

## THE LAW FIRM OF HERRING & HERRING, APC

The partners of the law firm are a father/daughter team comprised of C. David Herring and Margaret K. Herring. David has over 39 years experience in all areas of civil litigation, including real estate and business issues.

Margaret has been working in the legal profession with David since 1989, and has been a licensed attorney since 1996.

In addition to estate planning and probate, her practice encompasses civil litigation, including probate and trust litigation.



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# Essentials of Estate Planning



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## THE TOOLS OF ESTATE PLANNING

Planning your estate today means much more than merely writing a will or planning for the transfer of your property when you die. An estate plan may also ensure that your minor children are cared for; minimize the adverse effects of incapacity prior to death; and reduce anticipated income and tax liabilities.

In order to maximize your planning, it is essential to understand the various estate planning tools that are available to you.

### *Living Trust*

This is a document which is created while you are alive, and your assets are placed in the trust by changing title to the assets into the name of the trust. If your assets are properly placed in the trust, they are distributed outside of the probate court, immediately upon your death. If you choose a trust, most people also have a will so that small personal items may be passed on to others.

### *Will*

This document will transfer any property which has not been included in your trust. It also allows you to designate the person that will care for your minor children in the event of death. With the exception of "small estates", property transferred by

will must be probated by the Probate Court.

### *Advance Health Care Directive*

This is a new form effective July 1, 2000, and acts to replace the prior Durable Power of Attorney for Health Care. With this form, you may authorize an agent of your choice to make health care decisions for you under certain circumstances. You may also use this form to nominate a conservator. This power of attorney is "durable", that means it survives a person's incapacity. Whereas standard power of attorneys cease to be valid upon incapacity.

### *Uniform Statutory Form Power of Attorney*

This document allows you to designate another person to handle your financial affairs. The form lists 13 categories of authority available to your agent. You may grant all 13 categories, or just 1, depending on your needs. Some examples of the categories of authorities are: real property transactions, stock and banking transactions.

### *Living Will*

This document states your wish not to be kept alive by artificial life support systems in the event of terminal illness. This allows you to limit medical treatment and medical bills.

## SUMMARY

Estate planning is completely unique to each person and their family circumstances. Each of the estate planning tools have advantages and disadvantages. No one document will benefit every person. Each must be specifically written to cover your personal situation. Some of the key factors which are important in your estate planning are the value of your estate, your marital status, and the number of children which you have.

To ensure that your estate plan meets the requirements set out by the California Probate Code, it is essential that you review your estate and your family's needs with a competent estate planning attorney.

One final point to remember is that no estate plan is carved in stone. Your estate plan may be changed as often as your needs change. Therefore, I always recommend that once you complete your plan, you keep a copy of it with your tax returns. That way, each year when you take out the last years returns to assist in the preparation of the next years', you are also forced to review your estate plan.

