

LOOKING AHEAD WITH

GRIEPP & McREE

News and views from the Law Offices of Griep & McRee

SPRING — SUMMER
2005

OUR Spring Cleaning



What is a *Certified Estate Planning Specialist*?

Why would you choose a Certified Specialist in Estate Planning rather than a competent lawyer who seems experienced and may even charge less for his services?

Well, ask yourself this question: if you needed to have a serious operation, would you choose a competent family physician to do it, or would you choose a doctor who is board certified in surgery? The answer most certainly is that you would choose a board-certified surgeon, because you would want the best care, including the wisdom and judgment that come from extensive experience. And you would want your surgeon to be aware of the latest techniques and advances in surgery, so that you would be in the best possible hands.

When it comes to estate planning, don't you want to

work with someone who has vast experience in a range of situations and issues, who will be up-to-date on current state, federal and tax law, and who has demonstrated his expertise to the satisfaction of a very stringent board of specialization? Most of us would answer "Of course! I want the best for myself, my family and my business."

The California State Bar Association is the governing body for all lawyers in California, and all lawyers in good standing are licensed members. But the State Bar recognizes eight specific areas of *specialty* practice, and only those who have met the stringent requirements to achieve certified status may represent themselves as "*certified specialists*" in these areas of law.

One of the practice areas recognized as deserving of certification is **Estate**

Planning, Trusts and Probate. The designation of Certified Specialist in this field is held by fewer than 1/2 of 1% of all attorneys in



California. **Galen Griep** was awarded this designation in August 2001.

You might be wondering what requirements Galen had to meet, in order to earn this certification. What makes a Certified Specialist uniquely qualified to help you? Why aren't there more

We have been busy cleaning and remodeling!

Be sure to visit our revamped **website** to learn more about us and see what's new, at www.griepmcree.com

We have also remodeled our **offices** after more than 13 years at our convenient Walnut Street location!

Everyone seems to love the changes and we look forward to sharing them with you. Please call and stop by to see just how we have made things even more comfortable and attractive for our very special clientele and our valued colleagues!

YOUR Spring Cleaning



"Living Wills" in the Headlines

Recent news has resulted in a national dialogue over the use and urgency of having a "living will."

One of the most important estate planning steps you can take to relieve your family of the burden of *guessing* about your medical care wishes. And even if

you have discussed your philosophy and preferences with your family, a "living will" can be just what they need to guide medical personnel to act in your interests.

If you are a client of this firm, you may recall having signed a **Durable Power of**

Attorney for Health Care.

This comprehensive document includes a "living will." It not only states your specific wishes for end-of-life treatment, it appoints a specific person(s) who is authorized to carry forward your wishes and instructions. Additionally, it may

Spring is a great time to give thought to **updating your estate plan.** Call our office to schedule a consultation, and see **page four** for a few "housekeeping" suggestions!

*Remember, if you have participated in our annual maintenance plan, there is **no charge** for a consultation!*

Critical Planning for a Special Needs Child

Do you have a special needs child or know someone who does? Often when we think of "child" we forget about the millions of special needs adults who remain "children" because they are dependent upon their parents or caregivers for assistance with tasks that most of us take for granted.

Many parents with physically, emotionally or developmentally disabled children have not secured the child's financial future. A recent survey by Metropolitan Life shows that 60% of parents don't expect their child with special needs to be financially independent. Despite this candid acknowledgement, 68% of parents haven't written a will! and 29% have done nothing to plan for the child's financial future.

It's not that parents of special needs children don't realize they need information and help. But 2/3 of parents say that is little financial planning information available that focuses on children with special needs. Frustrated, 85% parents turn to their doctor for financial advice!

"It's not surprising that parents have little time to focus on the future," says Nadine Vogel, a MetLife's vice president, and the mother of two daughters who require special care. "But if they don't, the consequences can be life altering...It's not about lifetime care, but about quality of life."

Certified Specialist in Estate Planning (cont'd)

The requirements for certification as a specialist include the **demonstration of expertise** in several specific areas of practice. Candidates must demonstrate excellence in a selection of areas, including tax planning, tax-sensitive wills, trusts or other dispositive instruments, estate and incapacity plans, custodianship, documents of title, beneficiary clauses, property agreements, powers of attorney, advanced health care directives, gifts, powers of appointment, disclaimers, public benefits plans, tax procedures.

An applicant must show evidence of

MetLife's survey, "The Torn Security Blanket: Children with Special Needs and the Planning Gap," questioned 1,718 parents of children with special needs. The survey, conducted by NOP World, has a plus or minus 2% margin of error at a 95% confidence level.

According to the U.S. Census Bureau, about 10% of Americans between the ages of 16 and 64 suffer some form of physical, mental or emotional impairment. Many of them are outliving their parents thanks to improved care medical technology.

Parents should take basic steps to preserve eligibility for government benefits. They need to ensure that the child's assets don't exceed the federal aid limit, which would make the child ineligible for some government benefits. They need to structure **special needs trusts** to provide for their child and preserve assets for the child's benefit without running afoul of federal or state eligibility rules.

The MetLife survey found:

88% of parents who have children with special needs haven't set up a trust to preserve eligibility for benefits such as Medicaid and

Supplemental Social Security.

84% haven't written a letter of intent outlining an agreement for the future care of the child.

72% haven't named a trustee to handle the child's finances.

53% haven't identified a guardian for their child.

The survey found that 32% of parents spend more than 40 hours per week with their special-needs child, or time equal to a second full-time job. At the California minimum wage of \$6.75 per hour, just to replace the hours each parent devotes to the child would cost \$14,040 yearly.

Insured parents spend an average of \$326 per month, or just under \$4,000 per year, on out-of-pocket medical expenses on their special-needs children. Without insurance, the costs can be far greater.

(The amount spent for other types of assistance, such as tutors, transportation, or non-family caregivers, is not listed in the survey.)

We are experienced in planning for all types of special needs. Please tell a friend!

As you can understand, such designations are not available to less-experienced lawyers, to those who maintain a catch-all law practice, or to those who cannot demonstrate specific expertise in estate planning and probate, including broad experience, excellent references, and successful completion of a very rigorous exam.

We hope and believe that when you choose to become a client of our law office, it is because you are confident that your estate planning is in the "best possible hands!"



Dividing Assets in Your Estate Plan

When “equality” is your objective

When deciding how to allocate the assets in their estate, many people make the mistake of assuming that a dollar’s worth of one asset is equal to a dollar’s worth of another asset.

When you are making choices about the disposition of your assets, have you tended to think in terms of dollar value of one item or property versus another? Have you mentally tried to equalize these values so that the inheritance of your children (or other loved ones) is balanced and fair? If so, you may have overlooked some important factors.

In fact, because of capital gains and income tax laws, the final value of seemingly equal assets passing to your heirs can differ widely. Take the examples of IRA assets and stock and investment portfolios.

What you believe are the current values of your assets may differ widely from the final value, thus skewing your estate planning. In California, of course, we all understand the volatility of real estate values and the history of fluctuating values must be considered in our planning!

Let’s also take a look at two of many other assets that may have very different “final” valuations, IRA/retirement accounts and stock/bond portfolios.

Retirement Assets

All traditional IRAs (and other qualified retirement plans) are ultimately subject to **income tax**, which is owed when the assets are inherited by a beneficiary other than the surviving spouse. Thus, the real value of a \$100,000 IRA to an heir in the 28% tax bracket would be only \$72,000. There is no capital gains tax on IRA assets, and thus a “step up” in basis has no application.

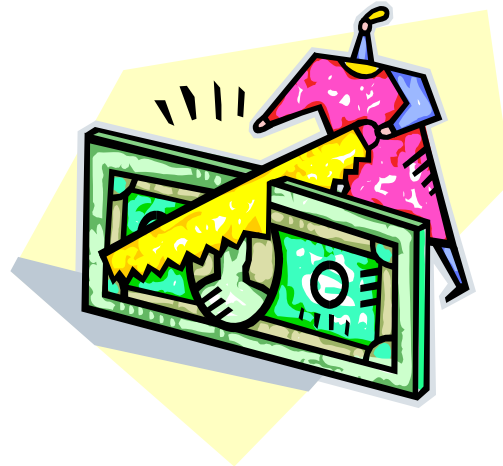
Planning for maximizing post-death retirement distributions is subject to highly specific laws and should be done ONLY with an estate planning professional, not a plan administrator.

Stocks/Bonds/Funds

When inheriting stock or other tangible property which has increased in value, your heirs receive the benefit of a “step-up” in the cost basis of the asset. In effect, all the gains accumulated during your lifetime are free from capital gains tax. Thus, if you had purchased \$60,000 worth of stock, which had grown in value to \$100,000, your heirs would receive the full value of \$100,000 worth of stock, free of capital gains tax as well as income tax. (But the step-up in basis does *not* apply if you give away stock or other tangible property, prior to your death.)

To achieve “balanced” inheritances, what should I do?

These two simple examples show how it is possible to **plan** to leave property of equal value to one or more loved ones, with a very **different result!**



Equalizing inheritances can be fairly complicated and may require your estate plan to dictate a number of conditions or formulas.

We are ready to discuss the value and allocation of your specific assets and to calculate the tax characteristics of each asset in order to meet your personal and specific objectives. Our creative and personal approach to estate planning will insure that your intentions are satisfied.

Getting to know Cheryl Butler

If you have called or visited our office, you have probably enjoyed speaking with our Office Manager, Cheryl Crosland Butler.

We are proud of the way she represents us and thought you might like to get to know her a little better...



Cheryl's background in the legal field goes back many years, and includes assisting the National Executive Director of the Directors Guild of America. She is an actor and director, and has appeared locally in many theatre productions. Most recently, and to wide acclaim, she

directed a mainstage production of a melodrama and variety show.

She is the proud mother of Alyssa Butler, a 17 year old high school junior who, like her mother, has thespian aspirations. Her husband of 25 years, Kent, is also a busy actor whose day job is at the Directors Guild.

Cheryl is also very involved in her Burbank community, as a volunteer for the National Charity League and in many activities (including singing in the choir) at Burbank First United Methodist Church.

At our office, Cheryl adds her calm charm and wit to every client interaction and helps us keep things on an “even keel.” Thanks, Cheryl!

Looking Ahead With Griep & McRee

GRIEPP & McREE

Attorneys at Law

exclusively

Estate Planning
Family Trusts
Trust Administration
Business Succession
Asset Preservation
Probate
Charitable Trusts
Special Needs Planning
Foundations

and related matters

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Living Wills (cont'd)

contain your wishes for memorial services, disposition of your body, organ donation, and a host of other points that you may wish to communicate to those who survive you or manage your care.

As we have learned from the Schiavo case, it may not be sufficient that you have spoken of your wishes, your point of view or religious beliefs. In the absence of a legally-recognized document, medical personnel and hospitals can be reluctant to take steps which would seem to be in your best interests, because you have not documented what you consider to be your "best interests!" You could be given unwanted care or denied medical care. You could be kept in a hospital or transferred to another facility, when you would prefer to be home or in a hospice environment. You could be given or denied nutrition and hydration. And yes, you could be the subject of a court action if there is an absence of documentation about your wishes!

We urge all of our clients to review and **update** their *Advance Health Care Directives* on a yearly basis. If you have paid your 2005 annual maintenance fee, you are entitled to a no-charge review of the document and any revisions that you would like to make. **Call our office so that we can schedule a date to review your choices and changes!**

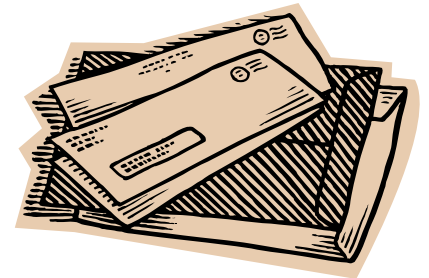
Spring Cleaning Your Estate Plan! A few things to think about...

1. Review your Advance Health Care Directive

- Is it current and valid?
- Are your current agents the ones you still want?
- Have you considered what sorts of life-sustaining treatments you want?
- Do you need more information to make your choices?
- Have you signed a specific authorization for your medical agent to receive confidential

medical information about you, as authorized by the federal health Insurance Portability and Accountability Act (HIPAA) or the California Confidentiality of Medical Information Act (CMIA)?

Failure to do so may prevent your health care provider from discussing your medical situation with your agent!



2. Check that proper procedures are being followed for your

Irrevocable Life Insurance Trust.

- Is the life insurance policy issued in the name of the Trustee of the insurance trust rather than in the name of the insured?
- Are the premium notices being sent to the Trustee, rather than to the insured?
- Are the *Crummey* letters being sent out certified mail to the beneficiaries whenever a gift is being made to the trust?
- Is the amount of the insurance appropriate for the size of the estate?

2. Check the titles of your assets

- Do your bank and financial statements arrive addressed to you as *Trustee* of your Trust?
- Is your living trust the recorded owner of your real property?
- Has your personal property been assigned to your living trust?
- Have you opened all of your new accounts in the name of your living trust?