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Estate Planning, Trust &
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OVERALL PRESENTATION

ESTATE PLANNING

What is estate planning?

Typical estate plan documents.

What happens if you don't have an estate plan if something bad happens.

Prop 19 Property Tax Planning.

CONSERVATORSHIP

What is a conservatorship?

Two types of conservatorships.

Why you want to avoid a conservatorship.

PROBATE

What is probate?

Why you want to avoid probate.

Disclaimer



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What is estate planning?

- ▶ What Is Estate Planning Really About?
- ▶ Estate planning is about protecting individuals and couples—married or unmarried—their families (including pets), and their assets when life takes an unexpected turn.
- ▶ As Estate Planning Attorneys, we Plan for Two Key Life Events: Incapacity and Death
- ▶ When a person becomes incapacitated, they lose legal capacity to make decisions or sign contracts.
- ▶ Without an estate plan, conservatorship proceedings are likely required. (We'll cover this in more detail shortly.)
- ▶ When a person passes away with or without a Will, their estate will likely be subject to formal probate administration.
- ▶ Probate can be lengthy, costly, and public. (We'll discuss this in more depth later.)

TYPICAL ESTATE PLAN DOCUMENTS

- ▶ Revocable Living Trust-Avoids conservatorship of the estate and probate.
- ▶ Trusts act as a substitute for a Will.
- ▶ Wills and trusts serve similar purposes but function differently.
- ▶ Durable Power of Attorney for Finances are used during incapacity to avoid conservatorship of the estate.
- ▶ Advance Health Care Directive authorize medical decisions during incapacity. Avoids conservatorship of the person.
- ▶ Nomination of Guardians for Minor Children. Applies in cases of incapacity or death. Allows parents to designate who will care for their children.
- ▶ Pour-Over Will. A “catch-all” document for any assets not titled in the name of the trust at death.
- ▶ Trust Transfer Deed & Property Tax Planning. Transfers real estate into the trust and ensures property tax protections are preserved where possible.

THREE MAJOR PROBLEM AREAS IN ESTATE PLANNING

No Estate Plan

If an individual becomes incapacitated without an estate plan, a court-ordered conservatorship of the person and estate will likely be required.

If an individual passes away without an estate plan, their assets will likely be subject to probate administration.

Inadequate EP

“I already have an estate plan. I have a will!”

A Will only takes effect upon death. It does not address incapacity during life, which often leads to costly conservatorship proceedings.

Without proper planning beyond a Will, an individual may face a conservatorship while living and leave their loved ones facing an expensive and time-consuming probate after death.

Outdated EP

Why Many “AB” or “ABC” Trusts Are Now Obsolete. Federal estate tax laws have changed significantly.

As of 2025, the federal estate tax exemption is \$14 million per individual (or \$28 million per married couple).

Result: Most estates are no longer subject to federal estate tax.

Many married couples still have outdated “AB” or “ABC” trusts drafted before 2011, when exemption amounts were much lower.

Today's law allows full use of the unlimited marital deduction, and portability of the unused exemption to a surviving spouse.

Modern estate plans no longer require AB/ABC subtrusts unless it's a blended family, or the couple has a high-net-worth estate.

Planning Tip: Don't Wait! 9 out of 10 outdated AB/ABC trusts are no longer needed. The best time to update is while both spouses are alive and have capacity. Once one spouse is incapacitated or deceased, modifying the trust becomes complex, costly, and often requires court intervention.

CONSERVATORSHIPS. A PERSON NEEDS HELP WITH THEIR MEDICAL AND FINANCIAL AFFAIRS



What is a conservatorship?

- ▶ A conservatorship is a costly and intrusive court proceeding used when an individual can no longer manage their personal or financial affairs due to incapacity.
- ▶ The court may appoint a Conservator of the Person—a fiduciary responsible for ensuring the conservatee's basic needs are met, including food, clothing, healthcare, and housing.
- ▶ The court may also appoint a Conservator of the Estate—a fiduciary responsible for managing the conservatee's income, assets, and financial decisions.
- ▶ In the vast majority of cases, conservatorships arise because an adult failed to put a proper estate plan in place before becoming incapacitated.
- ▶ With thoughtful estate planning, conservatorships of both the person and the estate can often be entirely avoided.

Examples of people who are conserved

- An elderly person suffering from dementia, Alzheimer's, etc.
- A young person in their 40s who suffered a stroke, left in a persistent vegetative state.
- Any adult injured in a car accident or slip in fall.
- A person suffering from severe anorexia, alcoholism or drugs ?
- Any other medical condition that would render a person physically incapable of taking care of themselves.

Why You Want to Avoid Conservatorship, Unless You're ___?

Annual Hours Worked By Attorney & Conservator	Estimated Compensation to Attorney & Conservator	Total Conservatorship Fees WITH Proper Estate Planning
Atty 40 hours; Cons. 40 hours.	\$25,000	\$0.00-nominal
Atty 50 hours; Cons. 50 hours.	\$35,000	\$0.00-nominal
Atty 60 hours; Cons. 60 hours.	\$45,000	\$0.00-nominal
Atty 70 hours; Cons. 70 hours.	\$55,000	\$0.00-nominal
Atty 80 hours; Cons. 80 hours.	\$65,000	\$0.00-nominal

More Reasons to Avoid Conservatorship

- ▶ Why Conservatorships Are Often Undesirable.
- ▶ Conservatorship proceedings are public.
- ▶ Anyone can access the court records, including details about the conservatee's life and condition.
- ▶ Private family matters become part of the public record.
- ▶ Sensitive information is disclosed in court filings and hearings.
- ▶ Financial disclosures and court-approved accountings are required.
- ▶ The conservator must report all financial activity, often annually.
- ▶ Conservatorship bonds are costly. Courts frequently require a bond to safeguard the conservatee's assets.
- ▶ Certain medical details may be revealed.
- ▶ Medical capacity evaluations and treatment summaries are often submitted to the court.
- ▶ Conservatorships can last many years—even decades. The court remains involved for the duration of the conservatee's life unless terminated earlier.

PROBATE

An Expensive Process That Should
Be Avoided At All Costs, Unless
You're An Attorney!



What is Probate?

- ▶ What Is Probate?
- ▶ Probate occurs when a person passes away without a Will (or w/ a Will) while owning property in their name alone and without designated beneficiaries.
- ▶ Probate is the legal process for transferring a deceased person's assets to their beneficiaries or heirs.
- ▶ Types of Probate in California:
 - ▶ Summary Probate. Applies when the gross probate estate is under \$184,500 (with certain exclusions). A simplified process that is generally faster and less expensive.
 - ▶ Formal Probate. Required when the gross probate estate exceeds \$184,500. A lengthy, costly process that is open to the public and often takes 12+ months to complete.

Probate Fees Are Based On The Value of the Estate

Gross Asset Value of The Entire Probate Estate	Estimated Compensation to Attorney & Personal Representative	Probate Fees WITH Proper Estate Planning
\$300,000	\$18,000	\$0.00-nominal
\$400,000	\$22,000	\$0.00-nominal
\$500,000	\$26,000	\$0.00-nominal
\$700,000	\$34,000	\$0.00-nominal
\$1,000,000	\$46,000	\$0.00-nominal
\$2,000,000	\$66,000	\$0.00-nominal
\$3,000,000	\$86,000	\$0.00-nominal

More Reasons to Avoid Probate.

- ▶ Why Families Try to Avoid Probate.
- ▶ Probate is a public process. Court records—including the decedent's assets, debts, and beneficiaries—are accessible to anyone.
- ▶ Private family matters become public. Details about relationships, conflicts, and distributions may be disclosed in court filings.
- ▶ Financial information is exposed. Estate inventories, property appraisals, and account balances become part of the public record.
- ▶ Unwanted solicitations are common. Predatory creditors, marketers, and opportunists often contact grieving families during the probate process.
- ▶ Probate is slow and expensive. The average California probate lasts 9 months to 2 years and involves statutory attorney and executor fees based on estate value.

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- ▶ If you fail to plan, you are planning to fail. No exceptions!
 - ▶ Benjamin Franklin/Matthew W. Harris, Esq., LL.M.

▶ THANK YOU!

Long Term Care Open Discussion



About me

Richard W Roman

- Have Lived in Marin for the past 52 years
- Have a wife, Jenny, and son, Johnny
- Like to run, golf and be outdoors
- Certified Financial Planner (CFP) since 2006
- Fiduciary
- 25 Years in practice

Topics to be covered

- Medi-Cal / Medicaid
- IRA uses for care
- Life Insurance accelerated death benefits
- Long Term Care Plan
- Reverse Mortgage
- Family Members



Problems with Medi-Cal

- **Income Limit:** \$2401 for a single person and \$3948 for a couple
- **Countable Income:** employment wages, alimony payments, pension payments, Social Security Disability Income, Social Security Income, IRA withdrawals, and stock dividends (Not VA)
- **Asset Limits:** Starting 1/1/2026 the asset limit will be \$130,000 for a single person and \$195,000 for a couple.
- **Where is care provided:** Nursing Home of their choice typically and/or Home & Possible Home and Community Based Services
- **Lookback:** Will be reinstated in some form 1/1/2026
- **ERU:** Estate Recovery Unit

IRA Distributions

- Work with your CPA
- Expenses paid for Long Term Care can be an offset to IRA Distributions
- Example: Jack has \$1,500,000 in IRA
- Long Term Care Expenses reach \$15,000/mo. or \$180,000/year.
- I brought this to his CPA and suggested that he may be able to deduct his long-term care as a medical expense above 7.5% above AGI
- Outcome – Distribution that would have been taxable was offset by deduction

Insurances

- Traditional Long Term Care Plans
- Accelerated death Benefits on your existing life insurance plan
- Hybrid Life Insurance Plans
- Annuities
- Medicare does NOT cover long term care needs

Reverse Mortgage

- The last stand
- Allows you to stay in your home
- Cash out or cash for care
- Can be very expensive
- Takes away from beneficiaries

Family

- Adult children – need to communicate with all before you can't
- Have a written plan

Thank you

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