

Building Your Team of Trusted Advisors

Some of our clients need advice or information beyond the bounds of our area of expertise of estate planning. For instance, if you are seeking the best kind of life insurance, would term or permanent life insurance be best for your situation? If you do not explore the consequences of your decisions, you could be in for an unpleasant surprise later.

We advise our clients to develop their own personal team of trusted advisors who can provide them with the benefit of their experience and knowledge, which is priceless. The truth is, you cannot do it on your own, and you do not want to wait for a moment of desperation to have to locate one of these advisors quickly. It is better to start developing your team now when you do not necessarily need them.

The people you might want to have on your team include the following:

- CPA and/or Enrolled Agent (EA)
- Insurance Broker
- Certified Financial Planner
- Tax Attorney
- Bankruptcy Attorney
- Mortgage Broker
- Real Estate Professional
- Estate Planning Attorney

Here is the low down on each of these professionals:

CPA and/or Enrolled Agent (EA). A Certified Public Accountant (CPA) has passed the uniform CPA examination administered by the American Institute of Certified Public Accountants, and has received state certification to practice accounting. An Enrolled Agent (EA) is a tax professional who has passed an Internal Revenue Service (IRS) test covering all aspects of taxation, and is recognized by the U.S. federal government to represent taxpayers in dealings with the Internal Revenue Service (IRS). A CPA may also be an EA.

Insurance Broker. An insurance broker is licensed and is independent of any insurance company. The broker represents the interests of the buyer in searching for insurance coverage at the lowest cost and providing the highest benefit to the buyer.

Certified Financial Planner (CFP). A CFP is an investment professional who helps individuals set and achieve their long-term financial goals, through investments, tax planning, asset allocation, risk management, retirement planning, and estate planning. The role of a CFP is to find ways to increase the client's net worth and help the



Spring is on its way!

client accomplish all of his/her financial objectives. You should look for a financial planner who is certified through the Certified Financial Planner Board of Standards, Inc.

Tax Attorney. A tax attorney is licensed by the state bar and usually has a Master's Degree in tax law. Generally, having a CPA or EA on your team for tax purposes will suffice. However, when very complex tax issues arise, a good tax attorney can be helpful. Usually, a CPA/EA will be able to give you the name of someone they respect and trust.

Bankruptcy Attorney. Hopefully, you will not need one of these, but it always pays to have one in mind, anyway. An attorney licensed by the state bar and who practices before the Federal Bankruptcy Court. Bankruptcy is a very specialized area of the

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law, so you should go to someone who does only bankruptcies, not someone who claims to do a "little of this" and a "little of that." A bankruptcy attorney can help you figure out if bankruptcy should be your next step, and which type of bankruptcy would fit your situation.

Mortgage Broker. A mortgage broker brings together mortgage borrowers and lenders, but does not use its own funds to originate mortgages. The broker gathers paperwork from a borrower, and passes the paperwork to a lender for underwriting and approval. The mortgage investor lends the funds. The broker collects an origination fee from the borrower as compensation for services.

Real Estate Professional. A real estate professional provides services in buying and selling homes, and is paid a percentage of the home sale price by the seller. Real estate professionals may be able to refer you to local lenders or mortgage brokers, but generally are not involved in the lending process.

Estate Planning Attorney. As an estate planning attorney I am licensed by the state bar and can help you devise an estate plan. Many people view estate planning as merely probate and tax avoidance. I can, of course, help with that, but also will focus on assuring that your personal and family goals are achieved, that relationships are preserved, and that wisdom from the elder generation passes to the younger.

Our Team



Glenda Leatherman
Attorney-at-Law



Karen Kelly
Legal Assistant



Patricia Porter
Legal Researcher

You may end up using several documents, including a living trust, a will, a durable power of attorney, and various forms of joint ownership of assets. How your plan evolves depends on your goals and needs.

My goal is to be come your trusted advisor for estate planning.

So there you have it. Now is the time to start thinking about building relationships with the people who will serve as your team of trusted advisors.

LLG maintains a list of advisors to whom we can refer our clients. Please let us know of professionals with whom you have had a good experience to add to our list.

A Viable Alternative to Conservatorship

A conservatorship is a court proceeding in which a judge appoints an individual or a professional fiduciary to handle a person's medical and business affairs if the person outlives the ability to manage them for him/her self. For the judge to order a conservatorship, the person must be deemed "incapacitated."

The standard for incapacity in this situation is that it must be shown by **clear and convincing** evidence that the person is unable to provide properly for his or her personal needs for physical health, food, clothing, or shelter. (Note: this standard is much lower than that for

capacity to contract.) The court proceeding often entails having a doctor testify who has tested the person to conclude that he/she is incapacitated. People, including family and friends, who have witnessed the person's behavior may testify as well.

Three negatives of this procedure are that (1) it is humiliating to the person being declared incapacitated in open court; (2) the cost is similar to a probate proceeding; and (3) you likely will have no say as to who is appointed as conservator.

There is a much more elegant and humane method of handling the incapacity issue, particularly for relatives who are perhaps starting to slip but would in no way be deemed incapacitated.

Ordinarily for a living trust, the settlor (owner of the property) will be named as trustee (person who manages the trust). Often, to cover the capacity issue, a third party will be appointed directly, with the settler's agreement, as the trustee or as the successor trustee in the case of incapacity. The trust then includes provisions for how incapacity is determined. It usually entails examination by one or two doctors, and if they determine that the person is incapacitated, the successor trustee takes over management.

Coupled with a springing Durable Power of Attorney for property and a springing Advance Health Care Directive, the trust provides a very secure direction for a person who may be fading soon.