Client and Friend Newsletter

February 2025

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Law Offices of Beth A McDaniel
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Updates from Washington DC. By Beth A McDaniel, JD, CLEA

This past week I had the privilege of being in Washington DC for a board meeting of the National Academy of Elder Law Attorneys (NAELA). Last year I was honored to be asked to apply and join the board as a director. During the first day of meetings, the board...

Cont. on pages 2-3

February is Heart Health Awareness Month

February is heart health month. Since 1950, heart disease has been the leading cause of death in the United States. Key risk factors for heart disease include high cholesterol, hypertension, smoking, diabetes, having an unhealthy body weight, excessive alcohol consumption, and not engaging in adequate physical activity.

Fortunately, there are several lifestyle choices which can reduce heart disease risk including eating healthy meals, exercising more, reducing drinking, and quitting smoking. For more information, including how to recognize heart attack symptoms, go to the American Heart Association's website, heart.org.

Important Information Regarding Revocable Living Trusts.

The impact of the widespread devastation caused by last month's fires in Los Angeles County is incomprehensible. According to estimates, over 12,000 homes and structures were destroyed, and the estimated economic..

Continued on pages 3-4

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CONT: UPDATES FROM WASHINGTON DC.

...the board had an opportunity to be briefed by our political consultants as to current political happenings in Washington DC. I do not envy their jobs as, with the new administration, there are near daily adjustments. Here are a few things I noted from their remarks:

- The current administration would like to repeal the federal estate tax; however, as, under the law, every tax cut must be met with a new equal revenue source, this is unlikely as the federal estate tax generates so much revenue.
- Similarly, there is a desire to eliminate 'Medicaid estate recovery,' which occurs when someone who received Medicaid dies and has a home which can be sold to reimburse the government for what it paid towards Medicaid benefits.
- Medicaid recovery and estate tax have in common that they impact the next generation's wealth. It will be interesting to see what changes are made to Medicaid estate recovery and the federal estate tax.
- I have written several times about required disclosures under the corporate transparency act regarding corporations' beneficial owners. On January 23, 2025, the US Supreme Court lifted the prior injunction imposed by the Texas Court which prevented enforcement of the reporting requirement. Regardless of the US Supreme Court ruling, the reporting requirements are currently paused, awaiting the March 25, 2025, oral arguments in the Fifth Circuit Court of Appeals regarding the act's constitutionality.

There is an additional reporting requirement scheduled to take effect December 1, 2025, in which

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Cont: Updates from Washington DC.

certain real estate professionals are required to disclose non-financed transfers of real estate to the finCEN, which apparently will include transfers of real estate to a trust or business entity like a limited liability company. I will do my best to keep you informed regarding whether this law will go into effect, who is affected, what will be required to comply, and the consequences of not reporting.

cont. Important Information Regarding Revocable Living Trusts.

damage is over $250 billion. Tragically, there may be further financial devastation to affected homeowners based upon how their homes were titled.

If you are familiar with the probate system in California, you know that it is expensive and time consuming. Unlike our state, where probate attorneys are entitled to a reasonable fee for services, typically based upon hours incurred, in California, probate attorneys are entitled to a percentage fee of 7-10%, based upon the value of the assets. As a result, anyone in California who knows anything about estate planning typically has a revocable living trust to avoid probate.

Over the past several weeks, I have seen sobering posts in social media groups from California attorneys about possible impediments from property casualty carriers when destroyed houses were insured solely in the homeowners' names versus in trusts' names. As harsh as it sounds, it is possible for a property casualty carrier to deny coverage if a house is titled in the

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CONT. Important Information Regarding Revocable Living Trusts.

name of a revocable living trust but insured in the homeowners' names (i.e., per the property casualty carriers, the homeowners did not actually own the homes).

I am not personally aware of court cases involving this issue; however, there is at least one court case involving a transfer on death deed and denial of coverage by a property casualty carrier. In that case, a major property casualty carrier insured a homeowner. Prior to his death, the homeowner executed a 'transfer on death deed' which would immediately transfer his interest in the residence to his daughter upon his death. Within two days of his death, the homeowner's ex-wife burned the residence down. The property casualty carrier successfully argued on appeal that, as ownership of the residence automatically transferred to the homeowner's daughter upon his death and the daughter was not the insured, the homeowner's property casualty carrier did not have to cover the loss.

In short, to avoid difficulties with your property casualty carrier upon the damage or destruction of your residence due to fire, earthquake, or another catastrophe**, if you have a revocable living trust, you must contact your property casualty carrier to add your revocable living trust as an insured to your homeowner's policy**. This is so important that I have instructed my staff to not record a deed, which retitles a real property into a trust, until we have confirmation from the client that the trust has been added as an insured to the client's homeowner's policy. This can be done by providing the property casualty carrier with a copy of the certification of trust.

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If have questions or wish to make an appointment, please contact our client care coordinator, Margo Passeau, at (425) 296-3121 or margo@bethmcdaniel.com.

Disclaimer: this newsletter is informational only and should not be construed as legal advice.