



Your Workbook

Estate & Legacy Planning

HOW TO KEEP YOUR FAMILY
OUT OF COURT AND CONFLICT

Estate & Legacy Planning

Webinar

Presented

By

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and

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Meet the Attorneys

David A. Bernstein, J.D., M.B.A.

- ✓ Estate Planning since 1999
- ✓ Over 2000 estate plans in Hawaii and California
- ✓ Personal Family Lawyer ®

- ✓ Attorney at Law since 1983
- ✓ Juris Doctor, Hastings College of the Law, 1982
- ✓ Masters in Business Administration, UC Berkeley, 1982
- ✓ Member, California State Bar Association
- ✓ Member, Hawaii State Bar Association
- ✓ B.A. Philosophy, Cum Laude, UC Irvine, 1978
- ✓ Board of Directors, SFV Estate Planning Council, 1997

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- ✓ Attorney at Law
- ✓ Juris Doctor, University of Hawaii
- ✓ Masters in Business Administration, UH
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Additional Notes and Questions.

At the end of the Workbook, on pages 9-10 you will find a place to jot down your additional notes and questions. During the webinar, I will ask a few questions. Other than those, I suggest that you wait to send your questions at the end, during the Q&A session, when I will answer whatever questions we have time for.



What is your “Estate”?

Anything that you want to pass on to your heirs. It may include: real estate, cars, financial holdings, retirement savings and personal items.



What is Estate Planning?

Estate planning is the process of drafting legal documents and titling personal assets to control your assets, as well as providing guidance in the case of your disability or death.

It applies not only while you are alive and well, but also to care for yourself and your loved ones if you become disabled. It’s goal is to be able to give what you have to who you want, the way you want and when you want and to minimize taxes and other estate costs.



All estate plans should include a **will**, a **general durable power of attorney**, and an **advance health care directive**. In addition, most estate plans should also include a **revocable living trust**.

What happens if I die without an estate plan?

If you die without a will or a living trust, you die “*intestate*”.

If you die without an estate plan, if you own real estate titled in your name alone, even if it’s worth as little as \$25,000, your estate will have to be administered through the **probate court**. Even if you own no real estate, if you have savings (or certain other investments), totaling more than \$100,000, your estate may have to go through the probate court. This is a costly and time-consuming process. And if you have minor children and there’s no surviving legal guardian, then a judge in a guardianship proceeding will be choosing who will raise them.



Can my family sign for me if I am disabled?

Unfortunately not. No one else can sign documents for you unless they have *written* legal authority. If there is no living trust or durable power of attorney, someone must petition the probate court to establish a conservatorship to handle your affairs. Like other probate proceedings, this is very costly and time consuming.



I thought that a Will AVOIDS probate!

This is one of the most common misperceptions we encounter in our estate planning practice. Your last will simply names your beneficiaries and your executor. Unless you have no real estate and less than \$100,000 in certain assets, your will must be *proven* to be valid. This is why it's called *probate*. (to "probate" is to "prove")



A Will does NOT avoid Probate Court!

In fact, Wills almost ALWAYS go through Probate Court!

How does a Revocable Living Trust work?

A living trust is a legal entity, similar to a corporation, except that a living trust can hold title to your personal assets. When you create a living trust, you are called the "*Trustor*" or "*Settlor*". You put most assets into the living trust. These assets are managed by the trustee, which also could be you. The trust assets are used or spent by the *beneficiaries*, which may also be you.



Instructions in the trust specify how the trust assets are to be used while you are alive. But more importantly, they also specify who is to handle the assets upon your disability or death, and who the beneficiaries will be upon your death.

It is called a "*living*" trust (as opposed to a "*testamentary*" trust) because it is created while you are alive, rather than upon your death. It is "*revocable*" (rather than "*irrevocable*") so you can make changes to the trust in the future if you wish.

A properly prepared Living Trust will AVOID the cost and disruptions of both Living Probate and Death Probate!

What is an Advance Health Care Directive?

A “**Living Will**” provides guidance to physicians that you do not want your life prolonged artificially if you are in a persistent vegetative state, or similar condition and death is imminent. Since you would be unable to give your consent at that time, you are consenting beforehand so your family will not have to take difficult measures to “pull the plug” if that is what you want.



HIPAA forms designate who can legally access your health care records.

The **Living Will** and **HIPAA forms** are usually part of a broader document called an **Advance Health Care Directive**.

After my death, can't my Power of Attorney transfer my estate to the beneficiaries?

No.

A power of attorney is only effective while you are alive. It terminates automatically upon your death.



Who needs an Estate Plan?

Everyone needs an estate plan.

That's because we all face the prospect of disability and death.

Without an estate plan it will be more difficult for your loved ones to handle your assets. If you own any real estate you should certainly have an estate plan. Even if you have no real estate, you need an estate plan to manage life insurance, retirement accounts, investments or savings in the event of your disability or death.

While everyone should have an estate plan, for certain individuals it is indispensable. If you are a parent of minor children, if you are remarried with children from a prior marriage, if you have beneficiaries who need help managing their finances... then an estate plan is imperative.



I saw an ad offering a living trust for as little as \$600. Are all trusts the same?



No. All trusts are not the same. Proper estate planning requires detailed analysis of your assets and personal situation. The documents should be individually tailored to your needs.

Some attorneys, or even non-attorneys, may offer you a one-size-fits-all trust, or you may be enticed to buy software so you can do-it-yourself. Resist the temptation! Otherwise, you are gambling that you'll end up with documents which are not suitable for you. And you'll have no way of knowing if they're unsuitable until it's too late to fix things.

If an estate planning offer sounds too good to be true, it probably is.

Look for the hidden cost or agenda. Will a salesman deliver the package? If so, be prepared for the pitch to purchase their financial products. And don't expect to get your legal questions answered when you call in the future.

What is the most important reason you are here — YOUR Legacy!



Your protection, as well as your insights, your values, your stories, and your experiences.

Who do you want to prepare YOUR Estate Plan?

When you consider your options, make an apples to apples comparison. It depends on ...



Who prepares your trust.

What the trust **includes**.

The **duration** of services.

and

Providing you with peace of mind!

For your peace of mind, a COMPLETE Estate Plan Included at no additional charge:

FP ₁	TP ¹	WP ¹	Item	Description
✓	✓	✓	Continuing benefits:	Telephone calls and emails
✓	✓	✓		Consultation upon incapacity or death
✓	✓	✓		Periodic review
✓	✓	✓		Seminars and webinars
✓	✓	✓	LAST WILL²	Designates beneficiaries of assets and names guardians for minor children (KPP ³)
✓	✓	✓	GENERAL DURABLE POWER OF ATTORNEY	Authorizes someone to manage your property if you become incapacitated
✓	✓	✓	ADVANCE HEALTH CARE DIRECTIVE	If you become incapacitated, guidance and designees for health care decisions for you, as well as who can access your health care records (HIPAA forms)
✓	✓	✓	Asset Summary	Information on all Accounts and Policies
✓	✓	✓	Location List & Family Information	Location of all important accounts & documents. People to be notified in case of death or incapacity
✓	✓	✓	Written Instructions & Funeral Plans	Distributions of small items of personal property, burial and funeral instructions
	✓	✓	REVOCABLE LIVING TRUST	Avoids Living Probate, Death Probate and reduces or eliminates federal estate taxes
	✓	✓	POUR-OVER WILL	Transfers any assets outside of the Trust into the Trust and names guardians for minor children (KPP ³)
	✓	✓	Continuing benefit	One Trust Amendment during first year
	✓	✓	Explanation	Explanation of documents
	✓	✓	Trust Flow Chart	How the Trust works in the different time periods.
	✓	✓	Assignment of Personal Property	Transfers personal property to your Living Trust
	✓	✓	Deeds to Trust	Changes title of real estate to the Trust to avoid Probate and minimize taxes
	✓	✓	Short Form Trust	Summary of selected portions of your Living Trust
	✓	✓	Funding Instructions	Guidance for transferring assets to your Living Trust
	✓	✓	A-B Trust	If warranted.
		✓	Assets Review and Inventory	We analyze how each of your assets is titled, make appropriate recommendations, and prepare a complete inventory of your assets
		✓	Asset Transfers	We complete all third party asset transfers: bank, brokerage, insurance, and retirement documents to transfer title, and we change your beneficiary designations to your trust

¹ **FP:** Family Plan **TP:** Trust Plan **WP:** Wealth Plan

² **BOLD ITEMS:** The “standard” documents.

Non-bold items: User Manual

³ **KPP:** Kid’s Protection Plan



Fee Worksheet

Family Plan \$ _____
(Will, Power of Attorney, Medical Directive and more)

Trust Plan \$ _____
(Family Plan, plus a Living Trust)

Wealth Plan \$ _____
(Trust Plan, plus we complete all third party beneficiary forms for you)

Your Plan (from above): \$ _____

Less Bonus Credit on above plan: \$ (250.00)

Less Extra Credit on above plan: \$ _____

Add \$ _____ to transfer your residence to Trust: \$ _____
Add recording fees

Total Trust Package Fee \$ _____

Special Drafting at an additional fee (\$ _____ each)

- Transfer additional real estate deeds to trust
- Transfer each out-of-state real estate deeds to trust
Add recording fees
- Affidavits or Land Court Petition
- Continuing trust for children's protection or tax savings
- Special Needs Sub-Trust
- Beneficiaries' right to reside in residence
- Trustees at different time periods
- Resident alien trusts
- Pet Trust

