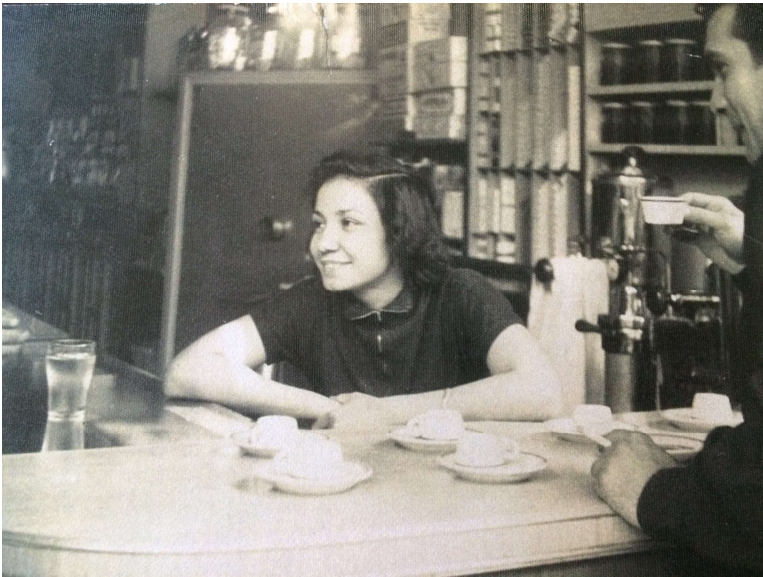


THE WAGON LEGACY

Planning for your future, your family, and your legacy



Josefina Valle



What will happen to them if something happens to us?



Agenda:

1. What is estate planning and who needs it?
2. The biggest estate planning mistakes and how to avoid them. Some of the topics we will cover:
 - Probate
 - Protecting your children's inheritance from lawsuits and divorce
 - Planning for incapacity
 - Leaving a lasting legacy
3. Case examples throughout



What is Estate Planning?

“I want to provide for myself and my loved ones during my lifetime and, upon my incapacity or death, give what I have to who I want, the way I want, when I want, and if I can, save every last fee, tax or court cost possible.”

- From ‘Loving Trust’

What is your estate?

-Everything you own, including:

- Real Property
- Timeshares
- Bank Accounts
- Investment / Brokerage Accounts
- Stock Accounts
- Personal Property
- Retirement Accounts
- Life Insurance
- Business Interest

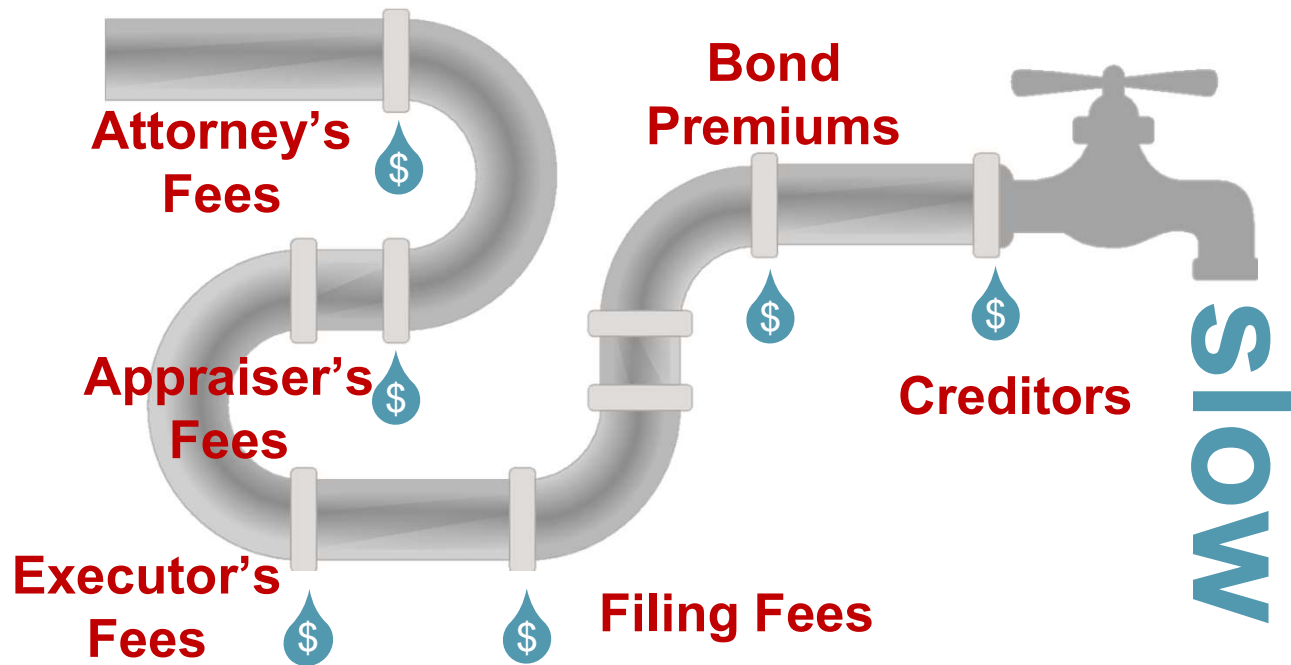
Who needs estate planning?

- In some form – every adult needs estate planning.
- We can all become incapacitated or pass away – and need someone else to make medical or legal decisions for us.
- Many people believe that estate planning is only for those people who are wealthy or have complicated estates.

BEST WAYS TO PROTECT YOUR ASSETS:
AVOID THESE 12 BIG ESTATE PLANNING
MISTAKES!



Mistake #1: Dying Intestate



Definition of the Probate Process

The legal proceeding that serves to prove the validity of an existing will, to supervise the orderly distribution of a decedent's assets to heirs, to protect creditors by ensuring that valid debts of the estate are paid, and to change title of assets not otherwise retitled from the decedent to the living.

PROBATE COURT

- 2-3 years
- Freezes assets
- Stressful
- Public
- Predators
- Costly (*court fees, lawyers, bond premiums, executor, appraisers, etc.*)

Probate Costs

- Family home: \$600,000
- Bank Accounts: \$10,000
- Business Interest: + \$100,000

- Total Probate Assets: **\$710,000**

- 5% = **\$35,500+** in probate costs

Mistake #2: Dying With Just a Will



- A Will won't avoid Probate Court
- Assets stay in your name
- Assets often end up lost or in hands of state

Assets LOST to State After Death



ca department of unclaimed property how much



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About 4,930,000 results (0.44 seconds)

The Golden State has more than 70.4 million unclaimed properties worth a total of **\$11.9 billion**, according to the State Controller's Office. **Oct 31, 2022**


<https://www.sacbee.com/capitol-alert/article268108282>

[CA has billions in unclaimed property. How to claim yours](#)

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TRUST

Trust = Agreement between you (trustor) and trustee for benefit of your beneficiaries.

- Revocable
 - Incapacity
 - Private
 - Much lower costs
 - Structure
 - Asset Protection
- 

Mistake #3: Not Funding Trust Properly



- Process of re-titling assets
- Real property, bank accounts, personal property, business interest
- Like having no trust if unfunded
- Forgetting about an asset

Case Study – Cindy

**Name changed to protect privacy of client*



- Estranged daughter
- Nephew cared for her
- Wanted to leave estate to nephew, \$350K in cash and \$2M in real property
- DIY trust
- Not funded
- No Pour-Over Will

Mistake #4: Owning Property Outside of a Living Trust



- Probate or simply postpone probate
- Naming child on deed
- Tax issues
- Creditors, Lawsuits
- Conflict

Understanding New Law Called Prop 19



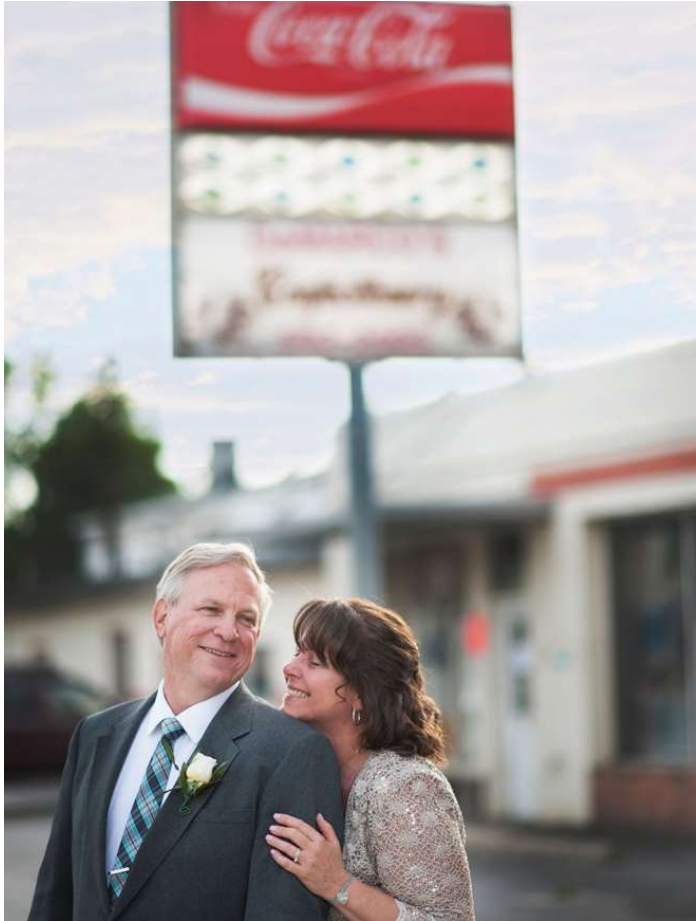
- *Before* Prop 19 (which became effective 2/16/21) –transfer between parent and children – no change in property taxes
- Low property taxes generation after generation
- The law changed recently
- Huge impact for properties owned by parents for a long time, especially income properties

Example - Old Law

- John and Sue own a home worth \$1.5M (fair market value), but they are paying \$2,000 in property taxes because they bought it many years ago and it is assessed at \$200,000
- They both pass away and leave the home to their only daughter, Cindy – Cindy will pay \$2,000, regardless of whether Cindy lives in the home.
- John and Sue also own a rental property, it is also worth \$1.5M, but they are paying \$2,000 in property taxes because it is assessed at \$200,000
 - Cindy can rent this one as well – and still pay just \$2,000 in property taxes



New Law – Prop. 19



- John and Sue own home worth \$1.5M (fair market value), but paying \$2,000 in property taxes because it is assessed at \$200,000.
- They pass away and leave home to their daughter, Cindy.
- **If Cindy lives in home**, she gets to keep her parents' low property tax basis on their assessed value (\$200K) + \$1M = that's not reassessed. *Prop. 19 lets her protect the property taxes on \$1.2M.*
- **But the home is worth \$1.5M so there is a difference of \$300K. So the taxes may be \$5,000 per year (what her parents were paying + the taxes on the outstanding \$300K).**
 - **If she does not live in the home, then reassessment and taxes will now be around \$18K per year**
- No exception for rental property or commercial property, so John and Sue's rental property will be reassessed, and Cindy will pay around \$18K per year.

Mistake #5: Not Planning for Incapacity



- Incapacity provisions in Living Trust
- Who determines incapacity?
- Comprehensive Power of Attorney
- Healthcare directive
- HIPAA Release

Case Study – Steve and Susie

**Names changed to protect privacy of client*



- Both in late 50s
- Not married, together 15 years
- Steve had a stroke, became incapacitated
- Bank accounts in his name, Susie was POD
- Old POA that named his sister
- Conservatorship

Medicare v. Medi-Cal



- Paying for long term care become an issue for many people
- At-home care or nursing home care can cost more than \$5,000 per month
- Many clients believe they must transfer their home out of their name and to their kids to qualify for Medi-Cal
- Numerous ways to qualify
- May need a Medi-Cal Trust
- Important to get legal advice as early as possible
- Important to understand estate recovery

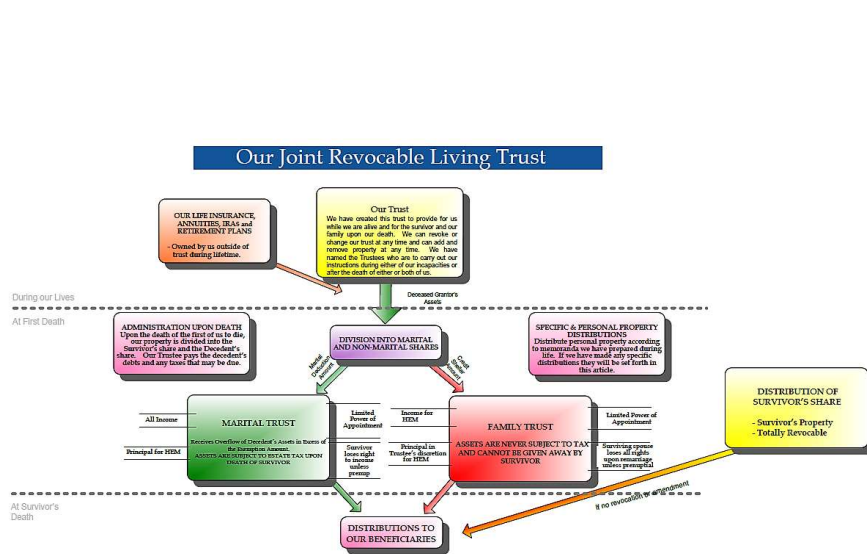
Mistake #6: Not Updating Beneficiary Forms



- Many clients have predeceased spouse, ex-spouse, or no beneficiaries at all!
- Minor children on beneficiary form = Court
- California Uniform Transfers to Minors Act (UTMA)
 - No oversight, no accounting, less structure
 - Usually whatever is left goes to child at 18 years of age

Mistake #7: No Remarriage Protection

- Your children could be unintentionally disinherited
- Trust that says when you die, your assets go into an irrevocable sub-trust
- Surviving spouse can benefit from the assets but doesn't own them and can't change the beneficiaries
- Prenuptial agreement may be required if spouse remarries
- ***Important for blended families***



Case Study – Tom and Pam

**Names changed to protect privacy of client*



- Married 11 years
- Assets separate
- Both with adult kids from prior marriages
- Never discussed estate planning
- Right to occupy for Tom
- Retirement to spouse, everything else to kids

Mistake #8: Selecting the wrong trustee



- Trustees (especially children) not documenting expenses or providing accountings as law and trust provides
- *“I’m the trustee...”*
 - “I get to make all the decisions”* attitude
- Withholding info due to a “power trip”
- Trustees not acting in a timely fashion
- Trustee sense of entitlement or living in house rent free
- Self-dealing as a trustee (or wanting to pay themselves unreasonable compensation)

Mistake #9: Leaving Assets Outright to Kids or Heirs



- Assets at 18 or young age
- No structure
- No protection from lawsuits, creditors, or divorce

1969

July 18

Senator Ted Kennedy drives car off bridge at Chappaquiddick Island



Shortly after leaving a party on Chappaquiddick Island, Senator [Edward "Ted" Kennedy](#) of [Massachusetts](#) drives an Oldsmobile off a wooden bridge into a tide-swept pond. Kennedy escaped the submerged car, but his passenger, 28-year-old Mary Jo Kopechne, did not. The senator did not report the fatal car accident for 10 hours.



Mistake #10: Doing It Yourself



- Fill-in-the-blank documents that won't work the way you want them to
- Not law firms – tell you to get legal advice!
- Usually done wrong and a waste of money

Mistake #11: Not Having a Way to Pass on Human Assets



Mistake #12: Procrastination



- So many people call us after their loved one becomes disabled or passes away
- Usually need court supervision
- Usually expensive and very stressful, which leads to conflict

Planning with the Wagon Legacy:



- Make Informed & Empowered Decisions
- *Saves Your Family Thousands of \$\$\$ -
Cheap is Expensive Down the Road*
- Peace of Mind Your Trust is Properly Funded
- Free Review of your Plan Every 3 years
- Flat Fees – no surprises!
- Care & Customer Service for Each Client

Questions?



- Free, no pressure initial meeting
- Flat fees
- An attorney who calls back and stays in touch
- Spanish Speaking
- 200+ Five-Star Reviews on Yelp & Google



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