

Palo Alto,
California
Fall 2003

PLANNING TO PROTECT OUR FAMILY MEMBERS – THE FAMILY PROTECTION TRUSTTM



Michael
Gilfix, Esq.

Our work focuses on the protection of assets for the benefit of our clients and their family members. It takes many forms – planning to achieve Medi-Cal coverage for nursing home care, planning to avoid estate tax and capital gains tax.

We believe that our new Family Protection TrustTM will play a critical role in protecting your estate for the benefit of your children, grandchildren, and other progeny.

This trust is designed to provide protection for assets your children inherit from you in three critical areas:

1. Litigation and creditors – Even if your child is sued and loses, assets in this trust should be safe from the creditor.
2. Divorce – In the event of divorce, assets in this trust should be safe from any claims by the other spouse.
3. Estate tax avoidance – Assets in this trust are not included in the taxable estate of your children, thereby avoiding estate tax exposure.

This is an *irrevocable trust*, which you create now and into which will be transferred the portion of your estate that is devoted to a particular child. For example, you have a \$1 million estate and \$500,000 will go to one of your two children. Rather than leave it directly to her, you place it in this trust for her benefit. Everything in the trust is available to address her needs and, more generally, to protect her. Assets left in this trust at the time of her death are passed along to her children with these same important benefits.

Who will be the trustee of this trust? Your daughter can be the trustee of her own trust.

We believe that the use of this trust is appropriate for the vast majority of our clients. It is for the reliable, responsible child that such a trust is established. In summary, the money is there for her **and it is protected for her lifetime**.

I suggest that you call and make an appointment with your Gilfix & La Poll Associates estate planning attorney. You will want to learn more about this trust and how it can be an integral part of your estate plan. Think of it as another gift to your children! ♦



Francis A.
La Poll, Esq.

UPCOMING MIKE GILFIX AND LEN TILLEM MEDI-CAL AND TRUST SEMINARS:



Len Tillem

Mike Gilfix

September 25, 2003

9:30 a.m.-11:00 a.m.

Santa Clara Marriott

Salon #6 California Room

2700 Mission College Blvd.

Santa Clara, CA

(408) 988-1500

September 25, 2003

2:30 p.m.-4:30 p.m.

Embassy Suites

Burlingame-Santa Cruz Room

150 Anza Blvd.

Burlingame, CA

(650) 340-0327



LITIGATION SERVICES AVAILABLE Introducing Stephen M. Vernon, Esq.

On hundreds of occasions over the past years, Gilfix and La Poll Associates attorneys have been asked if we can provide help with litigation or other forms of dispute resolution. To better serve you, an experienced, skillful, and highly-successful litigation attorney now leads our Litigation Department.

Meet Stephen M. Vernon, a 1978 graduate of the Stanford Law School. Mr. Vernon's consistent history of success is powerfully reinforced by Gilfix & La Poll Associates's 20 years experience in the areas of estate and tax planning and elder law.

In conjunction with Gilfix and La Poll Associates, Mr. Vernon is available to you in the following areas:

- Will contests and trust litigation.
- Real property and construction disputes.
- Business disputes
- Elder abuse.
- Medical or nursing home malpractice and disputes.
- Contested conservatorships.

Mr. Vernon can be reached at the main Gilfix & La Poll Associates telephone number – 650-493-8070. ♦

GILFIX & LA POLL ASSOCIATES CO-SPONSORS AUTISM CONFERENCE

Gilfix and La Poll Associates is proud to announce that it is a sponsor of a conference on "Autism Spectrum Disorders" presented by The Morgan Center of Santa Clara, California. The conference is entitled, "Autism, Where Are We Today?"

The date of this conference is Saturday, September 27, 2003 and it is being held at Santa Clara University. If you have questions or would like to attend this conference, contact The Morgan Center at 650-948-6834. ♦



MEDI-CAL RULES MAY CHANGE; STRICTER RULES EXPECTED

We have been informed that new Medi-Cal regulations will be issued by the California Department of Health Services (DHS) in December, 2003. While we cannot be certain, we expect these new regulations to substantially modify rules that pertain to the transfer of assets and eligibility for the state Medi-Cal program.

Medi-Cal is important because it is the only program that can pay the on-going cost of nursing home care for qualifying individuals. If someone in your family is in a nursing home or faces nursing home care, it is prudent to act now, while the law is supportive and relatively flexible. With good planning, for example, the residence can be saved. Most other assets can be saved, as well.

Importantly, we do not expect rule changes to be retroactive. While the state could make some rule changes retroactive, it has not done so in the past. We believe, in other words, that planning steps taken before new rules go into effect will not present a problem with obtaining or maintaining eligibility for the state Medi-Cal program.

We will carefully track all such changes in the state Medi-Cal program for the benefit of our clients and our community. ♦



VULNERABILITY Insurance Exclusions

Many life insurance policies exclude coverage if death occurs in either an act of war or an act of God. Carefully review the definition of “war” on the context of your policy. Does the battle in Iraq qualify as a war for purposes of your life insurance policy? What about acts of terrorism? We do not want to think about such issues, but today’s reality indicates that we must.

Similarly, consider the terms of your Homeowner’s Insurance and your automobile insurance policies. Do they have special exclusions if events occur in the context of either terrorism or other types of disasters?

We all receive so many supplemental mailings from our insurance companies that we cannot keep track of them. They typically give us a wonderful greeting and then proceed to limit and further limit the coverage that they are providing. They do not offer a reduction in the premiums.

All of this language could have a profound impact on our family members if a tragedy befalls. ♦



GILFIX & LA POLL SUPPORTS OUR COMMUNITY

Staff members at Gilfix & La Poll Associates serve on many Boards of Directors for non-profit, community-based organizations. We also help community organizations with financial contributions.

- We have provided a sponsorship gift to California Advocates for Nursing Home Reform (CANRH) for its 20th Anniversary celebration in San Francisco, California.
- We were the exclusive and Premier Event Sponsor for the Heritage Club Dinner of the YMCA for the Mid-Peninsula, which took place in Palo Alto, California on May 12, 2003.
- We are a sponsor of the September 27 conference of the Morgan Center, which serves individuals who are afflicted with autism and their family members. The conference title is, "Autism – Where Are We Today?" ♦

WHEN THERE IS A DEATH IN THE FAMILY

In 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. ♦



KEEP MY MOM AT HOME

Mrs. M. suffers from Alzheimer's Disease. Although she is not in the final stage of the disease, she is completely dependent upon others for the basic necessities of life. Most people in her situation find themselves in long-term care facilities.

Mrs. M. has two children, one of whom is financially secure. Both of her children are deeply devoted to her.

One son, Dan, is financially successful and insists on paying for his mother's cost of home care above and beyond her fixed monthly income. He does this even though his mother has her own assets. Dan also wants his mother's entire estate, worth over \$500,000, to go to his brother, who is less financially secure. Since Mrs. M. no longer has capacity and cannot change the terms of her trust (which provides for the equal distribution of her estate to both of her sons), Dan will "disclaim" his share of the inheritance so that everything will go to his brother.

Dan wants one other thing. With the total support of his brother, Dan has accepted complete responsibility for his mother's healthcare decision making. While both sons share a deep devotion to their mother, Dan has the time to be involved on a daily basis.

We at Gilfix and La Poll Associates often speak about values and what families are all about. We feel that Mrs. M., a victim of Alzheimer's Disease, is deeply blessed. ♦



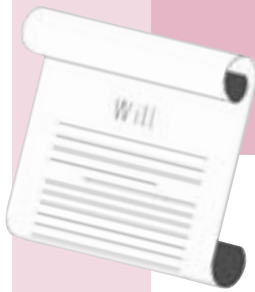
STATE PAYMENT LEVEL FOR NURSING HOMES STABLE

In April of 2002, Governor Wilson proposed a 15% decrease in the level of payments to physicians, nursing homes, and other identified providers of services to Medi-Cal recipients. The nursing home industry vehemently opposed this diminution in the level of compensation for the care of a Medi-Cal recipient. Advocates for elders did the same thing, fearing that the drop in the level of compensation would cause some nursing homes to abandon Medi-Cal and exclusively serve "private pay" patients.

Fortunately, it was announced on May 28, 2003 that this cut has been restored and that no decrease in the level of compensation will be experienced.

In practical terms, this means that California's nursing homes will not be given less money to care for Medi-Cal patients. This, in turn, means that the "supply" of nursing home beds for Medi-Cal recipients should be undiminished.

This is good news for the nursing home industry and for consumers alike. ♦



UPCOMING ESTATE PLANNING SEMINARS:

SPONSORED BY COUNTRY HOME CARE:

Legal Seminar for Seniors

October 22, 2003

1:00 - 4:00 p.m.

Monterey Conference Center

Steinbeck Forum

Monterey, CA

SEMINARS SPONSORED BY THE YMCA OF THE MID-PENINSULA:

October 8, 2003

1:00-3:00 p.m.

El Camino YMCA in Mountain View

January 21, 2004

1:00-3:00 p.m.

El Camino YMCA in Mountain View

November 17, 2003

1:00-3:00 p.m.

Palo Alto Family YMCA

February 12, 2004

10:00 a.m. - 12:00 p.m.

Sequoia YMCA in Redwood City

December 3, 2003

2:00-4:00 p.m.

Palo Alto Family YMCA

UPCOMING MICHAEL GILFIX SPEAKING ENGAGEMENTS:

October 13, 2003

8:00 - 9:00 p.m.

Special Needs Trusts

NAMI Talk

National Association of the

Mentally Impaired

Agilent Technology

4301 Stevens Creek Boulevard &

Lawrence Expressway

Santa Clara, CA

October 15, 2003

12:00 - 1:00 p.m.

Asset Protection Through Proactive

Estate Planning

Stanford University Campus

Oak East Room

Tresidder Union Hall

Stanford, CA



Address Service Requested

WATCHING MICHAEL GILFIX

Michael 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) El Camino YMCA inMountain View
- (2) Special Needs Trust - NAMI TalkSanta Clara
- (3) Asset Protection Through Proactive Estate PlanningStanford

See page 7 for details.



Printed on
recycled
paper

ELDERLAW™ Newsletter - Fall 2003
Published by Gilfix & La Poll Associates
4151 Middlefield Road, Suite 213, Palo Alto, CA 94303
(650) 493-8070

©Reproduction in whole or part without written permission is prohibited.
Elderlaw™ is a trademark of Gilfix & La Poll Associates registered in the State of California.
The contents of this newsletter do not constitute legal advice and cannot be relied upon without attention to your individual situation by a Gilfix & La Poll Associates attorney.

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