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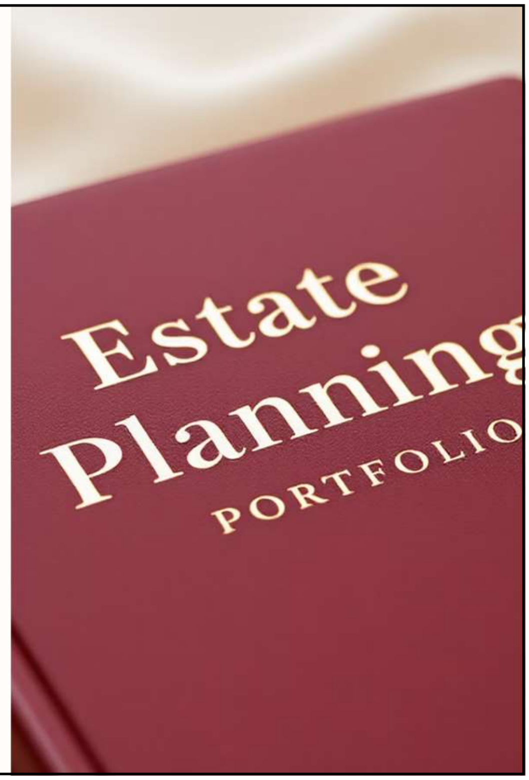
How to Fund Your Trust - Funding Workshop

Presented by: Rianne Lu

Attorney email: rianne@attorneyoffice.com



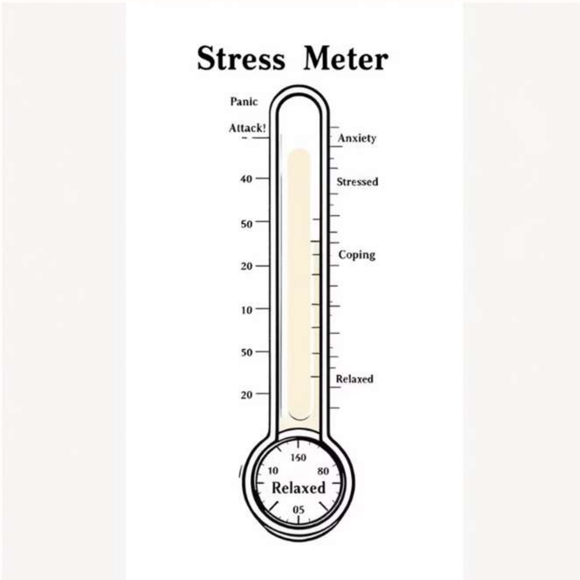
Workshop Agenda

Introduction

Hi, I'm Rianne Lu, Attorney

Funding – Overview

- **Real Property**
- **Financial Accounts**
- **Retirement Accounts**
- **Other Assets**



Number one Rule of Funding

Do not panic!

Fund one asset at a time

What is a Living Trust?

A Living Trust is a document

A legal document that establishes the framework for your estate plan.

Manages assets titled in in the name of the Living Living Trust

Only assets properly transferred to the trust can be managed by it.

Think of the Living Trust as a Treasure Box

Everything that is moved into the treasure box (Trust) is managed by the terms of that treasure box (Trust). The Trust cannot manage assets that are left out of it.

What is Funding?

✓ **Funding is the process of moving assets into the Treasure Box (Trust)**

Why is Funding Important?

Why Is It Important to Fund My Trust?

- Effectiveness of the Trust
- Avoiding PROBATE (effective April 1, 2025)
  - $208,850 California Limit
    - Exceptions: assets held in trust, assets with beneficiary designation, assets held jointly
  - Real Property
    - $750,000 Primary Residence limit

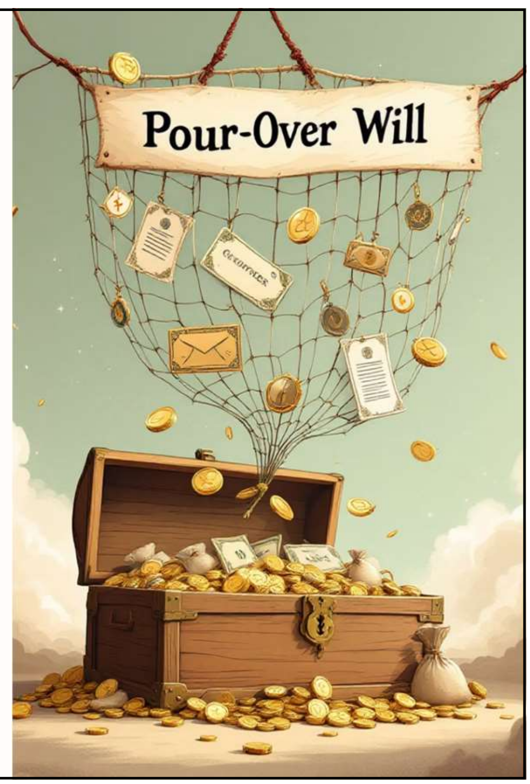
Not Included in Trust

- Retirement Accounts
- Annuities
- Most Automobiles
- International Assets

What About My Pour Over Will ?

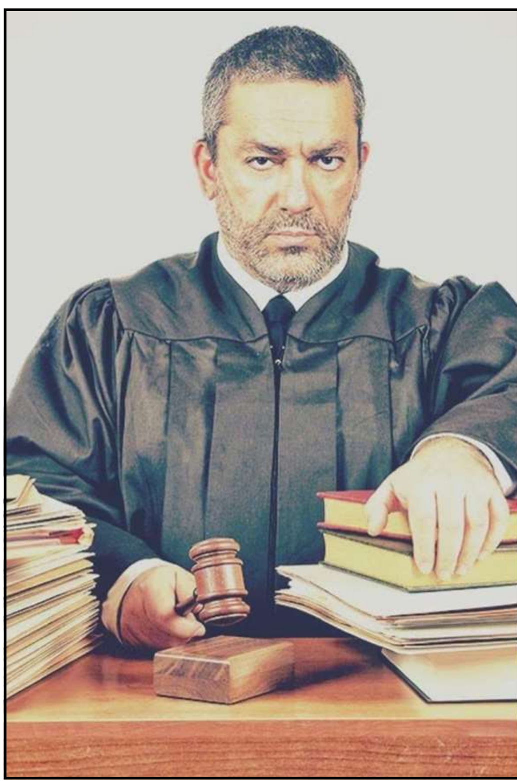
—> Pour Over Will is a safety net

- Catches assets that are:
  - Not in a Living Trust
  - Have no beneficiary listed
  - Have no one else on title
- "Pours" them into the Trust
- Requires Court Intervention



What About My Schedule A?

- List of assets you currently own
  - Information for Trustees
  - Show intent for court (just in case)
- Schedule A is NOT funding your Trust
- Keep updated as you acquire or sell assets
- Free forms on our website: www.attorneyoffice.com



Be PROACTIVE!

YOU can fund your trust

OR

the COURT can do it

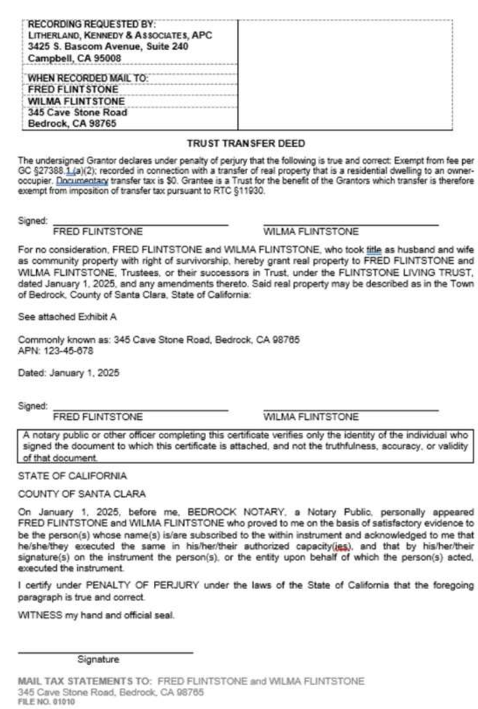
Real Property

Your real property in the United States should be in be in the name of the Trust

Real Property Funding

- Transferred by Deed
  - Buy in the name of the Trust
  - Transfer to the Trust
- Deed <u>must</u> be recorded
- Re-titling does not trigger re-assessment of property taxes

- **REMINDER:** We are here to help!



RECORDING REQUESTED BY:
LITHERLAND, KENNEDY & ASSOCIATES, APC
3425 S. Bascom Avenue, Suite 240
Campbell, CA 95008

WHEN RECORDED MAIL TO:
FRED FLINTSTONE
WILMA FLINTSTONE
345 Cave Stone Road
Bedrock, CA 98765

TRUST TRANSFER DEED

The undersigned Grantor declares under penalty of perjury that the following is true and correct: Exempt from fee per GC §27388.1(a)(2); recorded in connection with a transfer of real property that is a residential dwelling to an owner-occupier. Documentary transfer tax is $0. Grantee is a Trust for the benefit of the Grantors which transfer is therefore exempt from imposition of transfer tax pursuant to RTC §11930.

Signed: ____________________ ____________________
FRED FLINTSTONE WILMA FLINTSTONE

For no consideration, FRED FLINTSTONE and WILMA FLINTSTONE, who took title as husband and wife as community property with right of survivorship, hereby grant real property to FRED FLINTSTONE and WILMA FLINTSTONE, Trustees, or their successors in Trust, under the FLINTSTONE LIVING TRUST, dated January 1, 2025, and any amendments thereto. Said real property may be described as in the Town of Bedrock, County of Santa Clara, State of California:

See attached Exhibit A

Commonly known as: 345 Cave Stone Road, Bedrock, CA 98765
APN: 123-45-678

Dated: January 1, 2025

Signed: ____________________ ____________________
FRED FLINTSTONE WILMA FLINTSTONE

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA

COUNTY OF SANTA CLARA

On January 1, 2025, before me, BEDROCK NOTARY, a Notary Public, personally appeared FRED FLINTSTONE and WILMA FLINTSTONE who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

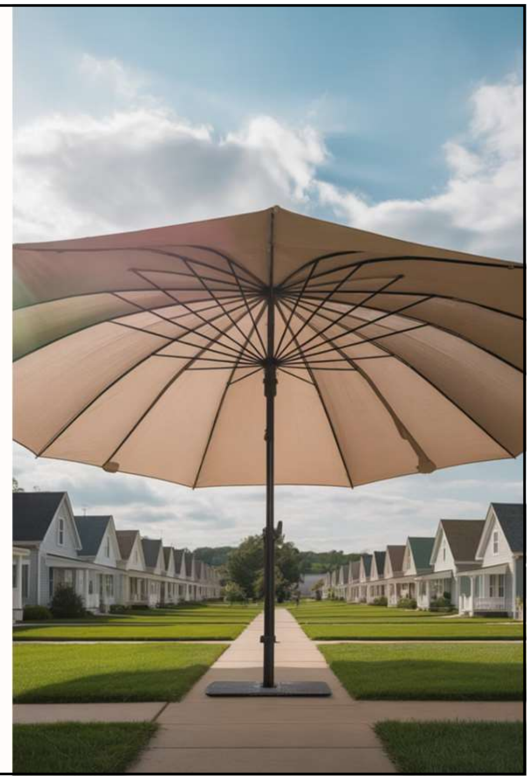
WITNESS my hand and official seal.

____
Signature

MAIL TAX STATEMENTS TO: FRED FLINTSTONE and WILMA FLINTSTONE
345 Cave Stone Road, Bedrock, CA 98765
FILE NO. 01010

Insurance on Real Property

1. Contact insurance carrier
   - Homeowner, Fire, Flood, Earthquake
2. Add the Trust as an additionally insured
   - Otherwise, carrier may deny coverage



Other Issues with Real Property Property

- Refinancing
- Timeshares
- Out of state property
- Undeveloped land

Accounts with Financial Institutions

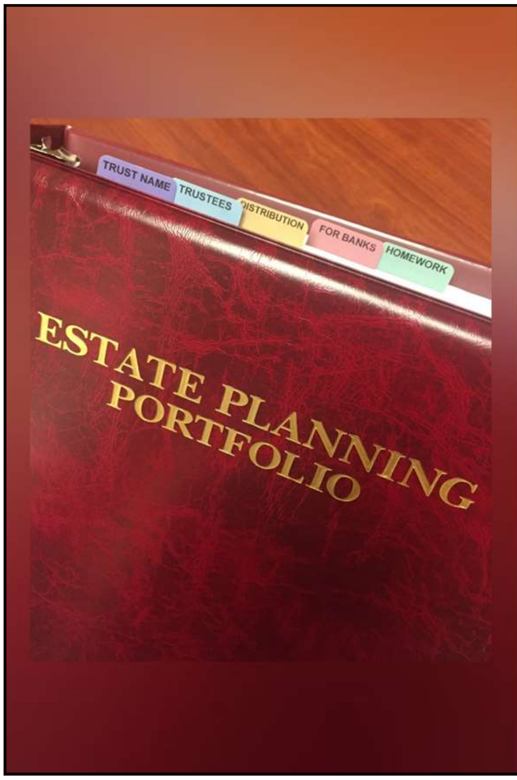
Types of Accounts

In most situations, your accounts with banks, credit unions, and financial institutions should be in your Trust

- Checking
- Savings
- Certificate of Deposit (CD's)
- Brokerage Accounts

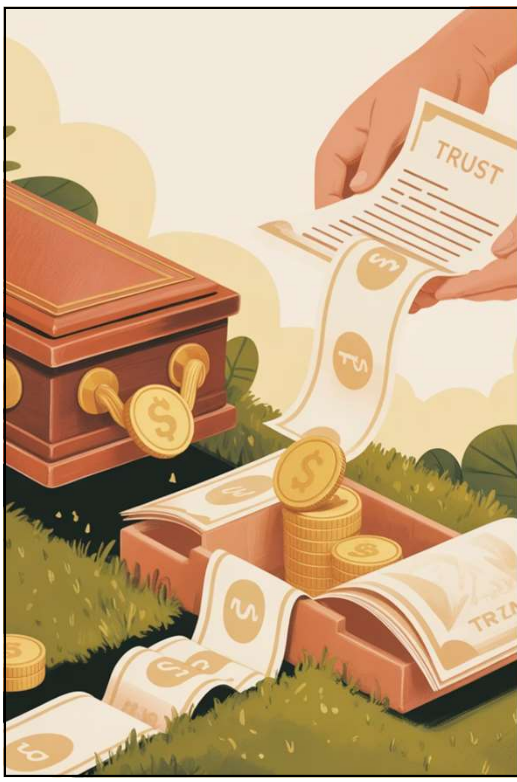
Funding Accounts

1. Call the financial institution
2. Find out what they require
    - Copy of entire Trust?
    - First & last page of Trust?
    - Summary document?
        - Certificate of Trust
    - Their own form?



Certificate of Trust

- Two-page summary document
- Everything the financial institution needs to know about your Trust to move your account into your Trust
- Tabbed **"For Banks"** (since 2013) in your reference Estate Planning Portfolio (big red binder)



P.O.D. or T.O.D.

Beneficiary Designations

Pay on Death (P.O.D.) or Transfer on Death (T.O.D.)

- Moves the assets at your death
- No court involvement
- You can list named individual beneficiaries
- or you can list your Trust

Set up with your financial institution

Brokerage Accounts

- Brokerage firms use their own form
- Forms may seem intimitading
  - See 'Trustee Powers' section

Certificate of Deposit

- Wait until CD matures
- Otherise, interest penalties
- Designate P.O.D. beneficiary

Joint Assets

(A CAUTIONARY TALE)

- Joint Assets = accounts or real property held with a 'Trusted Loved One'
  - Co-owner of thet asset
  - Subject to your loved one's creditors
  - No requirement to share or equalize with other beneficiaries

Retirement Accounts

- See 'Client Disclosures and Consents'
  - In your reference Estate Planning Portfolio (big red binder)
  - Recommendation for your specific situation

Retirement Accounts

- SHOULD **NOT** BE TRANSFERRRED TO OR TITLED IN THE NAME OF THE THE TRUST
- ALL qualified retirement plans
  - IRA's
  - KEOGH's
  - 401(k)'s
  - 403(b)'s
  - Pensions
  - Annuities

The "SECURE" Act - SECURE 2.0 effective 2023

(The Setting Every Community Up for Retirement Enhancement)

- **Lifting age cap for IRA contributions**
  - Those who are working longer can continue saving for retirement
- **Required Minimum Distributions ("RMDs")**
  - Secure Act 2.0 increased RMD age to 73 years of age
- **Non-Spouses Inheriting**
  - Eliminates life expectancy "stretch"
  - Full payout from inherited retirement within 10 years
    - Exceptions: Spouse, Disabled, Chronically ill, Individuals not more than 10 years younger, Certain minors until the age of majority

Retirement Accounts

Generally, if MARRIED, primary beneficiary = SPOUSE SPOUSE

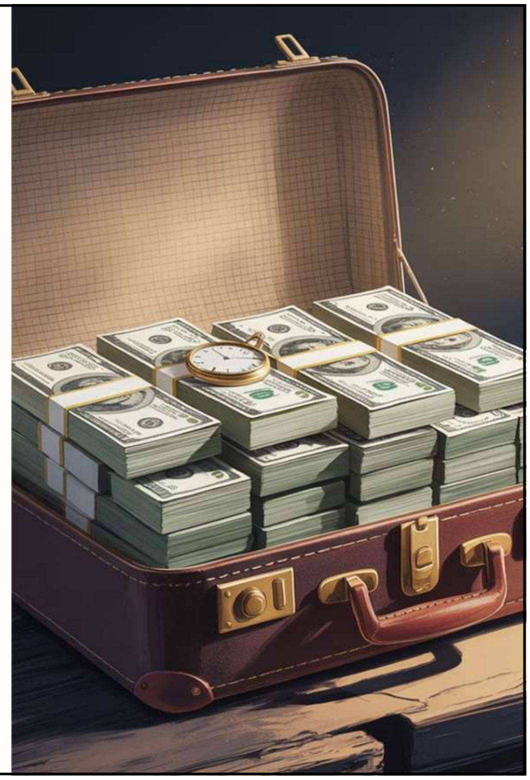
- Spousal rollover

Retirement Accounts

- **Secondary or contingent beneficiary = Trust**
  - Trust protections
- NOT recommended to list children or named individuals as beneficiaries
  - Excluding future born children
  - Minor children - access at 18
  - No Trust protections

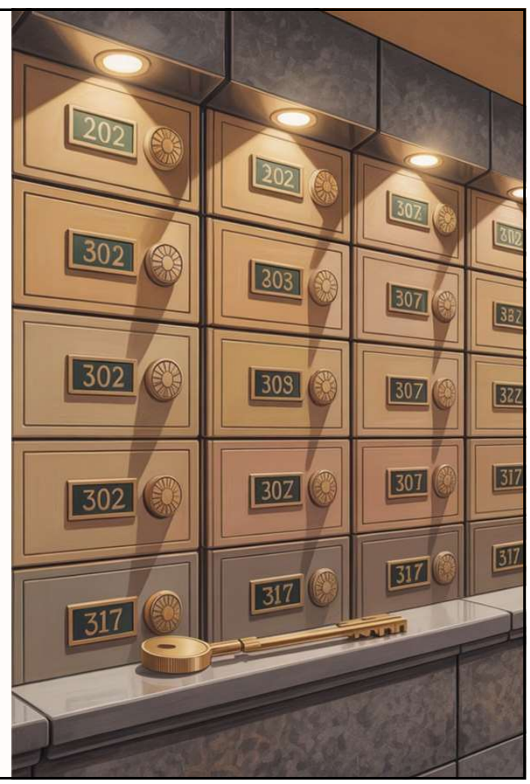
Other Assets

- Safe Deposit Box
- U.S. Savings Bonds
    - Treasury Direct Account
- Business Interests
- Life Insurance



Safe Deposit Box

- Title in Trust
- Successor Trustee gets access when needed
- Risk of joint ownership

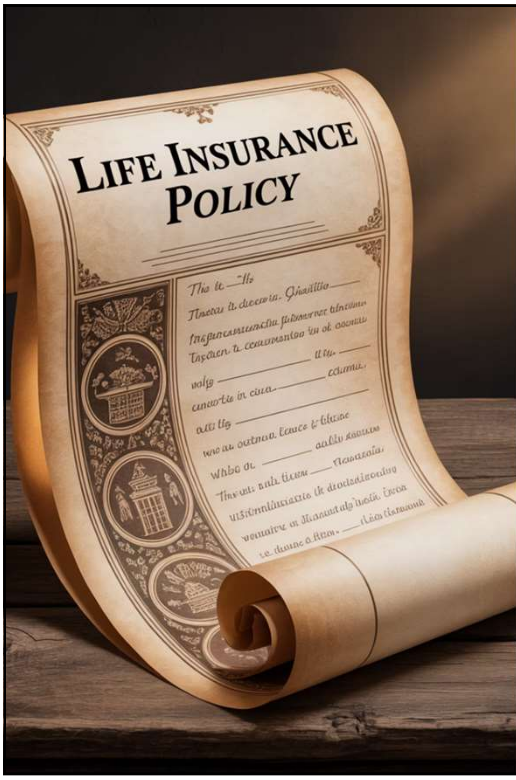


U.S. Savings Bonds

- US Treasury has gone digital
- Treasury Direct (www.treasurydirect.gov)
- Treasury Form PDF 1851
- Medallion signature guarantee
    - Special notary seal

Business Interests

- **Partnerships, Corporations, Limited Liability Companies (LLCs)**
    - Contact the general partners or managers
    - Approval may be needed from:
        - General Partner(s)
        - Manager(s)
        - All participants
        - Most participants
        - None
- **General Assignment of Business Interest**



Life Insurance

- Beneficiary = Trust
  - Trust protections
- Owner
- Employer Sponsored
  - won't allow you to transfer into Trust

Miscellaneous

- Personal Property
  - See General Assignment of Property in the Estate Planning Portfolio (big red binder)
  - Gifts of Personal Property
  - Not included in funding, UNLESS…
    - Registered titled assets exceeds $208,850 limit (e.g. collectibles car, sailboat, helicopter, yacht, airplane, grand piano, artwork, expensive jewelry …)

RECAP: Three Stages of Funding Funding

1. **Tally**
   - Inventorying all assets (e.g. Asset Book)
2. **Transfer**
   - Process of changing title from the individuals to the trust (e.g. Deeds)
3. **Track**
   - Process of tracking all asset transfer to make sure title has been properly changed (e.g. Beneficiary forms)

Funding

Generally…

- You maintain control
- Neither increases, nor decreases liabilities
- Tax returns filed the same
- Cannot shelter assets from YOUR creditors
- Ownership of asssets outside the trust limited to $208,850 (on or after April 1, 2025)

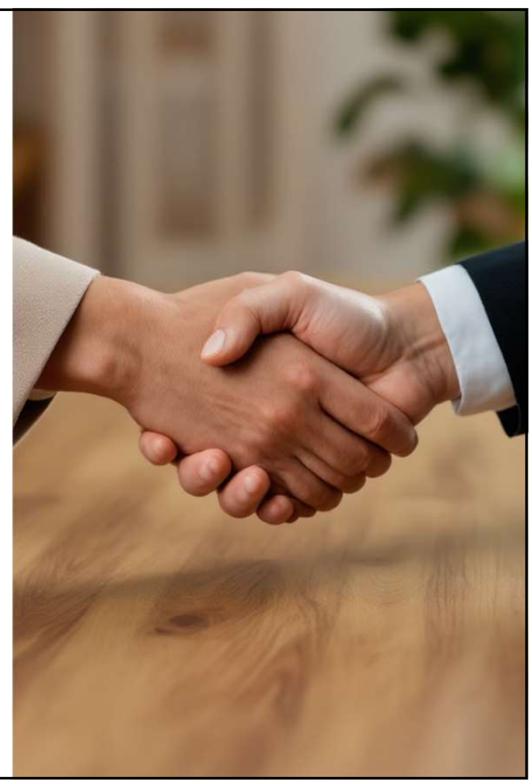
Next Steps…

- Are all your assets funded?
- If not, what do you need to do?
  - Schedule A
  - Call financial institutions

CONFIDENCE

Who do you trust?

COMPREHENSIVE LIVING TRUST ESTATE PLANS • PROBATE • GERIATRIC CARE SERVICES • TRUST ADMINISTRATION
Litherland, Kennedy & Associates
Attorneys at Law
CELEBRATING 50 YEARS
EST. 1975



Roy W. Litherland

- Retired founder of Litherland, Kennedy & Associates
- Founded the Law Office in 1975 with the goal of providing quality legal services and education in the Bay Area.
- He is happy to go fly fishing, camping, wood turning, hiking, doing volunteer work and spending time with his beloved wife Carol.

Justin M. Kennedy

- **Certified Specialist in Estate Planning, Trust and Probate Law** by the State Bar of California Board of Legal Specialization
- Attorney with the Law Office since 2011
- Attorney at Law since 2010
- Juris Doctor, with a **Tax Concentration**
- University of Pacific, McGeorge Law School
- Bachelor of Arts in Political Science and History, University of California, San Diego
- Member and Designated Fellow, American Academy of Estate Planning Attorneys
- Super Lawyer: 2024

Anastasios George "A.G." Konstantin

- **25 years experience** in estate planning, trust administration, probate and litigation
- Attorney at Law since 1998
- Bachelor of Science, California State University Hayward
- Juris Doctorate, Golden Gate University in San Francisco
- Groups:
  - General Counsel AHEPA
  - President, Greek Orthodox Church Oakland
  - AAU Basketball Coach

Hi! I'm Rianne.

Attorney Rianne C. Lu

- Juris Doctor, with a Tax Concentration, University of California College of the Law, San Francisco (formerly UC Hastings)
- Bachelor of Science in Operations and Management Information Systems, Santa Clara University
- Member, American Academy of Estate Planning Attorneys
- Member, Silicon Valley Bar Association

What did you say about…?

- We just covered a lot of material
- In the future, if you have questions…
- We do not charge for:
  - Phone calls
  - Emails
  - In-office consultations
- We only charge when we prepare new legal work