

Palo Alto,  
California  
Fall 2002

## THE ROLE OF GILFIX AND LA POLL ASSOCIATES IN PROTECTING YOUR FAMILY

**W**hen you think about “estate planning,” you think about wills and trusts and tax. You probably think about excessive legal-fee and the struggle to understand everything.

But what is it really about? The real objective is to protect you and your family. It is to this end that we are so strongly devoted.

**Protect the estate if you become ill.** If you become ill and have increasing care needs, the cost can be overwhelming. Nursing home care can cost \$5,500 to \$6,500 per month in our area. One’s life savings can be wiped out in one year.

If this problem is brought to us, we have solutions. We put together a plan to protect your estate and be certain that quality care is provided and will continue. This protects you and it protects your family.

*See related “Success Story” on page 4*

**Avoiding estate and other taxes.** For larger estates, estate taxes can deprive your family of hundreds of thousands of dollars, or perhaps millions of dollars. We can and routinely do put together plans to minimize or eliminate estate taxes for families with larger estates. The level of protection enjoyed by your children and grandchildren, particularly if you employ such tools as education trusts for your grandchildren, are reinforced and strengthened.

*See related “Success Story” on page 5*

**A special or problem child.** Many of us have children who present special challenges. Rather than think about a simple plan in the distribution of the estate to “all children in equal shares,” our goal is to get to know you and the needs of your family members. If you have a *disabled child or grandchild*, we would create a “Special Needs Trust” to hold money for that child without disturbing eligibility for public benefits. This trust provides a very powerful safety net so that other needs are taken care of.

You might have a *spendthrift child* who will assuredly waste any money that is directly inherited. This child’s motto: “A Lamborghini in every driveway!” You might have this child’s share of the estate held in trust for his entire lifetime. You may have a *child who is so loving and giving that she is susceptible to individuals who would take advantage of her.* A trust can be crafted to protect her, as well.

**Estate planning is not about the documents and taxes. It is about your family, your family values, and your family needs as we look to the future.** Our job is to understand all of the technicalities and be sure that your documents are properly drafted. Our special responsibility—and our joy—is to get to know you, your family members, and make sure that a plan works for you. ♦



Michael  
Gilfix, Esq.



Francis A.  
La Poll, Esq.



OPTIONAL  
ART

## DEALING WITH ALZHEIMER'S, A "QUALITY OF LIFE" DECISION

**M**r. and Mrs. P were an ideal couple in their early 50's. Relatively high income, well-educated, both in rewarding jobs. At age 52, Mr. P was diagnosed as suffering from Alzheimer's Disease.

Some years later, the decline into deeper dementia continues for Mr. P. His devoted wife did extensive research and developed an understanding of this terrible disease. She believes that he has between four and six "good years" remaining.

Mr. P has long been unable to work. Mrs. P made some critical decisions. She quit her well-paying job and they sold their home. They have purchased a home in an active senior community where the opportunity for active enjoyment and social interaction is great. They will live on Mr. P's disability and pension income.

Said Mrs. P, *"Rather than work for the next ten years and then have time to be with my husband when he is deep in dementia, I decided to spend our remaining good years together. I can work later."*

How terribly difficult this decision was, in that it eschews longer term financial security in favor of enhanced quality of life for the next four to six years.

The decision made by Mrs. P was not an easy one and, she cautions, it is not for everyone. There is, however, a lesson for all of us. ♦

### A GRATIOUS COMMENT FROM ONE OF OUR CLIENTS

"I am so impressed with this firm. You do quality work. You showed such understanding of my difficult situation that I felt tremendous relief after working with you. Your staff always went the extra mile."

Sincerely, D.R.  
August 8, 2002



## MICHAEL GILFIX JOINS KGO'S LEN TILLEM ON "LAWTALK."

**A**ugust 11, 2002, Michael made his second appearance on Len Tillem's KGO radio program.

Michael addressed questions—both from callers and from Len—about Special Needs Trusts for disabled family members, protective steps to save their residence from a Medi-Cal estate claim, and numerous questions regarding trust administration and how to protect trusts from challenges.

So successful was this program, that Michael Gilfix will again appear on Tillem's "Lawtalk" in the near future. ♦



## WHEN THERE IS A DEATH IN THE FAMILY

**I**n the best of circumstances, death is traumatic for family members. Questions about the estate usually come to mind. These questions should be answered so they do not lead to worry and distress. We offer the following abbreviated checklist:

1. Pay no bills that arrive in the name of the decedent - scam artists often send fake bills with the expectation that they will not be reviewed.
2. Cancel all credit cards held in the name of the decedent.
3. Locate all estate planning documents and keep them in a safe, centralized place.
4. **Call Gilfix & La Poll Associates to have immediate questions answered and to schedule an appointment.**
  - If the decedent had a revocable trust, the trust must be administered; many formal steps must be taken.
  - If the decedent had only a will, the probate process must be commenced in a timely manner.

Remember, it is an unfortunate myth that nothing has to be done after death if an individual had a trust. Tax and other advantages must be secured in the trust administration process. The rights of beneficiaries have to be protected. The trustee has a high level of fiduciary responsibility. ♦



## WONDERFUL SUCCESS STORIES

### "DEATH BED" TAX PLANNING

**M**r. T was dying. He had approximately three weeks to live. He believed that he did all necessary estate planning because he did a living trust. He believed that his trust protected his estate from tax.

In fact, Mr. T's \$4 million estate would owe \$1.5 million in estate taxes upon his death.

Problem: Mr. T did not know that a living trust does no estate tax planning whatsoever for a single person. He can pass along up to \$1 million without estate tax exposure with or without a trust. Since his death will occur in the year 2002 or 2003, anything above \$1 million is exposed to estate taxes of at least 41%.\*

*"I can't believe you achieved so much. I am truly stunned."*

Gilfix and La Poll Associates became involved on an emergency basis. **Over the next two weeks, Gilfix and La Poll Associates tax attorney Francis A. La Poll developed and implemented a plan that avoided over \$1 million in estate tax.** He utilized the concept of "fractional discounts" and a family limited partnership to achieve dramatic discounts in the value of Mr. T's estate for estate tax purposes.

There are two lessons here. First, do your planning *in advance*. Secondly, if you fail to do so, *it is never too late*. While we strongly recommend the former, we are available at the proverbial 11th hour to take whatever protective steps remain available.

When the attorney who referred the case to Gilfix and La Poll Associates learned of our success, she was more than mildly surprised. "I can't believe you achieved so much. I am truly stunned." ♦

\* Note that the level of estate tax protection increases to \$1.5 million in 2004, to \$2 million in 2006, to \$3.5 million in 2009, and that it is eliminated **only** for deaths occurring in 2010.



## **A MIRACLE-SAVING THE HOME AND THE MONEY FOR A DESPERATE DAUGHTER**

**J**ill is 54 years of age and, although educated as an engineer, is unable to work as a professional. She does occasional work through a “temp” agency, but is unable to hold a job. She is nervous, physically limited, and lived with her mother for the past 20 years.

Jill’s mother, Mrs. W, entered a nursing home in July of 2002. Mrs. W’s real property—a house located in Los Angeles—was not her “residence” so Medi-Cal eligibility to pay the cost of nursing home care was not available. Mrs. W’s will specifically provided that the Los Angeles house was to go to Jill. Mrs. W’s son was to receive very little since he was economically successful while her daughter was economically desperate.

Mrs. W completely lacks capacity and cannot communicate in any way.

*“If I lost the house, I don’t know what I was going to do. I am so grateful.”*

Gilfix and La Poll Associates attorney Valerie Logsdon therefore went to Court to achieve what Mrs. W wanted for her daughter. Ms. Logsdon obtained a Court Order allowing for the transfer of the Los Angeles property to Jill. The Order, signed by the Judge in October of 2002, also provided for the transfer of a portion of Mrs. W’s remaining cash assets (approximately \$90,000) to her two children. After a short period, the Medi-Cal program will be available to pay the cost of nursing home care for Mrs. W.

Most importantly, the house was saved for Jill. “If I lost the house, I don’t know what I was going to do. I am so grateful,” said Jill after learning that her Gilfix and La Poll attorney was successful in court and on her behalf. ♦

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## WATCHING MICHAEL GILFIX

**M**ichael Gilfix accepts a limited number of speaking engagements each year that require travel - he likes being at home.

We thought you would be interested in some of the speaking engagements Mike has accepted recently. They include:

- (1) American Institute for Philanthropic Studies ..... Long Beach
- (2) National Academy of Elder Law Attorneys ..... Albuquerque
- (3) American Institute of Certified Public Accountants ..... Toronto
- (4) Peninsula Estate Planning Council ..... San Mateo
- (5) KGO Radio "Legaltalk" with Len Tillem ..... San Francisco

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## GILFIX & LA POLL ASSOCIATES

### SERVICES

#### *Asset Preservation and Peace of Mind Through Estate Planning*

Gilfix & La Poll Associates' attorneys specialize in legal planning that is highly sophisticated and sensitive to the needs of older Californians.

Recommended services include:

- **Living Trusts That Avoid Probate**
- **Wills and Probate Management**
- **Estate ("Death") Tax Avoidance**
- **Advance Health Care Directives**
- **Tax and Estate Planning for Owners of Family Businesses and Larger Estates**
- **Medi-Cal Planning**
- **Elder Abuse Actions**
- **Trust Disputes**
- **Will Contests**