



# ESTATE PLANNING PROCESS

Presented by Alan Gassman



Thursday, March 23, 2017

1:15 P.M. – 3 P.M.

GASSMAN, CROTTY, & DENICOLA, PA  
ATTORNEYS AT LAW



STETSON LAW

# PROFESSIONAL ACCELERATION WORKSHOP

with **Dr. Srikumar Rao and Alan Gassman**

**Saturday, February 11, 2017**

**9:00 a.m. to 4:30 p.m.**

*Stetson Law School - Gulfport Campus*

*1401 61st Street South, St. Petersburg, FL 33707*



**Dr. Srikumar Rao**



**Alan Gassman**

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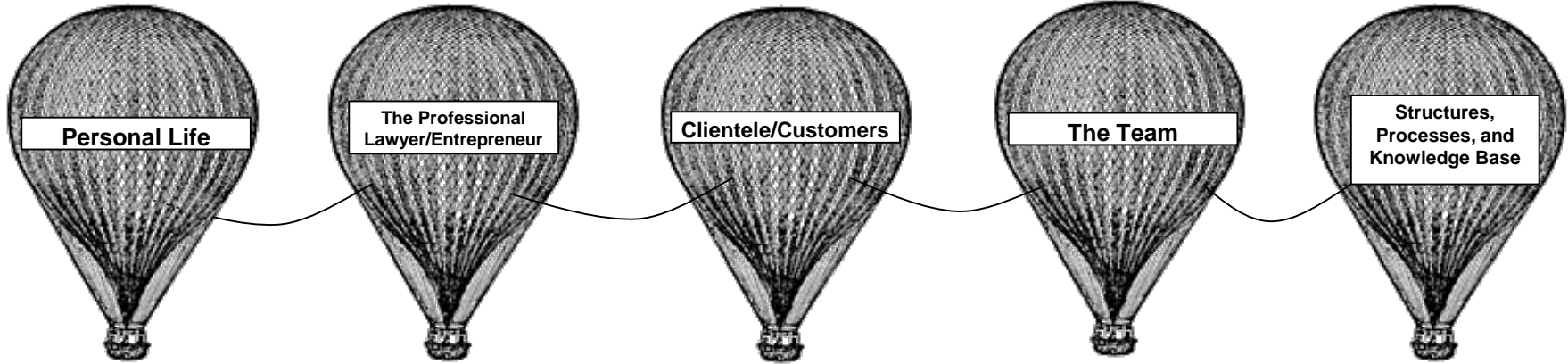
Florida State University



# YOU CAN'T HAVE SUCCESS WITHOUT BALANCE

3

Limitations on any of the balloons will hold back the other balloons. Where are you most limited?



Personal Life	The Professional Lawyer/Entrepreneur	Clientele/Customers	The Team	Structures, Processes, and Knowledge Base
Positive Items:	Positive Items:	Positive Items:	Positive Items:	Positive Items:
Next Steps:	Next Steps:	Next Steps:	Next Steps:	Next Steps:

**No balloon can rise above the level of the others.**



# WRITE IT DOWN AND IT WILL HAPPEN – EXAMPLE

	GOALS	OBSTACLES	SOLUTIONS	ACTIONS TO TAKE
<b>90 Day Goals - Professional</b>	1 Obtain 5 great clients	1 Time dedicated to finding them	Research how to connect with great clients	Schedule 15 min/day to think about, write down, recruit great clients
	2 Earn \$15,000 take home	2 High overhead Need Additional Clients	Cut back unnecessary expenses	Make spreadsheet of all expenses to ID those that can change
	3 Have administration file system/copy in place	3 Dedicated time	Hire administrative assistants – either legal secretary, receptionist, paralegal	Ask around for good leads
<b>90 Day Goals - Personal</b>	1 Regular exercise plan back	1 Discipline Excuse making Time	Schedule it like a client or go to a class	
	2 Write 2 chapters of “Flying High”	2 Distractions Exhaustion	Meditation Dedicated Time Sleep Better	150 words/day today Schedule 15 minutes/day
	3	3		
<b>3 Year Goals - Professional</b>	1 Net \$120,000	1		
	2 Have/own office location	2 None		Achieved! One & half months from writing
	3 Be recognized as a “super lawyer” in TB – well known	3		
<b>3 Year Goals - Personal</b>	1 Publish my book	1 Finding an agent Finishing the book	LinkedIn with publishers Use Cornell connections Dedicate time per day	Spend 10 min/week or month w/LinkedIn to get connected Spend 15 min/day writing
	2 Have my first series of speaking engagements as a motivator	2		
	3 Be married with a child	3		



# WRITE IT DOWN AND IT WILL HAPPEN – PAGE 1

	GOALS	OBSTACLES	SOLUTIONS	ACTIONS TO TAKE
<b>90 Day Goals - Professional</b>	1	1		
	2	2		
	3	3		
<b>90 Day Goals - Personal</b>	1	1		
	2	2		
	3	3		
<b>3 Year Goals - Professional</b>	1	1		
	2	2		
	3	3		
<b>3 Year Goals - Personal</b>	1	1		
	2	2		
	3	3		



# WRITE IT DOWN AND IT WILL HAPPEN – PAGE 2

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<b>10 Year Goals - Professional</b>	1	1		
	2	2		
	3	3		
<b>10 Year Goals - Personal</b>	1	1		
	2	2		
	3	3		
<b>Lifetime Goals - Professional</b>	1	1		
	2	2		
	3	3		
<b>Lifetime Goals - Personal</b>	1	1		
	2	2		
	3	3		



# Dale Carnegie Had It Right!

7

Principles from <i>How to Stop Worrying and Start Living</i>	
	My present rating and what I will improve.
<b>Basic Techniques in Analyzing Worry</b>	
• Get all the facts.	
• Weigh all the facts – then come to a decision.	
• Once a decision is reached, act!	
• Write out and answer the following questions:	
• What is the problem?	
• What are the causes of the problem?	
• What are the possible solutions?	
• What is the best possible solution?	
<b>Fundamental Principles for Overcoming Worry</b>	
• How to face trouble:	
• Ask yourself, “What is the worst that can possibly happen?”	
• Prepare to accept the worst.	
• Try to improve on the worst.	
• Live in “day-tight compartments.”	
• Remind yourself of the exorbitant price you can pay for worry in terms of your health.	



# Dale Carnegie Had It Right!

8

Principles from <i>How to Stop Worrying and Start Living</i>	
	My present rating and what I will improve.
<b>Break the Worry Habit Before it Breaks You</b>	
• Keep busy. (Stay in the flow.)	
• Don't fuss about trifles.	
• Use the law of averages to outlaw your worries.	
• Cooperate with the inevitable.	
• Decide just how much anxiety a thing may be worth and refuse to give it more	
• Don't worry about the past.	
<b>Cultivate a Mental Attitude that will Bring You Peace and Happiness</b>	
• Count your blessings – not your troubles.	
• Try to profit from your losses.	
• Create happiness for others.	
• Fill your mind with thoughts of peace, courage, health and hope.	
• Never try to get even with your enemies.	
• Expect ingratitude.	
• Do not imitate others.	



# A Client's Checklist for Making Sure They Have the Right Lawyer

Is the lawyer:

1. Qualified?
2. Knowledgeable and/or experienced?
3. Recommended by someone the client trusts (or a rating service or organization, or has a great website)?
4. Does the lawyer asks the right questions and seems to know what he or she is doing?
5. Does the lawyer describe a process that the client and lawyer will go through to provide the services needed?
6. Does the lawyer care about the client and want to get the client the best result?
7. Is the fee is reasonable for the services received and does the lawyer demonstrate the extent of the services before, during and after the experience occurs?



# SHOW A LOT OF EFFORT IMMEDIATELY

10

STAGE OF WORK	WHAT IS DELIVERABLE?	HOW TO DELIVER IT QUICKLY?	WHAT IS THE NEXT STEP?
Send Summary Chart before meeting			
Review chart at meeting			
Have meeting agenda			
Introduce paralegal to clients			
Agree upon initial work and what to think about			
Draft initial document package for delivery			
Call to confirm document package was received			
Have meeting or call to discuss draft document package			



# AGENDA FOR CONFERENCE WITH ALAN GASSMAN

1. REVIEW OF FAMILY INFORMATION.
2. REVIEW OF FINANCIAL INFORMATION.
3. IS THERE SUFFICIENT LIFE INSURANCE TO SUPPORT SURVIVORS?
  - a) PROCEEDS MULTIPLIED BY WHAT EXPECTED RATE OF RETURN CAN SUPPORT SURVIVORS?
  - b) TERM POLICY EXPIRATION DATES AND FOLLOW-UP.
4. POTENTIAL LOGISTICS FOR PLANNING.
5. TRUST ARRANGEMENTS FOR SURVIVING SPOUSE.
6. TRUST ARANGEMENTS FOR OTHERS.



# AGENDA FOR CONFERENCE WITH ALAN GASSMAN, CONT'D

## 7. EXTENDED FAMILY PLANNING:

- a) INHERITANCES EXPECTED.
- b) PARENTS OR OTHERS WHO MAY NEED SUPPORT.
- c) RELATIVES WHO SHOULD NOT INHERIT OR HAVE INPUT OR FIDUCIARY ROLES
- d) BENEFICIARIES IF NO DESCENDANTS SURVIVE.

## 8. FINANCIAL POWERS OF ATTORNEY.

- a) FROM SPOUSES TO ONE ANOTHER.
- b) FROM ANY FAMILY MEMBERS WHO MAY REQUEST OR NEED ASSISTANCE FROM CLIENTS.



# AGENDA FOR CONFERENCE WITH ALAN GASSMAN, CONT'D

## 9. HEALTH CARE POWERS OF ATTORNEY

- a) FROM SPOUSES TO ONE ANOTHER.
- b) FROM ANY FAMILY MEMBERS WHO MAY REQUEST OR NEED ASSISTANCE FROM CLIENTS.

## 10. BENEFICIARY DESIGNATION FOR IRA, ANNUITY, AND PENSION ACCOUNTS.

## 11. BENEFICIARY DESIGNATIONS AND OWNERSHIP VERIFICATION FOR LIFE INSURANCE.

## 12. DISCUSS DISABILITY INSURANCE.

## 13. DISCUSS AUTOMOBILE OWNERSHIP AND UMBRELLA COVERAGE.



# AGENDA FOR CONFERENCE WITH ALAN GASSMAN, CONT'D

14. ADVISOR COMMUNICATIONS.
15. BUSINESS ACTIVITIES AND OWNERSHIP.
16. DISCUSSION OF SPOUSAL BUSINESS/PROFESSIONAL INVOLVEMENT.
17. PROFESSIONAL OR BUSINESS PRACTICE/COMPANY PROTECTION FROM POTENTIAL CREDITORS
18. ENTITY TAX PLANNING.
19. ENTITY MINUTES.
20. OTHER ITEMS?



# When Interacting With Other Professionals and/or Clients:

When I sit down with a new client, the following needs to occur:

I need to be friendly and gauge how they are acting towards me.

I need to make eye contact for enough time to know the color of their eyes, because this is the typical rule of thumb, and whether to maintain eye contact depending upon how they handle it.

I need to be taking notes or I will forget what they said.

It is perfectly acceptable to ask a client to slow down so that you can take notes, and to tell them that you do not understand their accent and to remind them of this periodically so that you can understand.

I need to determine whether they are visually, auditorily, or kinetically oriented.

If they are visually oriented I am going to concentrate on the charts we use and I am going to draw pictures for them and have them take pictures home.

If they are auditorily oriented, then I am going to speak carefully and will be less inclined to use visual cues.

Less than 3% of the population is kinetically oriented, so that often comes across as a learning impediment.

If the Client has a learning impairment, I want to know about it so that I can be more careful in my approach with them.

I will start with a firm handshake and say “Hello, I am Alan Gassman,” and listen to them say their name.

If I am confident and polite, and have any doubts about how they pronounce their name, I will ask it early rather than later.

I have the name of each person in the conference room on my legal pad so that I can call them by first name instead of saying “Hey you” or pointing.



# LINES OF BUSINESS

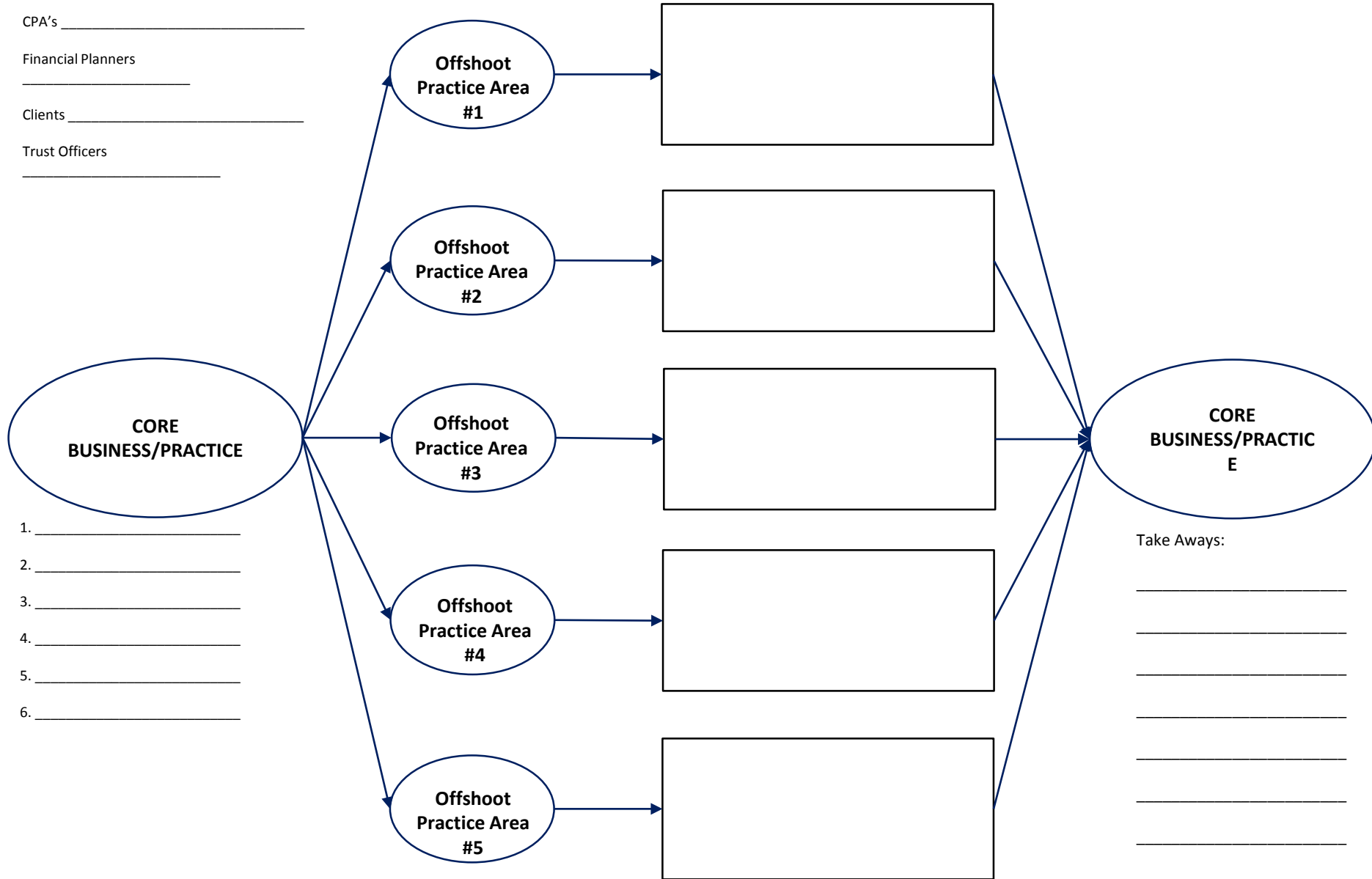
Referral Source Identification:

CPA's \_\_\_\_\_

Financial Planners  
\_\_\_\_\_

Clients \_\_\_\_\_

Trust Officers  
\_\_\_\_\_



1. \_\_\_\_\_
2. \_\_\_\_\_
3. \_\_\_\_\_
4. \_\_\_\_\_
5. \_\_\_\_\_
6. \_\_\_\_\_

Take Aways:

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_

\_\_\_\_\_



# SWOT – EXAMPLE – FOR YOU AS A LAWYER

*Use your strengths and opportunities to overcome threats and weaknesses.*

STRENGTHS	STRATEGIES	WEAKNESSES	STRATEGIES
Law degree and multiple licenses.	Continue attending CLE's to become an expert.	Inexperienced team.	Implement a firm manual.
Great team.	Delegate work/tasks/responsibilities to each team member based on his/her strengths/weaknesses.	Youthful appearance.	Set time aside to train team members on key aspects of his or her job.
Drive, motivation and personality.	Administer Kolbe A test to key staff members.	Over-committed to multiple organizations.	Delegate to the team and actually let them handle aspects of the business.
Pedigree.		Distinguishing myself from the run-of-the-mill trusts and estates attorneys.	Publish at least one article per quarter.
Network.			Display our pedigree to give clients reassurance.
Diverse skill set between myself and team.			
Flexible on when/where to work.			
OPPORTUNITIES	STRATEGIES	THREATS	STRATEGIES
Speaking engagement with Dr. _____, financial advisor.	Designate a staff member to be in charge of social media and blog accounts.	Internal mishaps/mistakes getting to the client.	Implement a system of double checking/triple checking all work before the client sees it.
Meeting new referral sources or clients through various networking groups.	Choose one topic in estate planning to write a blog posting about each month.	Uneducated clients – not understanding that not all trusts/estate plans are created equal .	Provide clients with information about what we do.
Increasing exposure through several media presence and publications.		Not being paid for work performed.	Require payment.
		Over-diversifying the firm.	



# SWOT WORKSHEET FOR MY LAW FIRM

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*Use your strengths and opportunities to overcome threats and weaknesses.*

STRENGTHS	STRATEGIES	WEAKNESSES	STRATEGIES
Great work process		Micro management by partners	
Great intake process		Lack of personnel	
Great forms and protocols		Errors can be costly	
Great lawyers		Work flow can vary	
Great reputation		Collections are not always consistent	More money up front
Passion for the work		Lack of leisure time	
We really care		Disorganization	
OPPORTUNITIES	STRATEGIES	THREATS	STRATEGIES
Clients need clarity		Physician income is down	
Advisors need appropriate help		Potential partner burnout	
Help see through the complexity		Keeping the team happy	
		Too big of a client can cause a void if lost	
		Estate tax eliminated	



# 80% of our Work Comes From 20% of our Referral Sources

*Write down three examples of referral sources that have given you good yields*

Referral Source	Clients Received	How to Thank the Referral Source	How to Yield More Referrals
1.			
2.			
3.			



# WHAT ARE YOU DOING TO DISPLAY YOUR “REFERABILITY” AND EXCELLENCE TO CAPTIVE AUDIENCES?

20

ITEM	HOW DOES THIS PROMOTE YOU?	NEXT ACTION
1.		
2.		
3.		



Do not expect people with terminal illnesses to be logical, to follow-through, or even to be appreciative of your services. They are often having very big psychological, not to mention physical issues and talking about death and what happens after they die can be extremely painful.

My normal strategy is to have them sign anything that will improve the situation they are in without much fanfare or expensive review.

If they can sign a “quick interim plan” that improves on the situation, while you also work on a conventional and more extensive revamp, everything will be much better if and when they die without getting back to you.

Time is very much “of the essence” in these situations, as people go through what Elizabeth Kubler-Ross wrote about in her landmark book from 1969. The book is on death and dying.

A great many clients and advisors have found the book to be extremely accurate in describing the following states of psychological change and challenge that someone facing death will go through:

1. Denial
2. Anger
3. Bargaining
4. Depression
5. Acceptance

Always be very cheerful and positive when meeting with people at a hospital or in a depressive setting, to the extent that it is not rude to do so.



# Meeting with the A.D.D. Client

A high percentage of successful entrepreneurs and professionals have attention deficient disorder, and will find long meetings to be painful, and also difficult to participate in.

For several clients we have a pre-agreed rule where there will be a five to ten minute break each hour. (“Why don’t we take 5 to 10 minutes on the hour, each hour to not get burned out?”)

During the break, the lawyer leaves the room, checks e-mail, signs off on letters, etc., and the client can check their phone, check e-mails, go to the bathroom, or whatever they like to do.

**Some clients like a ten (10) minute break and some clients like a five (5) minute break.**

In the evening hours we can have a bottle of wine available as well. A glass of wine or a craft beer can often help relax the client so that they can make reasonable decisions and enjoy (or not dislike) the whole meeting process.



We keep a stocked small refrigerator in the conference room, and a self-service coffee bar in the reception area, and try to keep interesting things on the wall in the hallway between the conference room and the reception area - like antique signed documents, autographed pictures, and movie posters.

A bottle of wine after hours can relax the ADD client, and the spouse who has to live with him/her!



# AVOIDING ESTATE AND TRUST LITIGATION BEFORE IT HAPPENS – ETHICAL AND PRACTICAL CONSIDERATIONS

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 <b>THE RED FLAG</b>	<b>PROBLEMS ASSOCIATED THEREWITH</b>	<b>SOLUTIONS</b>	<b>NEXT ACTIONS</b>
<b>Client has chosen a not-so-good trustee.</b> <b>(Continued)</b>	5. The trustee may not account to beneficiaries or even let them know they are beneficiaries. 6. Lack of tax planning because the "run of the mill" professionals hired by the trustee know what to recommend. 7. The beneficiaries may accuse the trustee of the above items whether they happen or not.	b. Use Trust Protectors. c. Allow for division of trusts into separate trusts with pre-designated percentages at the option of any beneficiary (i.e., can use standard tables to determine portable discounted value of future rights, and then release and take 40% of that value now). d. Allow someone to move the trust offshore for leverage. 5. Make sure that all the trustees are replaceable by someone or some entity.	<hr/> <hr/> <hr/> <hr/> Client Name: _____  Who to delegate to: _____
<b>A child or children out-of-kilter.</b>  <i>"Don't handicap your children by making their lives easier."</i> <i>- Robert Heinlein</i>	1. Highly dependent on the client's money. 2. Resentful of other beneficiaries who interfere. 3. The above is exacerbated by heavy drinking and drug abuse. 4. May get poor advice from a lawyer who knows that the trust must pay fees under the exception creditor rules. 5. May move in with parents and exercise undue influence over inheritance in exchange for helping the parent get to the bathroom, etc. 6. Do not allow the out-of-kilter child to have a power of appointment unless it will be approved by a responsible party. 7. Don't have this child as a beneficiary but make him/her addable by the protectors after the client's death.	1. Make them get a job while living on a tightly agreed budget.  2. Let them know upfront that this is the way it will be – sense of entitlement.  3. Documents can require counseling certification and "AA Type" gambling and other problematic addiction compliance so that the trustee will know if they have a beneficiary who is sane to talk to.  4. Allow for elimination of beneficiary as a beneficiary and/or start the trust in an APT state of most states ala the Florida <i>Casselberry</i> case.  5. Have a safety latch provision in the trust and involve children in all decisions.	Next Actions: _____ <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> Client Name: _____  Who to delegate to: _____
<b>The unfair estate plan.</b>  	1. Things changed after signing so someone does not get what they were supposed to get. 2. Not clear what the client would have wanted to do if the changes had been considered. 3. Tax apportionment and tax issues dramatically change who will get what. 4. Beneficiary designations or lack thereof change what people get.	1. Trust Protectors to the rescue, but cannot reduce or meddle with the marital deduction.  2. Write as much as you can about the client's intentions as to each contingency you can think of.  3. Warn clients and consider a blanket change thereto.	Next Actions: _____ <hr/> <hr/> <hr/> <hr/> <hr/> <hr/> Client Name: _____  Who to delegate to: _____



## AVOIDING ESTATE AND TRUST LITIGATION BEFORE IT HAPPENS – ETHICAL AND PRACTICAL CONSIDERATIONS

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### In all situations consider:

1. Waiver by jury trial.
2. Require good faith immediate mediation.
3. Consider requiring arbitration, which may be by the Trust Protectors as arbitrators.  
Enable the arbitrators to bifurcate actions so that any document and interpretation issues are resolved before the more expensive to analyze and evaluate items are considered, since the interpretation questions may change or be irrelevant based on the first stage rulings.
4. Use in terrorem and/or King Solomon clauses.
5. Appoint Trust Protectors.
6. Reverse attorney fees to reduce share of unsuccessful person challenging any action or document.
7. Pre-death probate.
8. Import the laws of other states or countries by using trusts there:
  - a. can eliminate exception creditors.
  - b. can be a better forum to litigate or a formidable shield to discourage litigation.
  - c. can eliminate the need to give accountings to certain beneficiaries.
  - d. community property step-up basis or JEST trusts can avoid income taxes.
  - e. Avoid public policy interference with intent by using offshore jurisdictions that do not change things with respect to religious, marital or other requirements that clients may want to install.
9. Explain to the clients and the other side that tax planning in a structure of settlement may be very advantageous compared to what the judge or arbitrator may award.
10. Consider requiring that beneficiaries comply with good business ethics, be responsive to trustee requests, disclose personal situations and health records and sign releases to receive benefits of any kind.
11. Read Jonathan's excellent outline at Chapter 21. Give yourself an extra day to get back if you ever go to the Arctic Circle.
12. Consider an extensive videotaped interview with the client to demonstrate mental acumen and create a dramatic record of intent.

13. Consider having beneficiaries sign a legally binding agreement to not allow changes and to compensate for any changes from what the client's documents say.

### Arbitration Advantages:

1. Privacy.
2. Each party can reject from a list of potential arbitrators as opposed to a possible "weak judge." Arbitrators are most often successful and knowledgeable practicing lawyers. The document can require use of a board certified trust and estate lawyer with 20 years experience practicing more than 100 miles from the residence of the decedent's place of residency.
3. Litigators are more likely to settle and cannot expect long shot or emotional issues to sway a decision.
4. Usually faster than a trial.
5. Party taking a long shot position will have to pay large arbitration fees and other costs.
6. Can bifurcate issues if allowed in document.

### Arbitration Disadvantages:

1. Very expensive but can limit to one arbitrator and use state arbitration rules AAA (American Arbitration Association) or otherwise.
2. The party filing has to pay the initial filing fee. The trust can provide that this will come out of the complaining beneficiary's share.
3. Privacy enables parties to not have community peer pressure impact decisions.
4. Prevents the party who wants to delay judgment to stall effectively.
5. No appeal rights to correct bad decisions unless stated in document that AAA appeal rules and procedures will work.
6. Inability to sway a jury that might better appreciate emotional issues.
7. Arbitrators almost always find a way to "split the baby."



# First Year Lawyer Success Tips

1. Always show up with a legal pad and two pens in hand.
2. Answer questions as concisely as possible and see whether more information is requested. Don't try to explain anything beyond the absolute minimum information that the person needs when that person is another lawyer that you are working with. The person you are interacting with, be it client or other attorney, will ask you what they need to know in addition to that.
3. Show up to a meeting with a memo you wrote on the topic to be discussed, and hand it to the lawyer you prepared it for. Bring an extra copy so you have one, too. They can glance through the memo and ask you what they need to know.
4. Smile and be cheerful. If there is a serious situation, be serious, but in overall everyday interactions, be as friendly and humorous as you can.
5. Say hello when you first see someone at your office during the day, and then say goodbye at the end of the day.



## First Year Lawyer Success Tips (Cont'd)

6. Become the organizer of anything and everything that you are involved with. Use checklists, progress reports, and reminders. Once you manage a project, you “own it” and will become the go-to person. Always have your checklists and the latest progress on each item you are working on with you for meetings or otherwise. You never know when you will be asked about them.

7. Consider sending anyone in the office that you have a project in progress with an email every evening at 7:00 PM enclosing where you are or anything they may want or need to see about the project. You can accomplish this by utilizing the delay function on your emails.

This email will (1) remind them that you are working on this and (2) establish a habit so that your colleagues know they can go to their 7:00 PM emails to access what you have been working on lately. Your colleagues will quickly learn that the 7:00 PM space in their Inbox always belongs to you!

8. Work constantly to improve yourself beyond the law and what you do as a lawyer. Concentrate on what you like to do and do best to the extent that it is productive.

9. Always accept new work willingly and enthusiastically, but never restrain from mentioning that you will need to have it prioritized if there are other things that may not be done on time. The assignor is possibly not aware of what the new work might delay.



## First Year Lawyer Success Tips (Cont'd)

10. Consider always having a list of tasks in progress with an extra copy that you can hand to your supervising lawyer and go over whenever they might ask.
11. Ask for periodic feedback. In particular, ask, “What would you like for me to change in the way that I am doing things to improve your use of me and my productivity for the firm?”
12. Always sincerely compliment as many people as you can as often as you can within the firm and outside the firm. What goes around comes around, and you need all of the good karma you can get!
13. Draw up charts whenever you can to simplify matters, for purposes of memory, and for purposes of explanation. Charts with squares, circles, and lines can help significantly towards Confucius’s observation that a picture is worth a thousand words. Learn how to make charts in Excel and bring charts to meetings whenever you can with all key information that needs to be remembered for each particular client.
14. Consider carrying a Dictaphone with you at all times, and offer to record any instructions or explanations that anyone is giving you to help make sure you get it right later. This allows people to talk faster and to provide you with assignments quickly, knowing that you will review every word of what they have said.



## First Year Lawyer Success Tips (Cont'd)

15. Enter your time contemporaneously onto a written time slip and/or computer, and make sure all your time is entered by the end of each day. Enter all time, including time you have wasted. Make separate entries for time that you know is billable and the time that you think may be reduced or not billed for at all. Let the senior lawyer make this final decision; there may be more usable time than you think.

Firms expect to write a lot of time off, and if you are spending significantly more time than they expect, it is good for you to know and for them to know earlier rather than later.

You can have brief discussions from time to time when you feel that your wheels have been spinning or that you have wasted a lot of time. Use an apologetic tone. This is part of the mentoring process. The senior lawyers in your firm also write off a lot of time. It is a lifelong experience of an attorney to do so, so do not be bashful about it.

16. Have the time of your life! Find what you like best about the practice of law and do that as much as you can, while ever improving and endeavoring to make 85% or more of your time in the office thoroughly enjoyable and satisfying. If you can do this, there is no doubt that you will have every success in your career, not to mention your personal life. Your wallet will thank you also!



# THE PROJECT MANAGER

Business and professional life is a series of projects, tasks, and associated activities and reminders.

Typically the professional who the client sees as the Primary Handler is the “Project Manager”, although this is not always the highest and best use for that professional’s time and abilities.

Even clients/customers will understand that many aspects of a given project are better managed and shepherded by someone other than the key professional.

Tasks that include checklisting, sending reminders, making necessary phone calls, and otherwise will often be forgotten or left for later (too late), so why not appoint a Project Manager to efficiently and effectively manage a given task, and also provide an important backstop to make sure that appropriate steps and actions are taken at appropriate times to best handle any given objective?

Our reptile brain impulses of the need to control, the need for recognition, and basic insecurities will often prevent us from effectively and efficiently delegating the management of a task to someone other than us who can do a better and more thorough job of it, not to mention being a less expensive labor source than we are.

Some professionals appoint a separate independent Project Manager for every client matter, while others will only use a Project Manager occasionally.

Many people and organizations do this informally, but formalizing the arrangement and giving credit, and responsibility, where it is due and will be recognized, will often be helpful.

Once you appoint someone other than yourself as the Project Manager for things that you are working on, you may find responsibilities and functions, like billing, follow up, client/customer satisfaction questionnaires, and value/revenue added services to be additional parts of an enhanced productivity and profitability equation.

Some forms and memos that we have used to implement this in our office are as follows:



# Responsibilities of the Project Manager

Responsibilities of the Project Manager Include:

1. After attorney meets (or has a c/c) with the client, attend “debriefing” to understand what we are doing for the client.
2. Complete (and update) the attached Project Manager Checklist.
3. Update PC Law to include your initials in Matter Manager. Your initials should be added under “Other Staff” on the main Matter Manager page.
4. Review chart updates done by other staff for the duration of the project.
5. Review draft bills for duration of the project.
6. Add attorneys billing descriptions to the bills as needed.
7. Write letters for attorney as needed.
8. Make sure components of the project are finalized and sent to the client.
9. Make sure bills are finalized and sent out.
10. Handle follow up as needed.
11. Delegate as needed and show who is responsible on the Project Manager Checklist.
12. Keep a clipboard with a Project Manager Checklist for each active client. Bring the clipboard when you meet with the attorney.



## PROJECT MANAGER CHECKLIST

Client Name: \_\_\_\_\_

Project Start Date: \_\_\_\_\_

Project Manager Assigned: \_\_\_\_\_

Added to Database? Yes \_\_\_\_\_ No \_\_\_\_\_

1. What does the client expect us to do?

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2. What do we expect to receive from the client and/or the client's advisors?

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3. What are the major components of the project? (circle below)  
 What is the goal for sending each component of the work to the client?  
 When will we send the bill?  
 What is the estimate for the bill?

Work Product	Goal (Date) to Send	Date to Bill & Estimate Amount
EP	_____	_____ \$
LLC(s)	_____	_____ \$
LLLP	_____	_____ \$



Real Estate Work	_____	_____ \$
Probate	_____	_____ \$
Contract Review	_____	_____ \$
Other	_____	_____ \$

4. Responsibilities of Attorney:

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5. Responsibilities of Project Manager:

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6. Responsibilities of Other Staff:

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7. \_\_\_\_\_ to schedule follow up meeting or conference call?

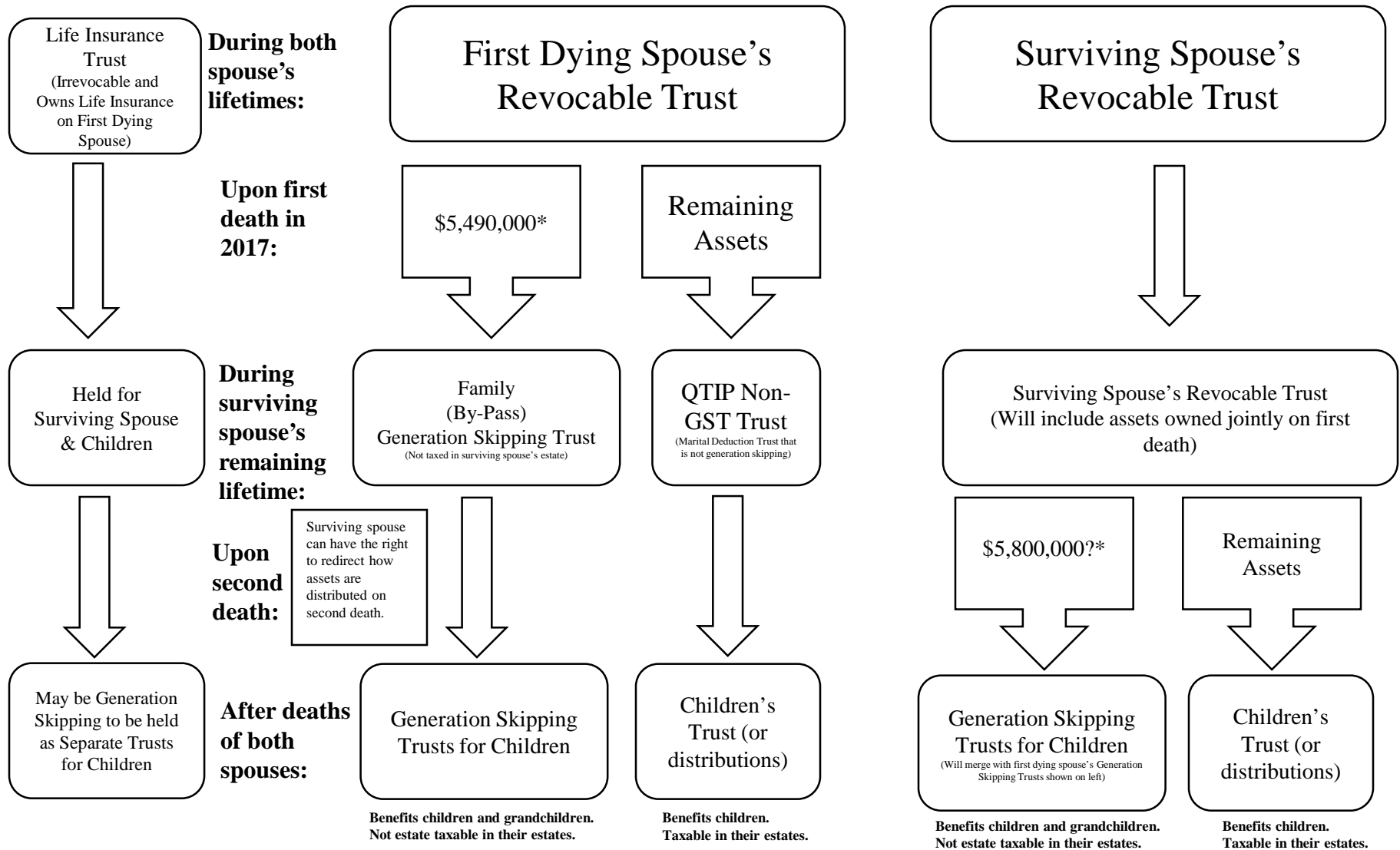
Yes \_\_\_\_\_ (Meeting or C/C)      When: \_\_\_\_\_

Scheduled? \_\_\_\_\_ (date/time)



# PROTECTIVE TRUST LOGISTICAL CHART

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\*Assumes first spouse dies in 2017 when the exemption is \$5,490,000, and that the surviving spouse dies in a later year when the estate tax exemption has gone up to \$5,800,000 (based upon CPI increases). The estate tax exemption is \$5,490,000, less any prior reportable gifts, for those that die in 2017, and increases with the Consumer Price Index.

If the first spouse does not use the entire exemption amount, what remains may be added to the surviving spouse's allowance under the "portability rules" but will not grow with inflation, and will be lost if the surviving spouse remarries and the new spouse dies first, leaving no exemption.



# BUYING TERM INSURANCE

<b><u>AGE 30</u></b>						
	<b><u>PREFERRED</u></b>		<b><u>STANDARD</u></b>		<b><u>STANDARD SMOKER</u></b>	
	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>
10 Year Term	\$378	\$328	\$658	\$518	\$1,548	\$1,218
15 Year Term	\$458	\$398	\$768	\$688	\$1,918	\$1,438
20 Year Term	\$608	\$478	\$968	\$738	\$2,278	\$1,638
30 Year Term	\$938	\$768	\$1,518	\$1,218	\$3,908	\$3,018

<b><u>AGE 40</u></b>						
	<b><u>PREFERRED</u></b>		<b><u>STANDARD</u></b>		<b><u>STANDARD SMOKER</u></b>	
	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>
10 Year Term	\$505	\$435	\$925	\$785	\$2,405	\$2,005
15 Year Term	\$655	\$575	\$1,215	\$1,035	\$3,125	\$2,485
20 Year Term	\$865	\$745	\$1,505	\$1,255	\$4,345	\$3,185
30 Year Term	\$1,495	\$1,135	\$2,465	\$1,985	\$7,175	\$5,275



# BUYING TERM INSURANCE

<b><u>AGE 50</u></b>						
	<b><u>PREFERRED</u></b>		<b><u>STANDARD</u></b>		<b><u>STANDARD SMOKER</u></b>	
	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>
10 Year Term	\$1,235	\$1,025	\$2,145	\$1,625	\$6,435	\$4,295
15 Year Term	\$1,785	\$1,235	\$2,805	\$2,065	\$7,825	\$5,725
20 Year Term	\$2,225	\$1,625	\$3,425	\$2,715	\$10,425	\$6,865
30 Year Term	\$4,025	\$2,645	\$6,245	\$4,785	\$13,719	\$10,109

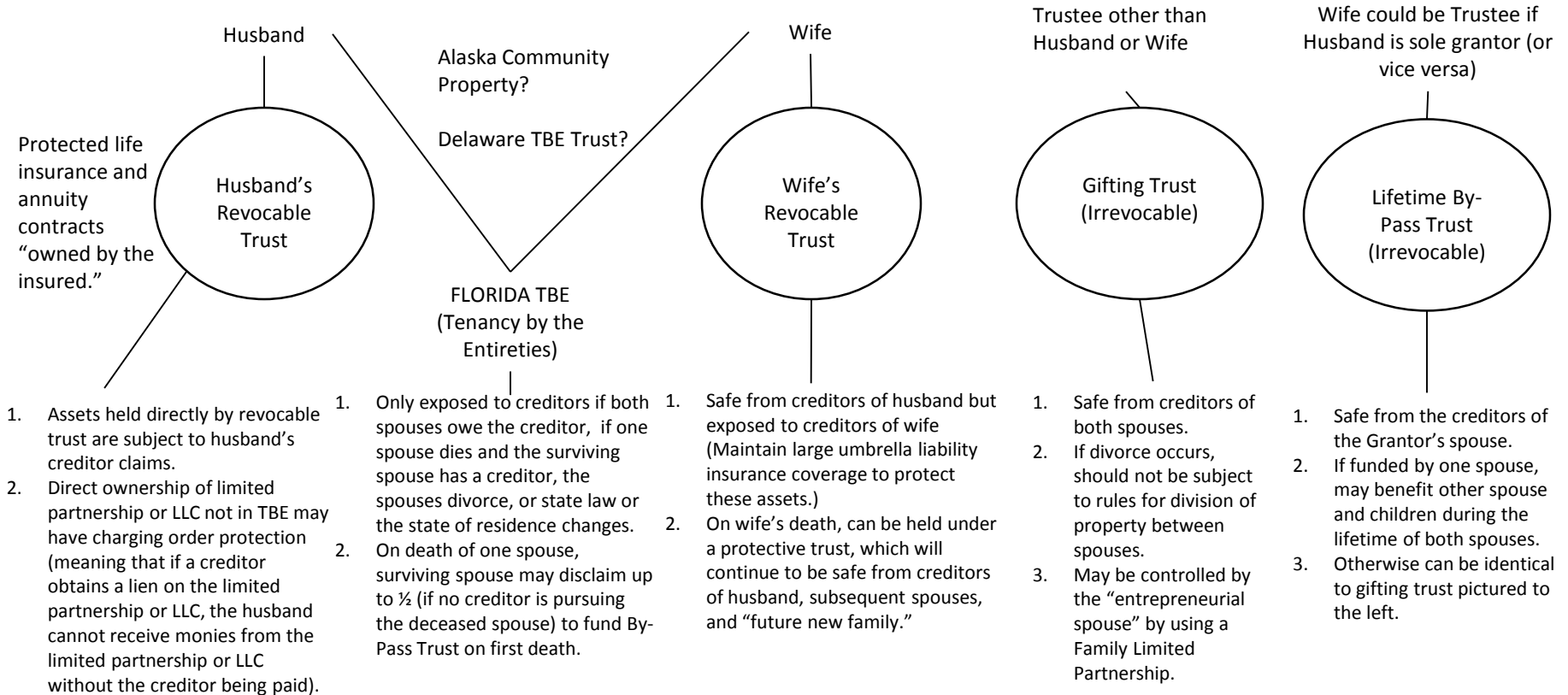
<b><u>AGE 60</u></b>						
	<b><u>PREFERRED</u></b>		<b><u>STANDARD</u></b>		<b><u>STANDARD SMOKER</u></b>	
	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>	<b><u>MALE</u></b>	<b><u>FEMALE</u></b>
10 Year Term	\$3,098	\$2,198	\$4,808	\$3,278	\$13,028	\$8,308
15 Year Term	\$4,488	\$3,048	\$7,088	\$5,218	\$17,658	\$12,978
20 Year Term	\$5,798	\$4,078	\$9,488	\$6,668	\$22,048	\$15,058
30 Year Term	Not Available	Not Available	Not Available	Not Available	Not Available	Not Available



# DETERMINING BEST HOW TO ALLOCATE ASSETS AS BETWEEN A MARRIED COUPLE | PART I

## General Rules:

- Typically want each trust funded with at least \$5,340,000 worth of assets on death for estate tax planning.
- May be funded from ½ of tenancy by the entireties assets via disclaimer and probate or by life insurance/pension/IRA assets.



SEE NEXT PAGE FOR SECOND TIER PLANNING

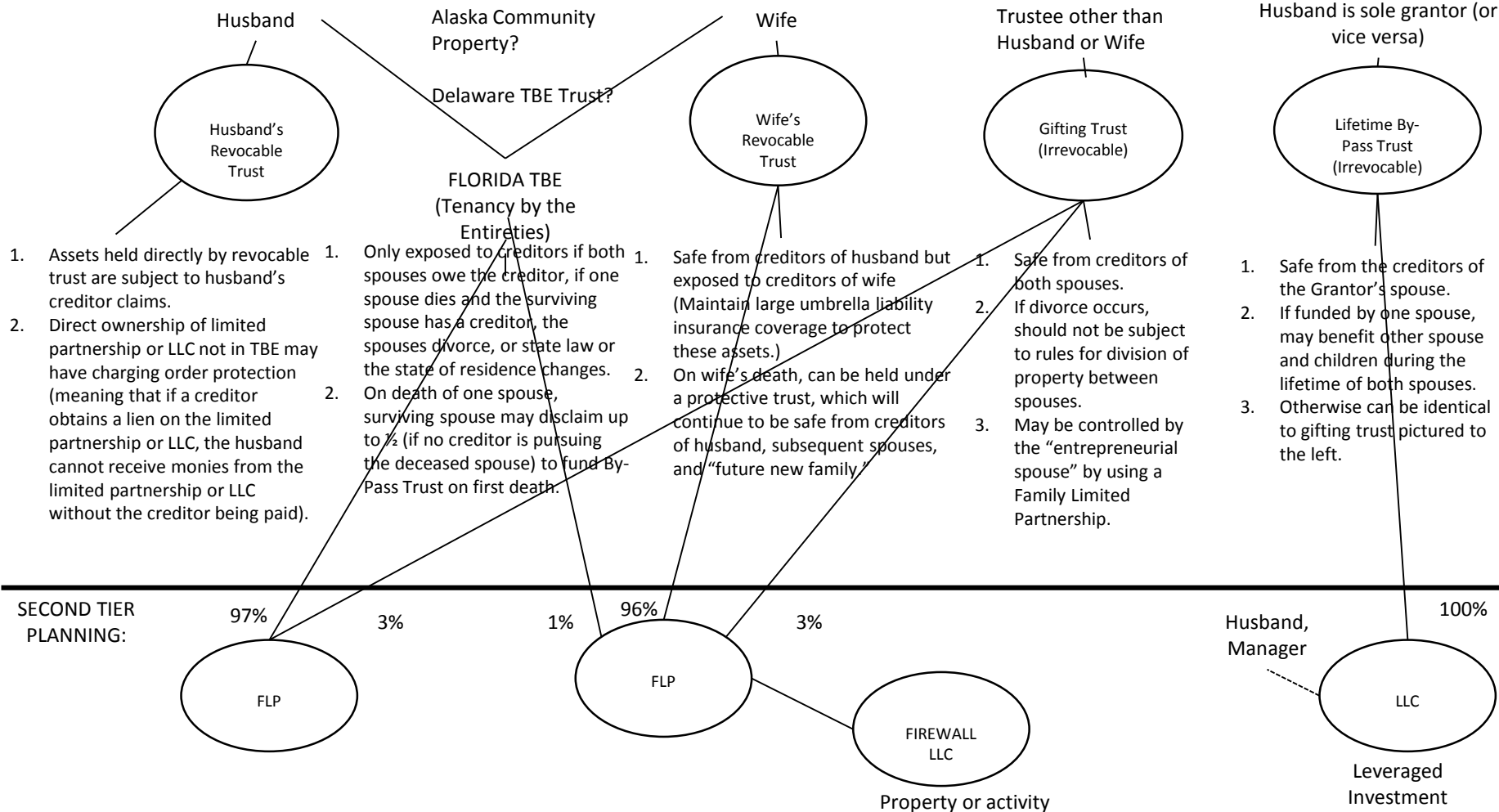
**A COMMON SOLUTION** - to use a limited partnership or similar mechanisms and have no assets directly in the "high risk" spouse's trust, half to two-thirds of the assets held as tenants by the entireties, and half to two-thirds of the assets directly in the "low risk" spouse's trust.



# DETERMINING BEST HOW TO ALLOCATE ASSETS AS BETWEEN A MARRIED COUPLE | PART II

## Subsidiary Entity Techniques:

- Limited partnerships and LLCs can be used to facilitate discounts, for estate tax purposes, and for charging order protection.
- Limited partnerships and LLCs can also be used to provide "firewall protection" from activities or properties owned.



**A COMMON SOLUTION** - to use a limited partnership or similar mechanisms and have no assets directly in the "high risk" spouse's trust, half to two-thirds of the assets held as tenants by the entireties, and half to two-thirds of the assets directly in the "low risk" spouse's trust.



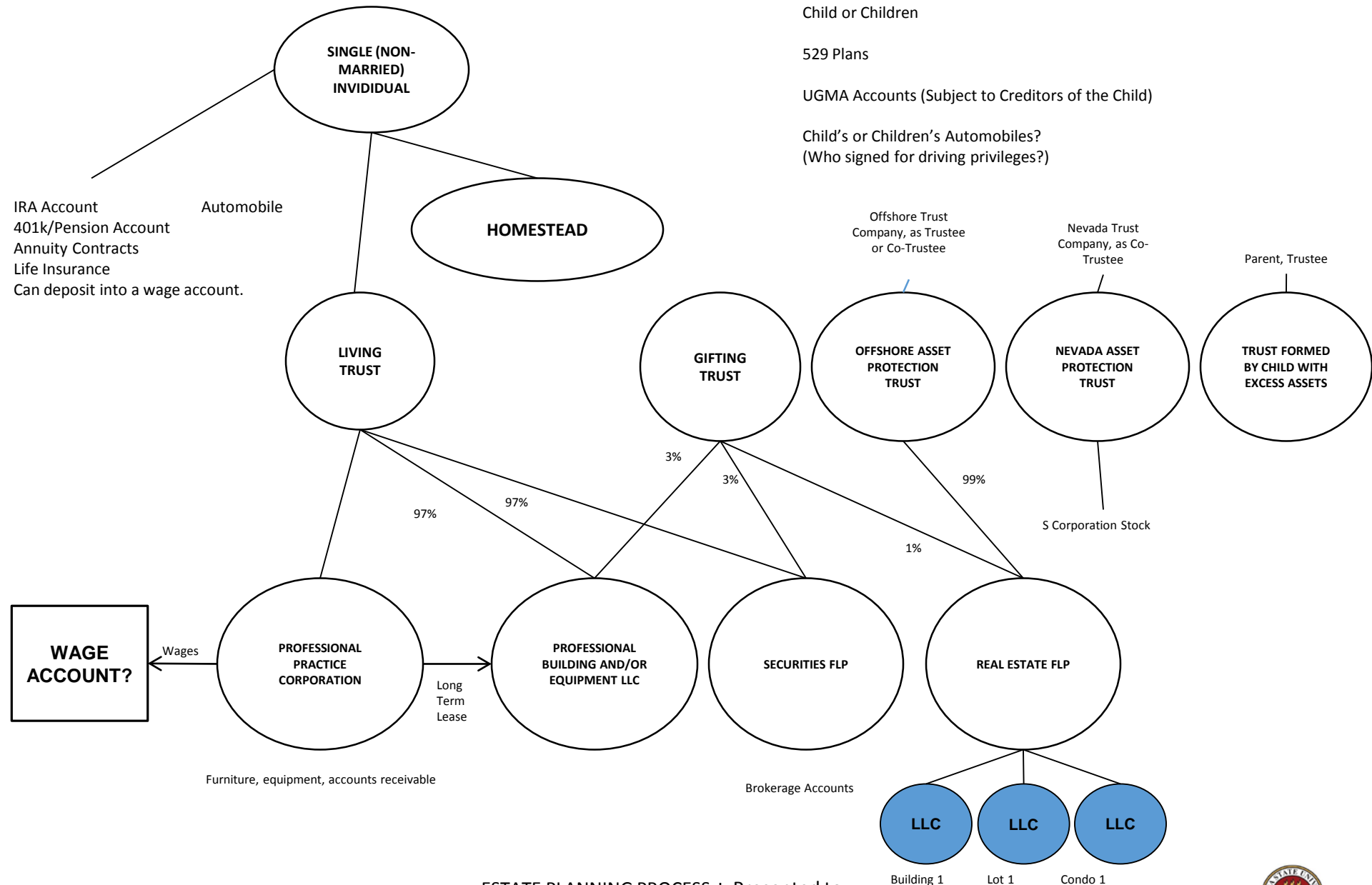
CREDITOR EXEMPT ASSETS	ASSETS THAT ARE DIFFICULT FOR A CREDITOR TO OBTAIN	ASSETS EXPOSED TO CREDITORS
Homestead <i>-Up to half acre if within city limits.</i> <i>-May be immune from fraudulent transfer statute.</i>	Limited partnership and similar entity interests.	Individual money and brokerage accounts.
IRA <i>-Includes ROTH, Rollover, and Voluntary IRAs, but possibly not inherited IRAs.</i>	Foreign trusts and companies.	Joint assets where both spouses owe money.
Permanent Life Insurance <i>-Must be owned by insured.</i>	Note – foreign entities are very rarely recommended and must be reported to IRS -	Personal physical assets, including car, except for \$4,000 exemption (\$1,000 if homestead exemption is claimed in bankruptcy).
401(k) <i>-Maximize these!</i>	Foreign bank accounts.	One-half of any joint assets not TBE where one spouse owes money.
Tenancy by the Entireties (joint where only one spouse is obligated) <i>- Must be properly and specially titled – joint with right of survivorship may not qualify.</i>	<b><u>Vocabulary:</u></b> <b>EXEMPT ASSET</b> – An asset that a creditor cannot reach by reason of Florida law – protects Florida residents. <b>CHARGING ORDER PROTECTION</b> – The creditor of a partner in a limited partnership, limited liability limited partnership, or properly drafted LLC can only receive distributions as and when they would be paid to the partner. <b>FRAUDULENT TRANSFER</b> - Defined as a transfer made for the purpose of avoiding a creditor. Florida has a 4 year reach back statute on fraudulent transfers. A fraudulent transfer into the homestead may not be set aside unless the debtor is in bankruptcy. It takes 3 creditors of a debtor who has 12 or more creditors to force a bankruptcy. Upon filing a Chapter 7 Bankruptcy, an individual debtor may be able to cancel all debts owed and keep exempt assets, subject to certain exemptions. Annuities and life insurance policies are not always good investments, and can be subject to sales charges and administrative fees. There is a lot more to know- but this chart may be a good first step.	
529 College Savings Plans		
Annuity Contracts		
Wages of Head-of-Household		
Wage Accounts		
Up to \$4,000 of personal assets – or less in bankruptcy.		



# WHERE DOES THE TRUST FIT IN LOGISTICALLY?

## ESTATE AND ASSET PROTECTION PLANNING FOR THE SINGLE PROFESSIONAL

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# QUESTIONS FOR THE ESTATE PLANNING LAWYER

1. Are your clients getting the best estate plan you can put together for them?

Or is it just the same old form time after time built on a low budget?

2. Do your clients understand what they need to know to appreciate the plan you design for them?

Or are you rushed through a free consult to try to land them in an economy plus estate plan?

3. Do you have a clear understanding of the client's assets, liabilities, titling, income, plans and aspirations?

4. Have you run the numbers on estate tax and capital gains tax exposures, taking the time value of money into account?

What about the Medicare 3.8% tax?

5. Are you also planning for the client's parents as to inheritances that might be received, or assistance that may be needed?



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

6. Have you taken into account the possibility of an ugly divorce, incapacity, lawsuits against each person involved?
7. Have you looked at creditor protection for each person in the plan and after each event in the plan?

TBE might work great, but not after one spouse dies.

Inheritances might pass in a creditor-proof manner to an irrevocable trust, but what if a beneficiary's ex-spouse or the parent of a beneficiary's child tries to invade the trust which is permitted under Florida Statute Section 736.0503 (exception creditors).

8. Have you coordinated with the other professionals on the team, including the CPA, financial planners, liability insurance people and others?
9. Have you made sure that the client has plenty of insurance for life, health, casualty, disability and umbrella coverage and that gaps are plugged?



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

10. Have you covered the common mistakes, like:

- a. Joint accounts that are not TBE.
- b. Joint assets that are not TBE.
- c. Operating Agreements with provisions that obliterate an S election or charging order protection.
- d. Thinking that revocable trusts shield from creditors or Medicaid.
- e. Thinking that S corporations do not shield from liability.
- f. Thinking that professional practices have to be owned by licensed professionals (except dentists, optometrists, chiropractors and lawyers).
- g. Thinking that you cannot get a full step-up for joint assets owned by a married couple or under one spouse's revocable trust?



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

- h. Thinking that the client has charging order protection when they do not.
- i. Thinking that charging order protection is great protection.
- j. The always forgotten beneficiary designation.
- k. Titling mistakes - a great reason to have a family limited partnership or an LLC and then put the right things in it.
- l. Do not put a liability causing asset into an LLC or family limited partnership that has other valuable assets - watch the capital call and indemnification provisions.
- m. How do you prevent an offshore depository or even a U.S. depository from stealing or being the next Bernie Madoff?
- n. Is the client being overcharged or churned in their investments? Do they know what their investment costs are?



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

o. TBE is not a panacea or paregoric.

The repairman who fell down because he was scared by the joint dog.

The motorcycle rider killed by the dog.

p. Liability, liability, liability

How are we situated if Grandpa gives son half ownership of the car and then backs it up over a neighbor?

You are responsible for anything your partners do.

You are responsible for anything your employees do.

Most dangerously of all, you are responsible for anything you do.

The \$41 million dollar tick.



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

11. Using special techniques for special clients, like:

- a. Annuities and life insurance private placement.
- b. Stretch IRA's.
- c. QPRT's.
- d. GRAT's.
- e. Installment sales and private annuity sales.

The missed Self-Cancelling Installment Note or Private Annuity opportunity.

Being assertive and not beating around the bush with clients who have serious illnesses.

- f. FLP's.
- g. Out of state trusts.



# QUESTIONS FOR THE ESTATE PLANNING LAWYER

h. Offshore trusts

i. Lifetime QPRT's

j. Irrevocable Life Insurance Trusts

k. The right type of Buy-Sell Agreement

12. Are you customizing trust documents like you would customize your own?

## Special Clauses for Trust Agreements

Not all trusts are created equal.

While the trust agreements that we typically prepare for clients have a number of clauses that give instructions to trustees on how and when to determine what income, support, and principal payments should be made to beneficiaries, different clients have different views and preferences. Here is a list of questions and approaches that can be considered in trust design and implementation.

1. Whether to let the beneficiary of a particular trust have a voice as co-trustee or the ability to replace any acting trustee with a licensed trust company or other trustworthy trustee or advisor.





GASSMAN, CROTTY, & DENICOLA, PA  
ATTORNEYS AT LAW

Agassman@GassmanPA.com

Alan S. Gassman, J.D., LL.M.

## About

Alan S. Gassman is the founder of the Clearwater, Florida law firm of Gassman, Crotty and Denicolo, P.A., which focuses on the representation of high net worth families, physicians and business owners, and their companies in estate planning, taxation, and business and personal asset structuring.

Mr. Gassman is the lead author on *Gassman and Markham on Florida and Federal Asset Protection Law*, *Florida Law for Tax, Business & Financial Planning Advisors*, *Eight Steps to a Proper Florida Trust and Estate Plan*, *A Practical Guide to Kickback & Self-Referral Laws for Florida Physicians*, *The Florida Power of Attorney & Incapacity Planning Guide*, *The Florida Advisor's Guide To Counseling Same Sex Couples*, and a co-author of the recently published *Legal Guide To NFA Firearms and Gun Trusts*, among others.

Mr. Gassman is a frequent speaker for continuing education programs and has published peer reviewed articles with publications such as Bloomberg BNA Tax & Accounting, Estate Planning Magazine, The Florida Bar Journal, and Leimberg Estate Planning Network (LISI). He has co-chaired two annual Florida Bar programs for over fifteen years: Wealth Protection and Representing the Physician.

Mr. Gassman is board certified by the Florida Bar Association in Estate Planning and Trust Law, has the Accredited Estate Planner designation from the National Association of Estate Planners & Council, has maintained an AV rating from the Martindale-Hubbell for over 20 years and is listed in both Florida Super Lawyers and Best Lawyers in America.

## Education

LL.M., Taxation, University of Florida Levin College of Law  
J.D., University of Florida Levin College of Law  
B.A., Business Administration, Rollins College





# ESTATE PLANNING PROCESS

Presented by Alan Gassman



Thursday, March 23, 2017

1:15 P.M. – 3 P.M.

GASSMAN, CROTTY, & DENICOLA, PA  
ATTORNEYS AT LAW