

Guarding Against Mental Incapacity

As we age, one of our most deeply held concerns is that we may begin to lose our mental alertness. We can try to stave off mental decline by doing crossword puzzles and other brain building games that help maintain alertness. But, like physical decline, the loss of mental acuity may not be entirely within our control. However, we can lessen the consequences of that decline through preparation.

When we are no longer able to handle our financial affairs, someone must step in to make decisions. If there is no planning in place, our families must go to court and have a judge decide on our capacity to make our own decisions. The judge would then appoint someone to make those decisions, someone we may not even like or trust. The competency hearing, is called a living probate or guardianship proceeding and it is a public process.

There is a better way. You can plan with a Revocable Living Trust, Powers of Attorney for Property and Advance Health Care Directives. The assets placed in the Trust are managed by you while you are able to do so. When you are no longer able, the person whom **you chose and trust** will manage the assets of the Trust for your benefit.

Having a trusted friend or family member as your eventual decision-maker reduces the chance that others will go to court to seek an incapacity determination. After all, they will know that they will not get control of your assets even if they prevail in the embarrassing hearing.

Estate planning is planning for your life, as well as your death. An experienced estate planning law firm can help you structure a plan that cares for you and your family in the event of your mental incapacity.

Scams, Swindles, and Fraud, Oh my!

More and more often, it seems that financial swindles are front-page news. Even seemingly savvy investors have been swindled out of their life savings. One swindle, involving Bernie Madoff and his investment company, recently ended in a guilty plea to numerous counts of fraud. Investors discovered that \$65 billion in their investment accounts held by Madoff simply did not exist.

The investors that fell prey to the Madoff ponzi scheme had been very happy. Their investments *always* performed wonderfully and went higher and higher, as if by magic. There is an old adage that if something seems too good to be true, it usually is. Well, the Madoff case is just one example of the accuracy of the old adage.

Of course, scams are not limited to the investment field. There are plenty of scams to go around, even in a seemingly staid field like estate planning. Some people promise the moon, at a cost that is amazingly low. Some individuals and companies selling estate planning services are really trying to sell you annuities or other insurance products. Some people are paralegals or unlicensed or novice planners, with little knowledge or experience. This lack of knowledge and experience could cost your estate tens of

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Member of NAELA:
National Association of
Elder Law Attorneys



thousands of dollars or more.

If it seems too good to be true, it probably is. Don't get taken. Seek the counsel of a *qualified estate planning attorney*:

- **Qualified:** Does the person have the experience necessary to handle the complexities of your unique situation? Even the most complex situation may appear simple on the surface. Only a qualified estate planning attorney has the experience necessary to spot all the issues involved.
- **Estate Planning:** Do they *focus* in estate planning? If you needed brain surgery, you would go to a brain surgeon. Estate planning is a complex field involving a nexus of several substantive areas of law. An estate planning attorney has the knowledge, experience, and judgment necessary to design a plan to meet your unique needs.
- **Attorney:** Are they *licensed* to practice law in your state? Only a licensed attorney has the legal knowledge you need to navigate this complicated legal field.

Someone who is unlicensed or unqualified may be cheaper, but unexpected problems may arise. Your family may discover, perhaps only after you are gone, that your estate plan is vague or ineffective to accomplish your goals. Your life savings might not go to the people you intended. Worse, an improperly drafted estate plan could result in your family members paying gift taxes, estate taxes, generation-skipping transfer taxes and even income taxes that could have been avoided or reduced with proper planning. Even worse yet, a poorly drafted plan could result in family discord and years of litigation. In essence, your family may discover that what you have is really an *estate scam* rather than an *estate plan*.

CALL Mary at 783-4575 to schedule an appointment with one of our attorneys to discuss these issues or other concerns.

Clients... If it has been more than 3 years since we've assisted you with your estate planning documents then call Mary at 783-4575 today and schedule an appointment.

7 Reasons to Review Your Plan: 1. Second Families, 2. Heirs with Creditor Problems, 3. Disabled Heirs 4. Control Issues (Irresponsible Children and Irresponsible in-Laws), 5. Stale Documents, 6. Changes in the law, 7. Funeral Decisions.

At the Deason Law Firm, we are dedicated to helping our clients achieve their estate planning goals. Visit us online: www.deasonlaw.com. Estate Planning... It's What We Do!



Larry Deason

Larry Deason and Robert Way are members of the American Academy of Estate Planning Attorneys. The AAEP is a member organization serving the needs of legal professionals concentrating on estate planning. Through the Academy's comprehensive training and education programs on state-of-the-art estate planning law techniques, it fosters excellence in estate planning among its members and helps them deliver the highest possible service to their clients.



Robert Way

Stimulus Payments for Seniors - \$250 Recovery Payments to go to SS and SSI beneficiaries in May 2009.

The federal government will send out \$250 economic recovery payments to people who receive Social Security and Supplemental Security Income (SSI) benefits beginning in early May 2009 and continuing throughout the month. No action is required to get the payment, which will be sent separately from the person's regular monthly payment. These one-time payments will not count as income for the purposes of SSI or Medi-Cal. If both spouses are on Social Security and/or SSI, each will receive a payment. The American Recovery and Reinvestment Act of 2009 provides for a one-time payment of \$250 to adult Social Security beneficiaries, and to SSI recipients, except those receiving Medicaid in care facilities. To receive the payment the individual must be eligible for Social Security

or SSI during the months of November 2008, December 2008 or January 2009.

The legislation also provides for a one-time payment to Veterans Affairs (VA) and Railroad Retirement Board (RRB) beneficiaries. The VA and RRB will be responsible for paying individuals under their respective programs. However, if someone receives Social Security and SSI, VA or RRB benefits, he or she will receive only one \$250 payment. People getting Social Security or SSI should not contact the agency unless a payment is not received by June 4, 2009.

For more detailed information and answers to questions about the \$250 one-time economic recovery payments, go to www.socialsecurity.gov/payment.

To learn more about the American Recovery and Reinvestment Act of 2009, go to www.recovery.gov.

Effective estate planning is neither a simple one-time event, nor a burdensome, endless task. It isn't restricted to individuals of specific age, profession, and income or asset base. However, even those who recognize the value of long-term planning often have more questions than answers.

The Deason Law Firm is here to help. At our informative seminars, you will find out in simple terms how with proper estate planning you can protect against probate, guardianship, creditors and taxes.

Legacy Wealth Planning Seminar

Thursday, June 11th at
9:30a.m. or 6:30p.m.

Yuma Civic & Convention Center

Reserve your seats at 783-4575

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

Return Service Requested

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