

Hi [CLIENT NAME],

Thanks for your interest in building an estate plan to match your goals and wishes as part of the rest of your financial planning process. I'm excited to **partner with EncorEstate Plans** to offer this service. They work with law firms in each state and leverage technology and estate planners on their team to create the state specific documents your family needs. They will be assisting me and you in reviewing existing trust and will documents, creating new documents, and making updates in the future when life events cause existing plans to become out of date.

You know I am not an attorney. However, I can **provide education and facilitate the creation of your estate plan** by providing you access to the software and team. We will provide you the legal information you need to make good decisions to complete the process. I will still be maintaining my relationships with local attorneys for occasions that warrant legal advice, but this partnership allows us to reduce the cost for high quality estate plan documents for you. The best news is I already have most of the information we need to do that.

**I've attached a few PDFs** that provide the major questions we will dive into to get your estate plan complete. I encourage you to review it ahead of time as prompts for what we will discuss. There is no need to fill these out unless that would be helpful for you to remember details when we get together as we will input the information during our meeting.

One of the most common questions I get is "What is the difference between a will and a trust?". There are a few similarities, but a lot of differences also. In both cases, these documents are a part of your estate plan – to have a complete estate plan, there are also powers of attorney for medical and financial purposes and other documents needed.

Similarities between a will-based plan and a trust-based plan:

- **Exercising Control:** Both a will and a trust allow you to control who gets your assets at your death, how those people/entities get your assets, and who is in charge of making financial decisions at your death. The levels of control do vary with trusts enabling more control.
- **Amendments:** Both wills and revocable trusts are "set in sand", meaning you can change them provided you have the mental capacity. Both documents are "set in stone" upon your incapacity or your death.

- Differences:

- Probate Avoidance: A trust will avoid probate if funded properly. A will does NOT avoid probate - it merely tells a probate court where the assets go.
- Public v. Private: In most states, probate is costly, time intensive, and most documents are public record. If done properly, trusts will be far easier to administer and can be done privately.
- Control during your Lifetime: A trust allows you to control what happens now, if you become incapacitated, and what happens at your death. A will only controls what happens at your death.

Lastly, one of the most important parts of this process before we meet is to determine the names and order of those you want to name as guardian or trustee. A guardian is an individual appointed to care for your minor child if something happens to you. Generally, a guardian will have the same powers and responsibilities as you do for your child. A guardian is primarily concerned with the physical care and the overall upbringing of your child. In contrast, a trustee is a person who acts as a custodian for the assets held within a trust. He or she has a fiduciary responsibility for managing and administering the finances of a trust per the instructions given. Basically, the trustee takes care of the child's assets for the benefit of the child. As with guardianship, there should be a consistent order in naming trustees.

- For most people who are naming guardians, they generally choose to name a primary option and a secondary in case the first option is unable. Many people also choose to name a tertiary option assuming you have someone you would like to potentially fill that role if necessary.
- Name an individual and a secondary guardian that is an individual. Naming couples can be a little complicated, as down the line, an ex-in law could theoretically still be a co-guardian.
- Both of you should have the same guardians and secondary guardians in your wills, that way, there is no confusion as to who gets custody
- There are two schools of thought about naming trustees:
  - Some believe it's good to have the guardian also serve as the trustee, as the guardian will have knowledge of the children's day-to-day needs. This may not be the best case where the guardian is not good with money or has financial problems.
  - Some also believe that having a separate trustee will provide some oversight and balance to how the children are raised.

- Similarly to guardianship, it is often wise to consider naming a primary and secondary trustee
- Either way, it's each family's personal decision about who should be named. Familial relationships and cooperation should be strongly considered. If there is no good choice, a corporate trustee may be an option.

## **Your Action Items**

1. **Review the PDFs** for prompts of the questions and information
2. Review and sign the estate planning agreement sent separately via Docusign
3. Schedule a time for us to input the information into the software: <https://calendly.com/wisestewardshipfp/working-meeting>
4. Let me know if you have any questions!

Respectfully,

Daniel M. Kopp, MA, MS, CFP ®