MANGRUM & MANGRUM, LLC
Attorneys at Law

4842 LaVista Road
Tucker, Georgia 30084-4464

PROSPECTIVE CLIENT MEMORANDUM

TO: Prospective Estate Planning Clients
FROM: Mangrum & Mangrum, LLC
RE: Will-Based and Revocable Living Trust Estate Planning

I. OUR RECOMMENDATION

We generally recommend a properly funded revocable living trust for clients who want their property managed through incapacity and transferred at death with less dependence on probate. This recommendation is especially appropriate when the plan involves real estate, an inheritance that should remain under management, or family circumstances requiring continuing instructions. The objective is to establish the ownership and authority your family will need before a crisis occurs.

A trust can serve as the foundation for managing property during life and carrying out your instructions after death. A will-based plan remains appropriate for certain straightforward estates. The choice should account for the work your family will face under the plan, as well as the initial cost of preparing it.

II. WHAT A WILL ACCOMPLISHES

A Last Will and Testament directs the distribution of your probate estate, nominates an executor and may nominate guardians for minor children. **A valid will does not itself avoid probate.** For property administered through the estate, the executor generally must qualify through the probate court and obtain letters evidencing authority. The work then includes collecting assets, addressing debts and expenses, and distributing the estate. Applicable court requirements depend on the will and circumstances.

A will does not authorize someone to manage your finances while you are alive. It also does not override valid beneficiary designations or survivorship ownership. Those arrangements must be coordinated with the intended plan. A will can create a *testamentary trust* to manage an inheritance, but probate property funding that trust ordinarily passes through estate administration first. When continuing management is a principal goal, we generally recommend establishing and funding the trust during your lifetime.

Telephone: (770) 496-1600
Facsimile: (770) 559-0727
Email: Contact@Mangrum-Law.com
Web: www.Mangrum-Law.com

III. HOW A REVOCABLE LIVING TRUST WORKS

Creation and ownership. A revocable living trust is established by a written agreement stating who will manage its property, who may benefit from it and what happens when you can no longer serve or have died. You are the person creating the trust, often called the grantor or settlor. Appropriate property is transferred to the trustee in that capacity. For example, a home may be transferred by deed and a taxable investment account may be registered to the trustee. This implementation is called *funding*. Signing the agreement alone does not change the ownership of those assets.

Control during your lifetime. You ordinarily remain the initial trustee and the person entitled to use the property. You can continue living in your home, using trust funds and managing investments. While you have capacity, you generally may amend or revoke the arrangement as its terms permit. Placing property in your own revocable trust therefore does not ordinarily mean turning control over to your children or making an irrevocable gift.

Management during incapacity. You name a successor trustee and specify how responsibility changes if you cannot manage the trust. Once the required conditions are satisfied, the successor can administer trust property under the existing agreement. That person may pay expenses, maintain property and manage accounts for your benefit. A named successor can ordinarily take office through the trust's provisions; Georgia law gives a successor trustee the original trustee's authority. The trust's terms, legal duties and appropriate documentation still govern.

Administration after death. The successor trustee carries out your instructions for trust property, addresses applicable obligations and makes distributions or continues management. Assets properly placed in the trust generally do not require probate merely to pass under those instructions. Your family still has administrative work to do, but the trust provides an existing source of authority for the assets it holds.

A practical example. Suppose your home and taxable investment account are held in your trust. If you become unable to act, the successor may use trust funds for the home's expenses and your care under the agreement. At death, that trustee can address the property under the trust's distribution terms, including retaining a child's inheritance for later years. The benefit comes from having the property and succession arrangements in place before they are needed.

Privacy and proof of authority. Ordinary trust administration generally keeps the distribution provisions outside routine probate filings. A Certification of Trust can establish relevant trustee authority without disclosing all inheritance provisions. Institutions may request appropriate excerpts or other documentation, and a dispute can still involve a court. Privacy is a practical advantage, not a guarantee of secrecy.

IV. WHEN A TRUST IS THE BETTER PLANNING STRUCTURE

A home and other assets needing continuity. For a client who wants a successor to manage a home, accounts or rental property with less dependence on probate appointment, we generally favor a funded living trust. Its usefulness depends on the property and the client's goals, not simply the size of the estate. A properly coordinated trust may also help avoid separate probate proceedings for real estate in another state.

An inheritance that should remain under management. An outright gift gives the beneficiary control once the gift is received. When the beneficiary is a child, a young adult or someone who needs help managing money, a trust can direct payments for education, support or other purposes and provide for later or staged distributions. The client selects the manager and the instructions. This is a principal reason we recommend trust planning when a simple outright distribution would not accomplish the desired result.

A spouse and children with different interests. In a blended family, leaving everything outright to a spouse does not itself ensure that the property will later reach the client's children. Carefully drafted trust provisions can address the survivor's needs and the intended remainder. We discuss which provisions may be changed after the first death and which should become fixed. The result depends on the actual terms; a document called a "family trust" does not resolve these choices by its name alone.

V. FUNDING AND SUPPORTING DOCUMENTS

A trust-based plan must be matched to the assets it is intended to govern. We review how property is owned and identify appropriate deeds, account changes or other transfers. A property transfer may require review of the deed, loan, insurance and related issues. Business interests must be considered with the governing agreements. Retirement accounts, life insurance and other beneficiary-designation assets require separate coordination; they should not simply be treated as ordinary assets to retitle. Newly acquired property and changed accounts should also be reviewed.

Our trust planning ordinarily includes the trust agreement, a **pour-over will**, a durable financial power of attorney, an advance directive for healthcare, a HIPAA authorization and a Certification of Trust. The pour-over will directs remaining probate property to the trust, but those assets may still require probate. The financial agent addresses authorized matters outside the trust; the healthcare documents address medical decisions and information. These documents support the trust and the parts of life it does not govern.

VI. WHEN A WILL-BASED PLAN MAY BE APPROPRIATE

A will-based plan may be appropriate for straightforward outright gifts to capable adults when continuing inheritance management is unnecessary and the client accepts probate. It may also suit clients whose principal assets pass through reviewed beneficiary or survivorship arrangements, leaving relatively little probate property. Our will-based plan includes the will, a durable financial power of attorney, an advance directive for healthcare and a HIPAA authorization.

For example, a client who rents a home, has retirement and insurance benefits payable to appropriate adult beneficiaries, and wants the remaining estate distributed outright may have little need for an additional trust ownership structure. The beneficiary forms and remaining property still require review. Conversely, a client who wants to reduce probate administration, provide continuing management or coordinate real estate should consider a trust even when the estate is not unusually large. We treat these as individual planning judgments, not a choice based solely on the least expensive document.

A revocable trust is principally a management and transfer arrangement. It does not, by itself, shield your property from your own creditors or automatically reduce estate taxes. Beneficiaries receiving means-tested benefits, significant tax concerns or specialized protection objectives may require additional provisions or a different type of planning. We address those issues directly rather than assuming a standard revocable trust supplies every form of protection.

VII. OUR SERVICES, FEES AND NEXT STEPS

Our estate planning, probate and real property practice informs the recommendation we make. We review family relationships, proposed beneficiaries and fiduciaries, ownership, existing documents and beneficiary arrangements. We recommend the structure, prepare the coordinated documents, address your questions, and explain execution and implementation. The engagement identifies any deed work, business coordination, title issues, recording expenses or other services to be handled. Successful trust planning requires completion of the agreed funding steps.

Will-based plans start at $1,000 for individuals and $1,500 for couples. Revocable living trust plans start at $2,500 for individuals and $3,500 for couples. We confirm the recommended scope, included documents, additional work and expenses in the engagement agreement.

To begin, complete the estate planning questionnaire on our website and request a complimentary estate planning strategy session. If you are uncertain which questionnaire to use, contact our office. We will help determine whether a trust should be the foundation of your plan and explain the work needed to put it into effect.

Contact: (770) 496-1600 | Contact@Mangrum-Law.com
Questionnaires: www.Mangrum-Law.com/forms