

## Overview

You've heard about "Wills" and "Trusts" but maybe you don't quite know what they are. The dramatic reading of the Will by a crusty old attorney in a wood-paneled darkened law office with the family gathered around an antique mahogany conference table is the stuff of novels and movies. Wills and Trusts are good fodder for stories, but do you need one?

The short answer is **"Yes, you do."**



## What is in an Estate Plan?

**Wills and Trusts** are the primary documents in an Estate Plan. Both documents state your wishes about who you want to manage and receive your assets when you pass away.

A typical California Estate Plan also includes:

- **Durable Power of Attorney:** authorizes someone you trust the authority to pay your bills if you can't.
- **Advance Health Care Directive:** authorizes someone you trust the authority to make healthcare decisions for you if you can't.
- **HIPAA Authorization:** authorizes someone you trust to talk to your doctors and nurses.



## What if You Die Without a Will or Trust?

### If you die without a Will or Trust, who gets your assets?

If you die without a Will or Trust, then your estate is “intestate” and it will have to be distributed according to the California Probate Code - California's default distribution scheme. [Click here](#) for more on what California's intestacy distribution looks like.

## Do You Need a Will or a Trust?

Unless you want to rely on California's distribution scheme, you will need a Will or a Trust. If you don't own many assets and you rent your home, a Will might be good enough. But, if you have assets that would go through [probate](#), then you need a Revocable Living Trust.

## What Goes Through Probate in California?

In California, real property worth more than \$61,500 and combined bank and investment accounts worth more than \$184,500 will go through probate. In California, probate is bad. It's an expensive court process that exposes your assets, debts and family to the public record and usually takes a year or longer. With a [revocable living trust](#), your estate can avoid probate. If you have a revocable living trust and transfer ownership of your probate assets to the trust, your family can avoid probate and avoid the expense and hassles of probate.

## I Get It - I Need an Estate Plan...How Do I Get One?

There are essentially two ways to set up your Estate Plan. You can do it yourself with DIY websites such as Legal Zoom, Wills & Trusts or Nolo Press, or you can work with an attorney.

# Using Legal Zoom, Wills & Trusts or Nolo Press

The big problem with DIY estate planning is you don't know if the documents will work. Often with the DIY websites, there is little or no interaction with an estate planning attorney. Are you willing to risk your family and fortune on the bet that you clicked the right buttons and made the right choices on the webform?

The thing about estate planning documents is that you don't know if the documents will work until it's too late, which means it's important to have confidence that your estate planning documents will do what you want them to do.

I'll grant you, just because an attorney drafts and reviews the documents is no guarantee the attorney will do a good job. In many cases, general practice attorneys draft documents without really knowing what they are doing. But there is a much better chance that attorney-drafted estate planning documents, especially documents drafted by an estate planning attorney, will work better than DIY documents.

Another disadvantage of using DIY websites is that you won't create a working relationship with an attorney. What if you have questions? What if you need to update your estate planning documents because you have another child, need to change trustees or guardians, need to change beneficiaries or you buy a new home?

**Estate planning is not a static one-time event.** Your life, your family, your assets and the tax laws change, and your estate plan must be updated to keep up with those changes. Otherwise it won't work.

## PROS

- **Cheap:** (But be sure to calculate the notary fee. You will have to get your own notary to sign the documents.)
- **Convenient:** You are using online software to create your DIY documents, so you can do it on your computer from the convenience of your home.

## CONS

- **Uncertainty:** In most cases, you are making choices in a software program. Maybe you make the right choices. Maybe you don't. And even if you make the right choices, are the documents you create complete enough for your actual needs?
- **No Working Relationship with an Attorney:** Who can you reach out to with questions, to update your documents or to talk about whether the tax laws have changed?



# Using an Attorney to Prepare Your Estate Plan

Attorneys should know what they are doing, and should be able to prepare more customized and effective estate planning documents than a DIY estate planning website. But the reality is that some attorneys are better than others. **If you are going to use an attorney to prepare your estate planning documents, here are some things to consider:**



## Estate Planning Focus

Working with a dedicated estate planning attorney will increase the likelihood of getting an effective estate plan. Attorneys, like doctors, can be general practitioners or have a specific focus. A real estate attorney, family law divorce attorney, personal injury attorney or litigation attorney probably does not have the expertise and experience to advise you and to prepare an effective estate plan for you. Just like you wouldn't go to an ear, nose and throat doctor for back pain, you shouldn't go to a litigator for your estate planning.

## Complicated or Easy Process

For most people, estate planning does not have to be complicated, but attorneys have a reputation for making things complicated. But not all attorneys make it complicated. Some attorneys (**like us!**) have simplified the estate planning process and have created a simple and effective approach that makes planning easy. If the process is simple, you are more likely to see it through and complete your estate plan.

## Meetings

How many meetings are required? Do you have to drive to the attorney's office for each meeting? Some of the more innovative attorneys (**like us!**) have created systems to work with their clients virtually. If you can work from home, why can't you meet with your attorney from home? Meeting with your attorney virtually from the convenience of your home makes the estate planning process comfortable and easier.

## Attorney Interaction

Many attorneys have their staff handle most of the client communications. This could be good if the staff is personable, knowledgeable and responsive. But nothing is worse than emailing or calling your attorney and not getting a timely response. Some attorneys make it a priority to handle most of the client communication themselves (**like us!**). Working with an attorney who will listen and address your questions in a timely manner leads to a more positive outcome.

## Billing and Price

Old school attorneys still bill by the hour. Open-ended hourly billing does not make a comfortable attorney-client working relationship. If you need to ask your attorney a question about an important estate planning matter, do you hesitate to call because you are afraid of being on the clock?

Billable hours inevitably create an adversarial relationship. Fixed fees remove that adversity and put you and your attorney on the same team. Some attorneys go beyond the fixed fee and don't even charge for questions (**like us!**). If you could email or call your attorney with questions and not have to worry about getting a bill for it, you would feel less anxious and more positive about your attorney-client relationship.



## How Long Does It Take?

Most attorneys are very busy. But, when you are working with an attorney, the attorney's focus should be on you and getting your estate plan done. Some attorneys have an efficient process that allows them to get an estate plan done in two weeks (**like us!**). Some have an inefficient process, or no process at all, and it takes months.

## Bottom Line...

If you have a very simple estate, the DIY estate planning websites may work. If not, you may want to use an attorney. And when looking for any attorney, find one that you can trust and who makes the process easy.

[Compare Clark Allison v DIY v Other Law Firms](#)



## At Clark Allison LLP...

We try to treat our clients the way we would want to be treated. And our clients seem to like that.

**"They made us comfortable and confident with such an important decision. We are very grateful, and highly recommend this law firm."**

**"They made the entire experience and process SO easy and such an outstanding experience."**

Estate planning with Clark Allison is very easy. You will work exclusively with one of our smart, kind and responsive attorneys. The process typically takes two attorney meetings and can be completed in two weeks. We can work with you virtually from your home or in person in our office.



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