN LETTER DESCRIBING THOSE GIFTS AND I WILL INCORPORATE THAT LETTER IN YOUR WILL OR TRUST.

GIFTS.GIFTS OF FURRY, SLIMY AND FEATHERY FAMILY MEMBERS CAN BE RESOLVED HERE, BUT THERE WILL BE A SEPARATE DISCUSSION CONCERNING THEM.

List specific bequests you wish to make, if any, indicating what and to whom. In the event the individual or organization does not survive, please specify if the gift will be distributed to that individuals issue, to someone else, or if the gift will lapse and become a part of the residue of your estate, as in the following examples:

- 1) Diamond and ruby cocktail ring to John Doe, my friend, 1234 Easy Street, Avocado, California. If John Doe is not living, to his issue equally.
- 2) Ermine stole and Hobie catamaran to Jane Roe, my sister-in-law, 4321 Memory Lane, Hometown, Ohio. If Jane Roe is not living, to Mary Doe, my friend, 1234 Easy Street, Avocado, California.
- 3) Antique sheet music collection and 1 harpsichord to Best School of Music Scholarship fund, 51 Crescendo Lane, Solotown, Pennsylvania. If this scholarship fund is not in existence at my death, this gift shall lapse.

- 1) _____

- 2) _____

- 3) _____

- 4) _____

Specific Bequests

OTHER SPECIFIC BEQUESTS WILL BE WRITTEN INTO YOUR WILL OR TRUST.

List specific bequests you wish to make, if any, indicating what and to whom. In the event the individual or organization does not survive, please specify if the gift will be distributed to that individuals issue, to someone else, or if the gift will lapse and become a part of the residue of your estate, as in the following examples:

1) The sum of \$5,000 to Jane Roe, my sister-in-law, 4321 Memory Lane, Hometown, Ohio. If Jane Roe is not living, to Mary Doe, my friend, 1234 Easy Street, Avocado, California.

2) The sum of \$1,000 to Boy Scouts of America, c/o National Headquarters, 321 Right Path, Eagletown, New York, or to its successor. If Boy Scouts of America or its successor is not an organization at the time of my death, this gift shall lapse.

1) _____

2) _____

3) _____

4) _____

RESIDUE – Gift of Your Remaining Assets

What is your desired disposition of your property on your death and/or your spouse’s death?

If married:

All to your spouse on death Yes No

To your children in equal shares on your Spouse’s death Yes No

If not married:

To your children in equal shares Yes No

If neither of the above apply, to whom do you wish to leave your property, and in what proportions?
Please list full names and addresses.

1. Name: _____

Address: _____

Proportion: _____

2. Name: _____

Address: _____

Proportion: _____

3. Name: _____

Address: _____

Proportion: _____

Children's Ages and Shares for Distributions

When should your children receive their distributions?

Outright on your death: [] Yes [] No

Outright on your spouse's death: [] Yes [] No

If not outright, please provide age(s) of distribution and the fractional or percentage interest of each child's share to be distributed at specified age(s):

	Age	Fractional or % Interest of Share
EXAMPLE:		
Name of Child: Jane Alexandra Smith		
	<u>age 21</u>	<u>1/4 of share</u>
	<u>age 24</u>	<u>1/2 of share</u>
	<u>age 30</u>	<u>Remainder of share</u>

Name of Child: _____

_____	_____
_____	_____
_____	_____

Name of Child: _____

_____	_____
_____	_____
_____	_____

If a child or children or yours predecease you:

Would you like their issue (your grandchildren) to receive their distribution?

[] Yes [] No

If yes, at same ages listed above?

[] Yes [] No

Simultaneous Death

Desired disposition of estate in the event client, spouse and issue die simultaneously:

- EXAMPLES:
- 1) Your heirs (determined by California law)
 - 2) Specific named individuals (other than your heirs generally)
 - 3) A specific charity (Red Cross, Boys Town, Girl Scouts)

1) _____

2) _____

3) _____

WHAT YOU NEED TO KNOW

Ownership of Property

Tenancy in Common

Stated, usually equal, ownership.

Distribute to Whom You Choose.

Joint tenancy

Right of Survivorship.

Otherwise, not able to Distribute at Death.

Capital Gains income tax problem (California Only).

Separate Property

Owned before Marriage/Domestic Partnership.

Received by inheritance.

Distribute all to whom you choose.

Intestate (no will, trust): one-half Spouse/Partner, one-half child/heirs or one-third Spouse/Partner, two thirds children.

Community Property

Product of the Marriage/Domestic Partnership – the community.

50%/50%

Distribute your 50% interest to whom you choose.

Intestate (no will or trust): all to Spouse/Partner.

Best Capital gains income tax treatment (DP: California Only).

WHAT YOU NEED TO KNOW

Ownership of Property, Continued

Community Property with Right of Survivorship

Manner of Title.

If Real Property: Specific Deed Requirements.

Right of Survivorship.

Otherwise, not able to Distribute at Death.

Best Capital gains income tax treatment (DP: California Only).

WHAT YOU NEED TO KNOW

Last Wills and Living Trusts

Last Wills

Prefer formal, typed and witnessed.

Effective at death.

Statutory Will form available .

May require probate procedure.

Remember Ace in “The Quick and the Dead?”

If does not require a probate procedure still guides the distribution.

Living Trusts

What is a trust?

Revocable intervivos trusts.

Effective now.

Essentially replaces Last Will and Power of Attorney for Asset Management.

Last Will (pourover) and Power of Attorney still required.

Becomes the source of distribution.

WHAT YOU NEED TO KNOW

What are you Worth?

For now do not characterize anything as community property.

When I talk “Estate Tax:”

All Assets Minus All Liabilities

Includes

Life Insurance

IRA Assets

Everything

When I talk “Probate:”

All assets that do not pass automatically.

Excludes:

Life Insurance

IRA Assets

Joint Tenancy Assets

Joint Accounts

WHAT YOU NEED TO KNOW

Probate and Trust Administration Procedure

At each and every death . . .

(Administrative Documents)

Inventory

Appraise

Taxes – income and estate

Creditors

Distribution

WHAT YOU NEED TO KNOW

Probate Alternatives

Full Probate

Family Protection:

Family allowance.

Probate Homestead.

Omitted Spouse and Omitted Children (Ca. Prob. C. § 21610)..

Small estate:

Protections when estate worth less than \$20000.

Protections from money judgments.

Pass without administration (up to \$100,000).

Probate Code 13100.

Petition pursuant to Probate Code 13650.

Anti-lapse:

Kindred of testator's surviving, deceased or former Domestic Partner added to the class.

WHAT YOU NEED TO KNOW

Costs of Dying

Federal Estate Tax

Marital Exemption (Not Available to Domestic Partners).

Personal Exemption: Applicable Exclusion Amount.

2006 – 2008	\$2,000,000
2009	\$3,500,000
2010	Unlimited
2011	\$1,000,000

Rate: 47% now, 45% 2007

No State Death Tax Credit after 2004; Replaced by a deduction.

A Trust in Will or Living Trust May Double the Personal Exemption.

Not a new concept, but a new opportunity.

WHAT YOU NEED TO KNOW

Costs of Dying

Probate or Trust Administration Costs

If assets less than \$100,000, no probate necessary. Procedure simple.

If assets not of great value, Community Property Set Aside
inexpensive alternative to Probate for Married.

California - \$4000 for first \$100,000
 \$3000 for next \$100,000
 - then 2% to \$1,000,000
 - then 1%
 - PAID to Executor and ATTORNEY

If need Trust, more expensive probate on first death, so choose a
LIVING TRUST Estate Plan.

WHAT YOU NEED TO KNOW

Costs of Dying

Capital Gains Income Tax

Every equity asset has a “Basis” from which gain is calculated.

On death get step up in Basis to fair market value

Community Property gets 100% step up in Basis

After death can still retain \$250,000 on sale of home.

WHAT YOU NEED TO KNOW

Costs of Dying

Real Estate Tax Reappraisal

The Home and one additional property are not reappraised at death if Distribution is to spouse or children or parents.

WHAT YOU NEED TO KNOW

Law for the Furry, Slimy and Feathery

Title and Ownership

All domestic animals are subject to ownership (CA Civ. C. § 655).

Covers cats, dogs, mice, gerbils, horses, cows

“Animals wild by nature are the subjects of ownership, while living, only when on the land of the person claiming them, or when tamed, or taken and held in possession, or disabled and immediately pursued.”
(CA Civ.C. § 656).

Fur bearing Animals – can be owned. (CA Civ. C. § 996).

Birds -

Reptiles -

Euthanasia – Any treatable animal and any adoptable animal, an animal older than 8 weeks that shows no behavioral or temperamental defect that could pose a health or safety risk, and has no sign of disease or injury that adversely affects the health of the animal shall NOT BE EUTHANIZED.
(CA Civ. C. § 1834.4).

Direct gifts to pets – Not allowed. (Estate of Russell, 444 P. 2d 353 (Cal. 1968))

Trust for Care of Designated Pet Animals (CA Prob. C. § 15212):

“A trust for the care of a designated domestic or pet animal may be performed by a trustee for the life of the animal, whether or not there is a beneficiary who can seek enforcement or termination of the trust and whether or not the terms of the trust contemplate a longer duration.

Usual trust: Direct a home for the pet; Designate a Caretaker; Pay the Caretaker; Pay extraordinary expenses; Name a residual beneficiary (probably not the trustee or the caretaker).

WHAT I DO LAST WILLS/PET EMPHASIS

WHAT IF

Single or Married
No child

Loving Pets

Family or friends to be Caretaker for pets.

Company life
No real investments

WHAT YOU NEED:

Basic estate plan documents

Wills (for the future)

Gift Pets to Pet Caretaker

Provision to gift money to Pet Caretaker

Power of Attorney for Asset Management

**Effective now so as to care for pets when temporarily
unable to do so (but not incapacitated)**

Provision to care for Pets on incapacity

Need Pet Wallet Card

Advance Health Care Directive

WHY:

Plan for death or incapacity

Provide for pets

WHAT I DO LAST WILLS

WHAT IF

Married

Minor child

Company life

No real investments

WHAT YOU NEED:

Basic estate plan documents

Wills

Power of Attorney for Asset Management

Advance Health Care Directive

Care for the minor child

Guardian

Orphan's Trust or Custodianship

WHY:

Plan for death or incapacity

Provide for child

WHAT I DO LAST WILLS/DEED PLANNING

WHAT IF

Married

Minor child

Company life

Own home

Investments and home value \$1,500,000

WHAT YOU NEED:

Basic estate plan documents

Wills

Power of Attorney for Asset Management

Advance Health Care Directive

Care for the minor child

Guardian

Orphan's Trust or Custodianship

Community Property Quitclaim Deed with Right of Survivorship

WHY:

Plan for death or incapacity

Efficient, economical transfer at first death

Provide for child

WHAT I DO LIFE INSURANCE TRUSTS

WHAT IF

Married
Minor child
No real investments
Company life

\$3,000,000.00 additional life insurance

WHAT YOU NEED:

Basic estate plan documents
 Wills
 Power of Attorney for Asset Management
 Advance Health Care Directive
Care for the minor child
 Guardian
 Orphan's Trust or Custodianship

Irrevocable Life Insurance Trust (ILIT)

WHY:

Estate Tax

Provide for Family

Second Death Estate Tax Savings

Because of Life Insurance Trust:

No Estate Tax Paid on the Life Insurance

WHAT I DO LIVING TRUSTS

WHAT IF

Married
Minor children
Deferred Income Assets (IRA, A-Plan, ESOP)
Company life
\$2,000,000.00 additional life insurance

Net Assets totaling \$2,500,000.00

WHAT YOU NEED:

Basic estate plan documents
Care for the minor child
 Guardian
 Orphan's Trust or Custodianship
Irrevocable Life Insurance Trust

Living Trust

Funding of the Living Trust – See Page 32

WHY:

Estate Tax

Probate Cost

Remember: estate tax paid on life insurance

Second Death Estate Tax Savings

Savings against second death probate

WHAT I DO LIVING TRUSTS/PET EMPHASIS

WHAT IF

Married
Minor children
Deferred Income Assets (IRA, A-Plan, ESOP)
Company life
\$2,000,000.00 additional life insurance
Net Assets totaling \$2,500,000.00

Loving Pets

Acquaintance to be Pet Caretaker

WHAT YOU NEED:

Basic estate plan documents
Care for the minor child
 Guardian
 Orphan's Trust or Custodianship
Irrevocable Life Insurance Trust
Living Trust
Funding of the Living Trust – See Page 32

Trust for Pets: Direct a home for the pet;
Designate a Caretaker;
Trustee oversees;
Put substantial money in trust;
Pay the Caretaker;
Pay extraordinary expenses;
Name a residual beneficiary
(probably not the trustee or the caretaker).

WHY:

Estate Tax
Probate Cost
Remember: estate tax paid on life insurance
Second Death Estate Tax Savings
Savings against second death probate

Long term care for Pets

WHAT I DO LIVING TRUST with QDOT

WHAT IF

Married
Minor children
Deferred Income Assets (IRA, A-Plan, ESOP)
Company life
\$2,000,000.00 additional life insurance
Net Assets totaling \$2,500,000.00

Foreign Citizen Spouse

WHAT YOU NEED:

Basic estate plan documents
Care for the minor child
 Guardian
 Orphan's Trust or Custodianship
Life Insurance Trust
Living Trust
Funding of the Living Trust

QDOT Provisions

WHY:

At Death of Citizen Prevents Estate Tax

WHAT I DO LIVING TRUSTS AND CHARITABLE PROVISIONS

WHAT IF

Married

NO children

Deferred Income Assets (IRA, A-Plan, ESOP)

Company life

\$2,000,000.00 additional life insurance

Net Assets totaling \$2,500,000.00

No Family Beneficiaries

WHAT YOU NEED:

Basic estate plan documents

Will

Power of Attorney for Asset Management

Advance Health Care Directive

Life Insurance Trust

Living Trust

Funding of the Living Trust

Charitable Provisions

WHY:

No Estate Tax if Give all to Charity

Alternative: charitable Remainder Trust

Benefit friends or family first, then Give to Charity

WHAT I DO LIVING TRUSTS with QTIP AND GENERATION SKIPPING

WHAT IF

Married

Adult children

Deferred Income Assets (IRA, A-Plan, ESOP)

Company life

\$2,000,000.00 additional life insurance

Net Assets totaling \$2,500,000.00

Request to ensure your interest given to children

WHAT YOU NEED:

Basic estate plan documents

Will

Power of Attorney for Asset Management

Advance Health Care Directive

Life Insurance Trust

Living Trust

Funding of the Living Trust

QTIP Provisions

Generation Skipping Provisions

WHY:

QTIP retains your entire half interest in Trust

Generation skipping:

Income to Adult Children

Remainder to Grandchildren

WHAT I DO CHARITABLE TRUSTS

WHAT IF

Married
Adult children
Deferred Income Assets (IRA, A-Plan, ESOP)
Company life
\$2,000,000.00 additional life insurance
Net Assets totaling \$2,500,000.00

Appreciated common stock worth \$100,000.00

WHAT YOU NEED:

Basic estate plan documents
 Will
 Power of Attorney for Asset Management
 Advance Health Care Directive
Life Insurance Trust
Living Trust
Funding of the Living Trust
QTIP Provisions
Generation Skipping Provisions

Charitable Trust (during life)

WHY:

Income Tax Savings NOW

Income stream for life

**Consider Life Insurance (Life Insurance Trust) to Replace
Asset for Beneficiaries**

Remainder to Charity

WHAT I DO . . . CHARITABLE TRUSTS/PET PROVISIONS

WHAT IF

Married
Adult children
Deferred Income Assets (IRA, A-Plan, ESOP)
Company life
\$2,000,000.00 additional life insurance
Net Assets totaling \$2,500,000.00
Appreciated common stock worth \$100,000.00

Loving Pets

No Caretaker Evident

WHAT YOU NEED:

Basic estate plan documents
 Will
 Power of Attorney for Asset Management
 Advance Health Care Directive
Life Insurance Trust
Living Trust
Funding of the Living Trust
QTIP Provisions
Generation Skipping Provisions
Charitable Trust (during life)

Irrevocable Agreement with Charity to be responsible for Pet,

providing: Charity direct a home for the pet;
Charity designates a Caretaker;
Charity oversees;
Charity Pays the Caretaker;
Charity Pays extraordinary expenses;
Charity is beneficiary

WHY:

Income Tax Savings NOW
Income stream for life
 Consider Life Insurance (Life Insurance Trust) to Replace Asset
 for Beneficiaries
Remainder to Charity
Long term care for Pet.

WHAT I DO GIFTING and MINOR'S EDUCATIONAL TRUSTS

WHAT IF

Married

Adult children

Grandchildren

Deferred Income Assets (IRA, A-Plan, ESOP)

Company life

\$2,000,000.00 additional life insurance

Net Assets totaling \$2,500,000.00

Appreciated common stock worth \$100,000.00

Excess Income over needs

WHAT YOU NEED:

Basic estate plan documents

Will

Power of Attorney for Asset Management

Advance Health Care Directive

Life Insurance Trust

Living Trust

Funding of the Living Trust

QTIP Provisions

Generation Skipping Provisions

Charitable Trust (during life)

Jim's Gifting Plan

Minor's Educational Trust

WHY:

You Can Afford

You assist family

For Each \$11,000 given, family saves

ABOUT YOUR SPEAKER

J.R. Hastings graduated with a Bachelor of Science from the United States Air Force Academy on 1968 and with a Juris Doctor from the University of Pacific's McGeorge School of Law in 1977. Licensed to practice law in California, Colorado, Nevada and Washington, District of Columbia, he is an Accredited Estate Planner with the National Association of Estate Planners.

RANDOM REFERENCES

The Living Trust by Henry Abs.

www.naepc.org

www.estateplanningforpets.org

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