

THE CHOICE OF A LAWYER IS AN IMPORTANT DECISION AND SHOULD NOT BE BASED SOLELY UPON ADVERTISEMENTS.

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Concentrating in:

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2011 - The Estate Planning Edition

It is a principle in science that heat causes most things to expand, so it is fitting that during this past hot summer the Jacob Law Firm grew in size.

This summer the firm welcomed a new associate, **Debra Jacob**, who broadened the firm's practice to include Estate Planning Services. Debra is married to Marc, and has been practicing in the areas of Estate Planning and Probate Administration for several years. She holds a law degree from Washington University. The Jacob Law Firm can now counsel our clients on estate planning matters, including wills, powers of attorney, revocable trusts and other related topics.

Wishing you a safe and cool (but not too cool) fall,

Marc Jacob

Estate Planning 101 Wills and Powers of Attorney

What does estate planning mean? Estate Planning means planning for the time when you may be unable to care for yourself, your family or your affairs because of illness, disability or death. For your attorney, it often involves drafting wills, powers of attorney, healthcare directives (sometimes called "living wills"), and may involve setting up a trust or other non-probate transfers of your assets.

Do I need a will? Yes. Generally, everybody needs a will, even if you do not have much wealth. A will allows you to direct who gets your property after your death, who takes care of your children and who works with the probate court in the

handling of your assets.

If you die without a will, state law sets forth who gets your property and in what amounts. The law tries to be fair, but typically does not divide your property how you would like.

Without a will, the law only allows your property to be distributed to your spouse and close biological relatives. Step-children, in-laws, friends and charities cannot inherit your property if you do not have a will. If you do not have a will, the state will also determine who is best suited to raise your children. For these reasons everyone needs a will, regardless of wealth.

Planning for Incapacity: Sometimes a person suffers from a stroke or other illness that leaves them unable to handle their affairs. The best way to prepare for such a situation is to have a properly drafted **Power of Attorney** appointing an agent to act on your behalf. Typically, there are two types of Powers of Attorney that are helpful to clients during these times.

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1. A General Durable Power of Attorney grants your agent the ability to handle your financial affairs, such as paying bills, communicating with financial institutions and contracting for services on your behalf.

2. A Power of Attorney for Healthcare Decisions allows your agent to make healthcare decisions for you when you cannot, including decisions to withhold or withdraw life-sustaining treatment. This agent is often guided by your **Healthcare Directive**, a document that allows you to state your preferences for life-sustaining treatment if you are in a persistent vegetative state.

While it is difficult to deal with death and disability, only proper planning can ensure your affairs and loved ones are taken care of according to your desires.

Trusts 101

A trust is an agreement between the person who establishes the trust (the grantor) and the person who manages the trust property (the trustee). There are many types of trusts and many reasons for creating one.

A **Revocable Living Trust** is similar to a will, but has some useful advantages that a will does not. First, a trust **avoids probate** and the expenses and

“...a trust avoids probate and the expenses and administrative hassle associated with it.”

administrative hassle associated with it. Second, a trust is a **private document**, unlike a probated will. Third, a trust allows your Trustee to handle your property if you become **incapacitated**. Fourth, a trust gives you **more control** over how your property is distributed at your death, allowing you to determine whether your children and

grandchildren receive their entire inheritance at eighteen, or at a more mature age. Finally, a trust allows for **tax planning**.

A revocable trust is not necessary for everyone, but if you have a large estate, are concerned about privacy or have young children or grandchildren, you may wish to explore the possibility of establishing one.

There are also a variety of specialized trusts. A **Special Needs Trust** enables a special needs individual to qualify for useful public benefits, and at the same time receive support from an outside source, such as a family member or settlement fund. A **Pet Trust** typically supplements the grantor's revocable living trust and states the specifics for caring for the grantor's pets after the grantor's death. An **Asset Protection Trust** is an irrevocable trust that protects the grantor's assets from the claims of future unknown creditors.

Please feel free to contact us if you have questions about your existing trust or wish to explore whether a trust is right for you and your family.