



ABSOLUTE Advantage

Trust and Estate Law Happening Now

FALL 2023



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NAVIGATING TANGIBLE PERSONAL PROPERTY AFTER A LOVED ONE'S PASSING: A GUIDE TO FAMILY DECISION

By Kirsten Howe

Among the many responsibilities a trustee faces after a loved one's death, dealing with tangible personal property (TPP) can be particularly challenging and complex. For some family members these physical possessions are laden with memories and sentimental value. It is not unusual for squabbles to arise over items with no monetary value. The trustee is stuck in the middle because tangible personal property is often not planned for in much detail. Trustees have little guidance to help them make decisions. This article delves into how families can plan ahead and also navigate the process of dealing with tangible personal property after a death, striking a balance between practicality and emotional attachment.

Plan Ahead!

Of course, we are estate planners, so that is our default advice. Paying just a little more attention to your TPP could make your trustee's job so much easier. Some things to consider:

1. Be realistic – for the most part, nobody wants your stuff. People of a certain age, myself included, have a house full of furniture, artwork, silver, china, etc. Young people have no interest in this stuff. Consequently, many charities limit what they will take as donations of TPP. Your trustee generally has legal authority to do whatever needs to be done, but it can be helpful if your document specifically authorizes the trustee to sell, donate or dump any TPP that nobody in the family wants.

2. Communicate! Communication solves so many of life's problems. Ask your children to tell you what specific items they each want, then make those part of your written plan.

3. Make rules that will help your family deal with your TPP fairly. For example, your document could say that the children will pick one item at a time in order of birth until everyone has selected all they want.

4. Think about the value of your items. Unless you have specific items that have a lot of value, it can be helpful to the trustee, and save money on appraisals, if your documents state that items of TPP will not be assigned a value in determining equal inheritances for the children.

5. De-clutter now. Emptying out a house that your parents have lived in for thirty or forty years is a huge project. Help your trustee out by getting rid of stuff now (see item #1 above).

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"AUTUMN TEACHES US
THE BEAUTY OF
LETTING GO. GROWTH
REQUIRES RELEASE—
IT'S WHAT THE TREES
DO."


- KA'ALA

NAVIGATING TANGIBLE PERSONAL PROPERTY AFTER A LOVED ONE'S PASSING: A GUIDE TO FAMILY DECISION (CONTINUED)

Tips for Trustees

If the documents don't give you as much clarity as you would like, here are some things to keep in mind:

1. Your job is to do what is in the best interest of all of the beneficiaries, not what is easiest for you as trustee. Make sure you give everyone a reasonable chance to look at the TPP and make their choices before you start donating or dumping.
2. Working with an estate liquidator can take a lot of work off your shoulders and remove uncertainty. They can help with sorting the TPP into sell, donate and dump piles. They have experience and know what they are looking at and who will buy it or accept it for donation. They can help with hosting an estate sale and with clearing out the house. Yes, it costs money, but it can be money very well spent.
3. If you are worried that your actions in dealing with the TPP will be questioned or objected to by one or more of the beneficiaries, get their consent to your actions in advance. Trustees can use a Notice of Proposed Action process to make sure all challengers come forward before you act.

Dealing with tangible personal property after a loved one's death can be challenging, but, if done well, it can also be an opportunity to honor their memory and celebrate their life. 



ESTATE PLANNING FOR YOUNG ADULTS By Madison Gunn

Many young adults have left home for college for the first time or have geared up to head back to college after some quality time with the family, or are even traveling or working during a gap year. People view estate planning as something that they do when they start acquiring large assets, have children, or even something to start when they retire. However, when a child turns eighteen, it is critical to get them started with their estate plans. They are no longer minors, and parents no longer have legal rights to be involved in decision making. It is important that every individual 18 and older, has, at a minimum, an incapacity plan.

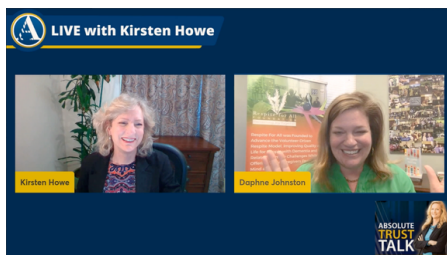
We suggest an incapacity package for every college student or young adult. A comprehensive plan would include the following:

- General Durable Power of Attorney
- Advanced Health Care Directive
- Authorization for Release of Protected Health Information


If your young adult becomes incapacitated for any reason, accident or illness, they will need a power of attorney to manage their finances and they will need a health care agent to make medical decisions for them or to access medical records. Do they need mom to get their immunization records for them while they are away at college? She will need a HIPAA waiver in order to obtain any medical records. Now that the children are eighteen, parents are no longer allowed unfettered access to their children's records.

WATCH US LIVE ON OUR ABSOLUTE TRUST TALK PODCAST

The Absolute Trust Talk Podcast is a resource to help you make informed planning decisions for today and tomorrow. Each episode delivers relatable interviews and easy-to-consume insights with actionable steps allowing you to move through your unique journey in life with intention. Tune monthly to watch Kirsten or Madison interview a featured guest LIVE on Absolute Trust Counsel's Facebook page: www.Facebook.com/AbsoluteTrustCounsel. If you miss the Facebook Live interview, you can listen to the podcast version on our Absolute Trust Talk podcast page: www.AbsoluteTrustCounsel.com/Podcast.



If a child is attending college out of state, they may want a power of attorney or health care directive that is tailored to the laws of the state where they are temporarily residing.

While an incapacity package is not what people think of in the traditional sense of an estate plan, it is a crucial piece of an estate plan and sometimes even more critical than a will or a trust. An incapacity package often eliminates the need for a temporary or permanent conservatorship that could be required in the event of a person's incapacity, saving thousands of dollars in legal fees. Knowing your young adult has an incapacity plan will bring great peace of mind. 



KNOW SOMEONE THAT NEEDS HELP GETTING STARTED WITH THEIR ESTATE PLANNING?

We're pleased to share the launch of a new monthly webinar series we began in June, Estate Planning Basics: It's Not About What You Have, It's About Being Prepared. Once a month, Associate Attorney Madison Gunn will be going live to talk about the fundamentals of estate planning, so attendees know exactly what is needed to build a plan that truly brings peace of mind. Our goal is to help people overcome the 'what ifs,' the decision-making, the fear of mortality, and even strained relationships that can be a roadblock to putting a plan in place that protects them and their loved ones – so they can stop getting stuck and just get started. The next webinar will be held on October 11th at noon. If you know someone who would be interested, please feel free to share a link to our registration page: <https://bit.ly/ATCOctoberWebinar>



SCAN TO REGISTER!

UPDATES / UPCOMING EVENTS

- Jessica Colbert is back after completing the California Bar Exam and has rejoined us at Absolute Trust Counsel in serving our community and clients. You may see her shadowing Kirsten or Madison in meetings in order to soak in all that she can.



- Absolute Trust Counsel has a new Administrative Assistant, Tiffany Gregory. Please welcome Tiffany if you meet her on the phone or at the front desk!
- Absolute Trust Counsel is participating in the Alzheimer's Association Walk to End Alzheimer's on October 28, 2023 at Bishop Ranch in San Ramon. If you see us, say hi! Here's a link to our team page:

https://act.alz.org/site/TR?fr_id=16409&pg=team&team_id=834802



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ABSOLUTE TRUST COUNSEL

2890 North Main Street, Suite 206
Walnut Creek, CA 94597
P: 925.943.2740
AbsoluteTrustCounsel.com

Presorted
Standard
U.S. Postage Paid
Concord, CA 94520
Permit 346



PERSONAL NOTE FROM KIRSTEN

Dear Clients and Other Friends,

I am sure I probably say something similar every year, but really, how did this year go by so fast? Maybe it's because the previous three years went by so Well, at least they went by.

I hope you have your Halloween costumes all planned out and your Thanksgiving plans in place. One other suggestion: if this is the year you vowed to get that estate plan updated, the good news is you still have almost three months to check that off your to-do list. Making sure your plan is current is a wonderful gift to give your family, and it's so easy to get the peace of mind that comes from knowing it's done. Just pick up the phone and call.

I'll be spending the holidays with the world's most wonderful granddaughter. It is a little early, but I hope the coming holiday season is wonderful for you, too!

Kirsten Howe
Attorney at Law

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