

Financial & Estate Literacy Workshops: Wills and Trust

Norman P. Murray Senior Center
April 30, 2026



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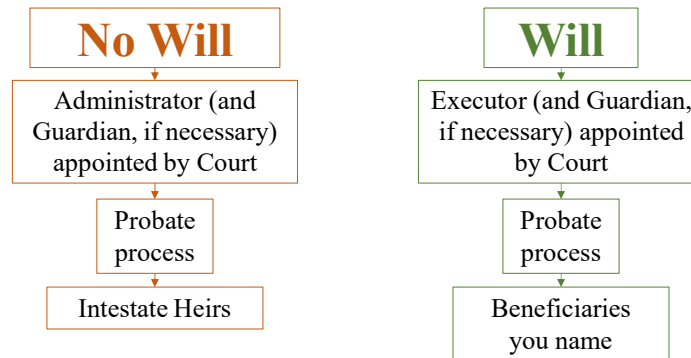
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What is Probate?

- Probate is the court-supervised process of distributing a decedent's assets after death.
- Probate happens if you have **No Will** or only a **Will**, and your gross assets exceed the threshold (currently \$208,850*).



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Estimated Cost of a \$1,000,000 (FMV)

Probate Estate

Executor/Administrator's Fees

4% of the first \$100,000=	\$4,000
3% of the second \$100,000=	\$3,000
<u>2% of the remaining \$800,000=</u>	<u>\$16,000</u>
Total Executor Fees=	\$23,000

Attorney's Fees

4% of the first \$100,000=	\$4,000
3% of the second \$100,000=	\$3,000
<u>2% of the remaining \$800,000=</u>	<u>\$16,000</u>
Total Attorneys Fees=	\$23,000

Other Fees

Filing Fees for Petitions=	\$1,200
Probate Referee fee (0.1%)=	\$1,000
<u>Bond, Notice and Publication (approx.)=</u>	<u>\$5,000</u>
Total Other Fees=	\$7,200

TOTAL FEES

\$53,200

Probate Time
At least 1.5 years
*depends on County

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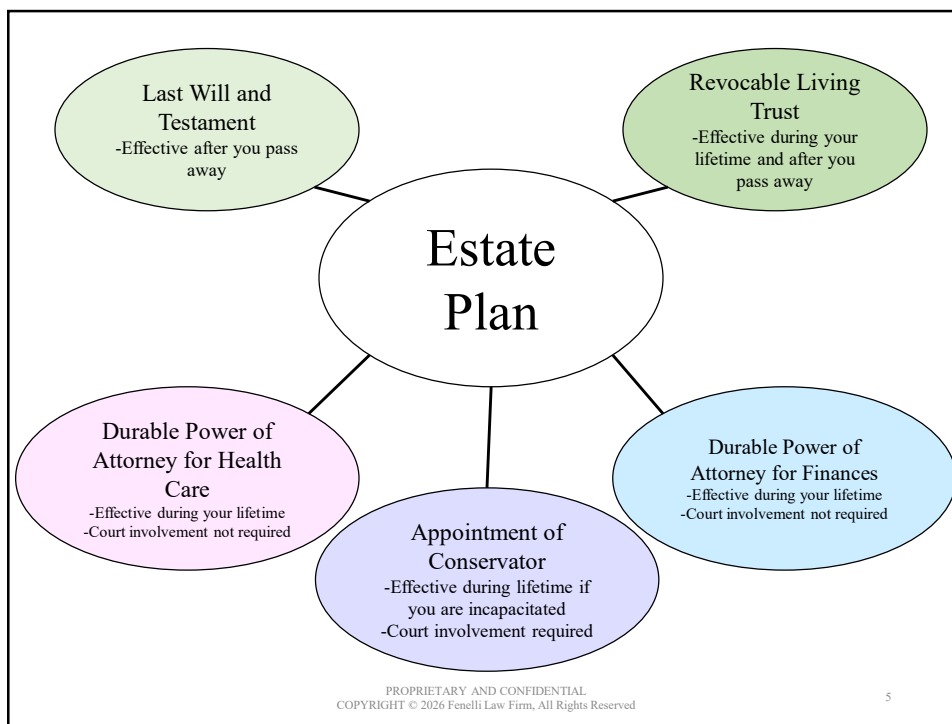
What can you do to avoid a Probate?

- Pay-on-death/transfer-on-death designations
- Beneficiary designations
- Titling (e.g., joint tenancy) - Drawbacks:
 - Possible gift tax.
 - May cause issues between children.
 - Exposes the property to sale by child, child's creditors, and child's divorce.
 - Child may lose step-up in cost basis resulting in capital gain.
- Trust(s)

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Durable Power of Attorney for Health Care or Advance Health Care Directive

- **The Durable Power of Attorney for Health Care gives a trusted person the power to make medical decisions if you become incapacitated.**
- **Can give specific or general directions to your agent for your medical care, whether you wish to reside in a facility, end of life, organ donation, and wishes regarding burial, cremation, and memorial services.**
- **Important questions when drafting:**
 - **WHO is being appointed to act?**
 - **WHAT powers are you giving them?**
 - **WHEN does the document become effective?**

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Durable Power of Attorney for Finances or General Power of Attorney

- **The Durable Power of Attorney for Finances gives a trusted person the power to make financial decisions if you become incapacitated.**
- **Can include restrictive or broad powers over your Non-Trust Assets**
- **Important questions when drafting:**
 - **WHO is being appointed to act?**
 - **WHAT powers are you giving them?**
 - **WHEN does the document become effective?**

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Revocable Living Trust

- **A Trust is a legal entity that owns your property.**
- **Why is a Trust important?**
- **Assets in a Trust are not subject to Probate.**
 - **A Trust can be structured to hold and protect assets for your beneficiaries.**
 - **Tax Planning to avoid estate taxes.**
 - **Trustee is appointed to manage, administer, and distribute assets.**

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Types of Trusts

- **Revocable Trust** – Can be changed at anytime by the Grantor (creator). A Revocable Trust is usually the main component of an estate plan. Usually becomes irrevocable upon the Grantor’s death.
- **Irrevocable Trust** – Cannot be changed as easily.
 - Can be modified or terminated during Grantor’s lifetime if the Grantor and all beneficiaries agree, and after Grantor’s death with court approval.
 - Removes assets from your estate as you no longer control the asset.
 - Compressed tax rates - highest rate at \$13,451 of income.
 - Separate Tax returns
 - Trust Protector

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Benefits of Revocable Trust

- **If all assets are titled or designated to your Trust or a beneficiary that survives your passing, a Trust avoids conservatorship at incapacity and probate at death.**
 - Assets are distributed without court involvement unless there are objections.
 - If Grantor/Trustee becomes incapacitated, a named successor Trustee takes over management of the assets without court involvement.
 - After death – no probate. You can dictate the distribution method for the assets which may protect beneficiary from himself/herself, creditors, predators, divorce, or from losing government benefits.
 - Privacy - In general, Trust provisions are not made public.

Drawbacks of Revocable Living Trust

- **Cost to set up.**
- **No oversight.**
- **Trust Administration at death, but typically less than probate.**

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Funding the Trust

An Essential Step

- **“Funding” a trust means assets must be re- titled from your name as an individual to your name as Trustee.**
- **If you do not fund the Trust, your heirs may have to administer your assets in a formal probate or other petition with the Court AND a Trust administration. This wastes time, money, and can be easily avoided.**
- **How to transfer title is different for each type of asset.**

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Real Property, Timeshares, and Co-ops

- **Real Property – Title to your home should be in your Trust. Your attorney can advise the best method to transfer to avoid real property tax reassessment and capital gains.**
- **Rental Properties – Consider creating a corporate entity to hold these properties to provide additional protections for the Trust and beneficiaries. Interest in the entity would be titled to the Trust.**
- **Timeshare Interests – Title to Trust. Each Timeshare Company is unique.**
- **Co-op – Title to Trust. An Attorney Opinion Letter may be needed to re-issue Co-op certificate.**

Bank and Brokerage Accounts

- **Should be retitled in your name as Trustee of the trust.**
- **If an account cannot be titled to the Trust, it should have a pay-on-death (POD) or transfer-on-death (TOD) beneficiary designation.**
- **Can name Co-Trustee as to one or more accounts.**
- **Household checking account.**

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Other Common Assets

- **Business interests – Interest in sole proprietorship, corporation, professional corporation, limited liability company, and/or general or limited partnership should be issued or assigned to the Trust.**
- **Safe Deposit Boxes - Re-title in name of trust and/or add a joint owner.**
- **Promissory Notes – Sign assignment to trust.**
- **Paper Savings Bonds – Re-title in name of trust.**
- **Cars and Vessels – Assign to Trust or Pass free of probate using DMV Affidavit.**
- **Vessels Documented by the U.S. Coast Guard – Re-title in name of trust.**
- **Mobile Homes - Re-title in name of trust.**
- **Tangible Personal Property – Sign general assignment to trust. If you have specific items to be distributed, discuss it with your Attorney.**

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Notable Exceptions: Retirement Plans and Life Insurance

- **Retirement plans and life insurance generally must be owned by an individual (except life insurance in an ILIT).**
- **You can name your trust as beneficiaries by properly executing and submitting a beneficiary designation form with the Retirement or Life Insurance Company. Discuss with your attorney the best way to handle the beneficiary designations.**

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What happens if assets are not in Trust?

- **Power of Attorney – Agent can transfer assets to trust while Grantor is living.**
- **Small Estate Affidavit – Avoids probate for assets up to:**
 - **\$166,250.00 for people that passed away prior to April 1, 2022;**
 - **\$184,500 for people passing away between 4/1/2022 and 4/1/2026; or**
 - **\$208,850 EXCLUDING up to \$750,000 of the value of their residence for people passing away after 4/1/2026.**
- **Heggstad/Ukkestad/Spousal Property Petitions – Court petition process to avoid full probate at death.**
- **Pour Over Will – Pours over assets into the trust so they can be distributed according to the trust’s terms. Requires a probate AND trust administration.**

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Gift and Estate Tax

- **Federal Gift Taxes are due for any gifts over the annual exclusion (2026 is \$19,000). A Gift Tax Return needs to be filed.**
- **Federal Estate Taxes are due upon your passing if your estate is over the exemption (2026 is \$15,000,000). You may still want to file a return if the estate is under the exemption, discuss this with your Attorney.**
- **State Estate Tax may be due. California currently does not have an estate tax.**
- **Types of gifts generally exempt from gift tax:**
 - **Gifts to spouse and charities.**
 - **Gifts to any individual under the annual exclusion.**
 - **Direct payments for tuition or medical care for any individual.**

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Basis Adjustment – Step Up or Step Down

- **Joint Tenants – partial adjustment at first joint tenant’s death**
- **Community Property – full adjustment at first spouse’s death**
- **Solely Owned**
 - **Gift during life –Basis is set at time of gift and reported on gift tax return**
 - **Inherit at death – Full step up or step down**
- **From irrevocable trust – no adjustment**

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Marital Sub-trusts:

- **A Trust – Commonly referred to as Survivor’s Trust (Revocable during surviving spouse’s life).**
- **B Trust – Commonly referred to as Residual Trust, Bypass Trust, Credit Shelter Trust, and/or Exemption Trust. This Trust can hold up to deceased spouse’s Estate Tax Exclusion Amount (\$15,000,000 in 2026)**
- **C Trust – Also referred to as a QTIP Trust or Marital Trust. Used to control decedent’s property after death.**

Sub-trust Considerations for Spouses – Simplicity vs Control

- **Sub-trust administration – Allocate assets between sub- trusts, obtain tax ID number for irrevocable trust, and prepare Form 1041 annually for irrevocable trust.**
- **Power of appointment – Can give the surviving spouse (or another person) power to change sections of the Trust. This can be broad or limited, discuss this with your Attorney.**
- **Allocation of assets - Determined after the first death. Discuss this with your Attorney.**

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How do you want to distribute assets to your Children and Other Beneficiaries?

- **Outright**
- **At ages/stages:**
 - **Distributions for health, education, maintenance, and support**
 - **Principal at specific ages**
 - **Amounts for specific purposes**
 - **Special Needs**

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Additional types of Trusts

- **Irrevocable Life Insurance Trusts (ILIT)**
- **Charitable Remainder Trusts (CRT, CRAT, CRUT)**
- **Grantor Retained Trusts (GRAT, GRUT)**
- **Qualified Personal Residence Trust (QPRT)**
- **Charitable Lead Trust (CLAT, CLUT)**
- **Irrevocable Trusts for Children/Grandchildren (Crummey Trusts)**
- **Intentionally Defective Grantor Trusts (IDGT)**

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“Ask First!”

This form is to be filled out by any person who is offering legal, financial, retirement, insurance, accounting, estate, long-term care or similar planning services. Respond to ALL categories completely; sign and date at the bottom of the page.

① MY EDUCATION- I have achieved the following level of education (check HIGHEST level achieved):

<input type="checkbox"/> Some High School	<input type="checkbox"/> High School Diploma	<input type="checkbox"/> Bachelors Degree
<input type="checkbox"/> GED	<input type="checkbox"/> Some College	<input checked="" type="checkbox"/> Masters or other Advanced Degree

② MY CREDENTIAL(S)- I have the following specialized credential(s) and training (examples: CFP, ChFC, CLU, CPA, JD, MBA, years of relevant experience):

JD, LLM, 20 years of experience

③ MY RELEVANT LICENSE(S)- I have the following license(s) giving me the legal authority to provide the services I am offering to you (examples: bar license (attorney); securities license; insurance license):

License Type	Covers What Activities	Issued By	License No.
CA Bar	Legal practice	CA Bar	241241

④ LEGAL SERVICES- (Check ONE):

- I DO NOT practice law, and the services I am offering to you do not involve practicing law.
- I DO practice law, and have an active license to practice law in California.
- I DO practice law, but DO NOT have an active license to practice law in California. I am, however, under the supervision of the following attorney who has an active license to practice law in California:

Name of attorney:	Telephone:
Address:	

⑤ OUR BUSINESS RELATIONSHIP- Check TRUE or FALSE:

- True / False: In our business relationship, I will at all times serve as a fiduciary and put your interests before my interests and those of my employer.


⑥ MY COMPENSATION- I will be paid in the following way (commission, fee, salary, etc.), by the named person or company, in connection with the services I am offering to you:

Way(s) I'll Be Paid	Payment Will Be Made By (name each person or company)
Fee	Client

⑦ FINANCIAL PRODUCTS / AFFILIATED ORGANIZATIONS- Check TRUE or FALSE:

- True / False: I offer or sell annuities, insurance, mutual funds or other financial products; or I am, or my employer is, affiliated with a person or organization that offers or sells annuities, insurance, mutual funds or other financial products.

⑧ I certify under penalty of perjury that the responses herein are true to the best of my knowledge.

Date: April 30, 2026	Business Name: Fenelli Law Firm
Signature: 	Address: 24800 Chrisanta Drive, Suite 110, Mission Viejo, Ca 92691
Print Name: Katie Fenelli Saltron	Telephone: 949-699-0000