



Hope for a Better World



A Creative Estate Planning Newsletter for friends of Ananda

“Pour-Over Wills” The “Gateway” to Living Trusts

There are lots of reasons why everyone who owns property should have a valid will - *and probably even more reasons why most people don't.*

One of the most practical reasons for sitting down with a competent attorney and drafting your final say-so as to who gets what, when, why and how is the **“Pour-over Will.”** This Will is so named because it “pours over” property into a **Living Trust** from which it is finally distributed by the trustee to the designated parties.

A Scoop

Someone once described the Pour-over Will as a scoop, because that was its function. This Will's purpose is to “scoop up” those possessions not previously placed into your Living Trust and then “pour them over” into the trust where you have written specific instructions as to how they are to be disposed of.

Some may ask, “*Why have both documents when one alone might suffice to do the job?*” There are many reasons for this, but the three most compelling are:

♥ **Security.** Wills can be easily challenged and often are. Trusts have to be broken but seldom are.

When a Will is offered for probate, anyone - disgruntled family members, distant relatives, even strangers - can dispute that your Will really carries out your true wishes and intent. At that point a judge, possibly even a jury in rare instances, would have to closely examine personal family business which the deceased may never have intended to see the light of day.

A *Living Trust*, however, is regarded by the courts as a separate entity. Trusts in our American judicial system date back to English law which, in turn, dates back to Roman law. Instead of a simple objection raised in probate court, the trustee would have to be sued in civil court to be found negligent in carrying out the specific language of the trust.

♥ **Flexibility.** A Will's disposition of property can be inexpensively adjusted by a codicil, which is then witnessed and made a part of the original Will. While this is a small expense in comparison to drafting an entirely new Last Will and Testament, a Living Trust can be changed simply by writing new instructions and delivering them to the trustee to be made part of the trust document.

♥ **Expense.** While a Living Trust may be more expensive to put into place and administer during one's lifetime, it is less costly in the long run because it avoids the costs of the probate process and eliminates other unnecessary expenses as well.

The cost of probate is usually determined by a percentage of the value of the estate. If the estate is highly valued, the percentage is conversely lowered. In the United States this cost is between 3% and 8% of the total value of the estate.

That is why we speak of the Pour-over Will and the Living Trust as *the dynamic duo of the estate planning world.*

Don't leave earth without them!



Estate planning is more than just your will !!!

Planning your estate takes time and effort, but it is definitely worthwhile.

First of all, you must inventory what you own and decide how to divide your assets among your loved ones. Then you will meet with your advisors - attorney, accountant, trust officer, insurance agent - to formalize your plans.

Because you are conscientious, you will review your estate plan regularly, keeping up with changes in your family circumstances, your personal finances and the tax laws. When it becomes necessary, you will revise your plans.

Everything will be dotted to the "i" and crossed to the "t".

Or so you believe.

Two Important Steps

Despite your clear intentions and your careful planning, your family could still wind up spending a great deal of time and money trying to see that your wishes are carried out - *unless you take two important steps.*

The first step is to provide for the safekeeping of your will.

Should you keep the original at home? There is always the possibility that it might be unintentionally destroyed or thrown away with other papers by mistake.

Should you put it in your safe-deposit box? There may be some legal procedures involved in opening the box after your death that could make immediate access difficult.

How about having your attorney keep it in his or her office? If he or she is a single practitioner, there are risks. The attorney could die or move away. Also, you must remember to retrieve it if you end the relationship and go elsewhere.

If you name a bank to serve as an executor, you can deposit the original copy of your Will with the bank, keeping unsigned copies with your attorney and in your personal records for future reference.

The second step is to create a *document locator*, a detailed list that gives your family access to all the information that they will need to see for your estate plan to be carried out.

The locator should include the names, addresses and phone numbers of all the important financial players in your life. You will also want to include information about your debts. Credit card issuers, card numbers and mortgage, auto and other indebtedness should be noted as well.

Be sure to specify the location of your will and other important documents (tax returns, Social Security information, business agreements, real estate deeds). Note where your safe-deposit box is and who has access to it. Provide an inventory of its contents.

Give directions as to where you keep investment records, with names and addresses of all the financial institutions with which you have savings or investment accounts.

This kind of information should be particularly detailed. You should spell out the type of investments that you hold, the account numbers, the names on the account, and the dates on which the accounts were opened. Specify where you keep the account statements, passbooks and securities certificates.

The document locator is also the place to indicate who has spare keys to the house or car and to give other information of that kind. If you are still working, be sure to instruct your survivors to call your employer so that the benefits department can get the paperwork started.

Be sure that you have made multiple copies of your document locator. A copy should be given to your executor and appropriate family members. You may want to keep one in your safe-deposit box as well.

For Further Information, please send for your copy of the brochure, "**Planning for the Future**" and/or "**A Guide to Planning Your Will.**" You can also contact the Janaka office at: **530-478-7695** or email us at: **parvati@janakafoundation.org**



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