

# ESTATE PLANNING BASICS

By: Jennifer N. Sawday, Esq., Partner at TLD LAW

## A QUICK PRIMER FOR CALIFORNIA RESIDENTS

*This is not legal advice, but information to help you understand how estate planning works and why you should consult with an attorney regarding your estate plan.*

## 4 KEY LEGAL DOCUMENTS

REVOCABLE  
LIVING  
TRUST

1

A **Revocable Living Trust** avoids probate when your home and other assets are vested in your Trust. You select who will be in charge and set the rules for distribution of your assets.

POUR OVER  
WILL

2

A **Will** is the preferred document to nominate guardians for your children. A Will does not avoid probate, so a Trust is also executed at the same time. The Will functions to “pour over” assets to your Trust.

POWER OF  
ATTORNEY

3

A **Power of Attorney** and **Advance Health Care Directive** are documents where you nominate loved ones to make financial and medical decisions on your behalf in the event you are alive, but not well (i.e., car accident, medical incapacity or not aging well).

ADVANCE  
HEALTHCARE  
DIRECTIVE

4

You select your agents instead of the court making the choices for you.

Want more information? Email Jennifer at [jsawday@tldlaw.com](mailto:jsawday@tldlaw.com) or call (562) 923-0971

# Trusts versus Probate

## All Revocable Trusts

- Revocable during lifetime so long as you are healthy
- Avoids probate when fully funded with assets

## Marital Trusts *This is revocable, too*

- For married couples with larger estates, usually larger than \$5.45m; for those with children from prior relationships; or if this is not your first marriage
- Requires an allocation of trust assets to an A, B and/or C subtrusts on the death of the first spouse. Allows for tax savings and preservation of assets for the intended beneficiaries of the first spouse.

## Legacy Trusts *This is revocable, too*

- For larger estates, allows assets to remain in trust with permissive use of assets by beneficiaries and assets can then pass to next generation in trust.

## Probate Expenses

### Probate costs add up quickly:

\$465 filing fee to open estate

\$200 to \$1,200 to run legal notice

\$465 interim fee to sell real estate with court approval

\$75 to \$1,000 appraisal fees or more

\$465 filing fee to close estate

Minimum costs: \$1,500 or more

### Plus statutory fees /commissions for personal representative and attorneys based on inventoried estate:

4% of the first \$100k

3% of the next \$100k

2% of the next \$100k to \$800k ...

See Probate Code Sec. 10800 et. seq.

An estate inventoried at \$500k can incur \$26,000 in statutory fees and commissions

Mini-

# Checklist to Prepare For Your Estate Plan

## Your Family

- \_\_\_ YOUR FULL NAME
- \_\_\_ SPOUSE'S /PARTNER'S FULL NAME
- \_\_\_ CHILDREN: Names & Dates of Birth  
indication if child(ren) of current relationship  
indication if child with special needs or concerns

## Your Assets

- \_\_\_ REAL ESTATE  
home, rental properties, timeshares
- \_\_\_ BANK ACCOUNTS  
checking, savings, money market, brokerage
- \_\_\_ STOCKS, BONDS and INVESTMENTS  
both retirement and non-retirement
- \_\_\_ BUSINESS INTERESTS  
corporations, LLCs, partnerships
- \_\_\_ OTHER ASSETS  
performance royalties, oil/gas rights, etc.

## Your Desires

- \_\_\_ GUARDIANS  
if your children are minors
- \_\_\_ TRUSTEES/EXECUTORS  
who should take over?  
either when you are incapacitated or  
have passed away
- \_\_\_ FINANCIAL AGENTS\*  
who should make \$ decisions?  
\*good for your lifetime only
- \_\_\_ MEDICAL AGENTS\*  
who should make medical decisions?  
\*good for your lifetime only
- \_\_\_ PLUS YOUR DESIRES ON END  
OF LIFE, ORGAN DONATION AND  
BURIAL OR CREMATION  
PREFERENCES
- \_\_\_ WHO GETS WHAT?  
funds remain in trust  
specific gifts of cash or property  
charitable gifts

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## ABOUT JENNIFER N. SAWDAY

Jennifer is a prestigious attorney in the greater Long Beach area with a robust practice in Estate Planning, Probate, Trust Administration, Conservatorships and related litigation. She has drafted many successful estate plans and handled trust administration for her clients without incident. Jennifer routinely opens and closes probate type matters including routine and contested probates, conservatorships and guardianships in Los Angeles and Orange County probate courts. In her spare time, she enjoys CrossFit and outings with her two young daughters and husband.

### **RECOGNITION & AWARDS**

“Rising Star,” Super Lawyers, 2011, 2012 and 2013

Top Women Attorneys for Southern California, 2012 and 2013

LA Magazine Top Lawyers in Southern California

Superb Rated Attorney, 10.0 – Avvo

Loyola Law School, Dean’s List (1998-2000); First Honors Award in Legal Research and Writing (1999); St. Thomas More Law Honor Society

### **PROFESSIONAL & COMMUNITY INVOLVEMENT**

Member, Long Beach, Orange County and Los Angeles County Bar Associations

Member, Women’s Lawyers of Long Beach, President (2008-2009 and 2013-2014)

Member and immediate Past-President, Estate Planning and Trust Council of Long Beach (2006-present)

Member, Long Beach Executives Association (2014 to present)

Adjunct Professor at Cerritos College for paralegal courses (2009-2014)

### **EDUCATION**

Loyola Law School, Los Angeles, **Juris Doctor**, Evening Program, 2002

California State University Dominguez Hills, **Masters of Public Administration**, honors in the major, 1997; and **Bachelor’s of Science** degree, Public Administration, 1995