



Securing the Future: Legal and Financial Tools for Seniors

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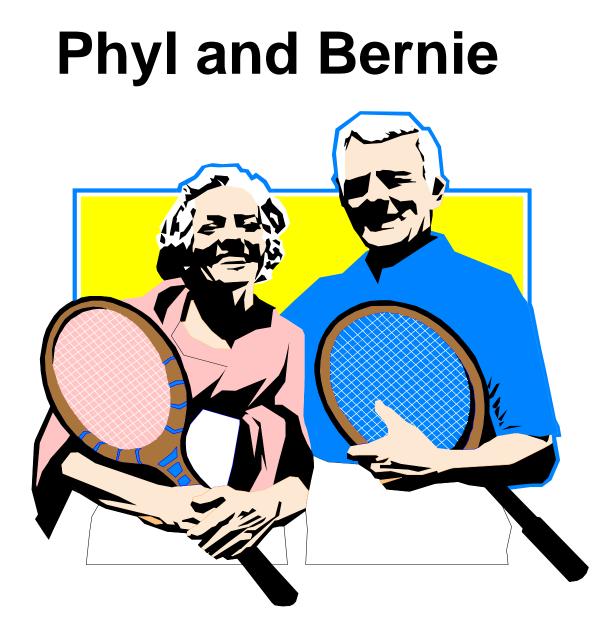


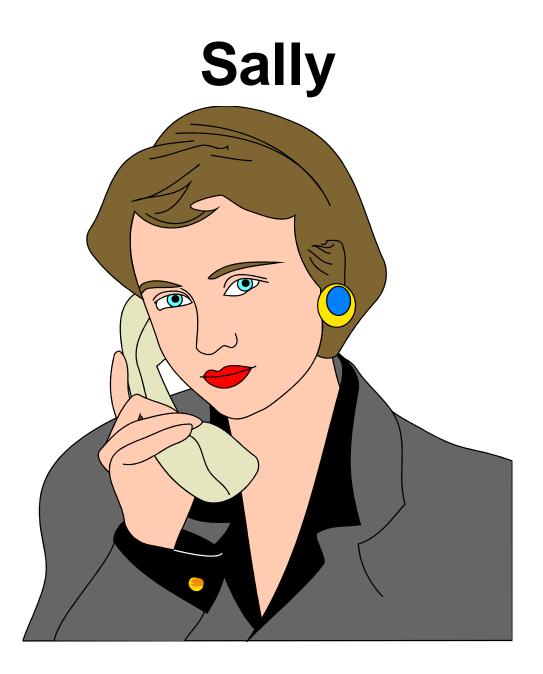
- Will
- Durable Power of Attorney
- Health Care Proxy
- Living Will
- Declaration of Homestead
- Trusts

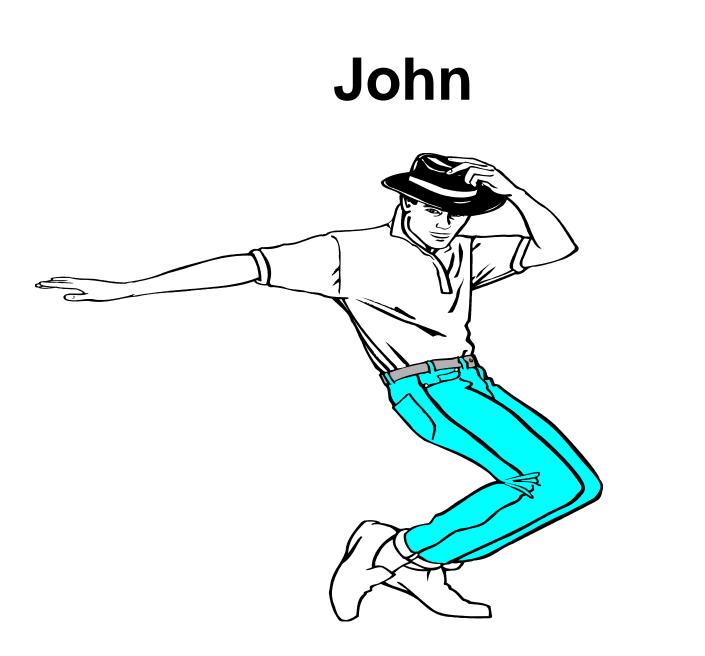




The Bernie and Phyl Story







Bernie and Phyl's Assets



Minuteman

- Home:
- Second Home:
- Savings: (CDs, checking, etc.)
- Investments: (stocks,vacation real estate)
- Retirement Plans:
- Life Insurance:
- Personal Effects:

\$475,000 \$300,000 \$75,000

\$350,000

\$300,000 \$850,000 \$150,000

Total Assets: \$2,500,000

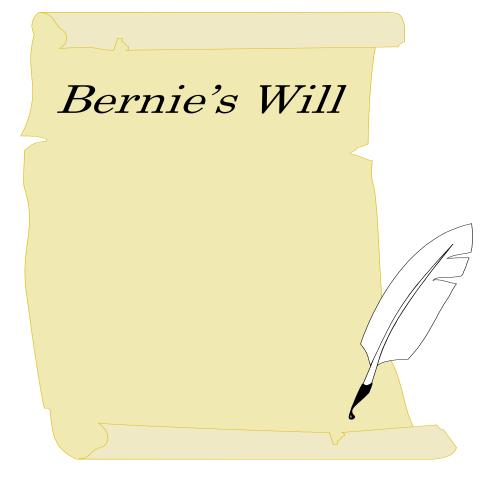
Where to Begin

START WITH THOSE YOU TRUST

Trustee, Executor, Agent, Health Care Representative: Spouse Child Parent or Friend



Wills



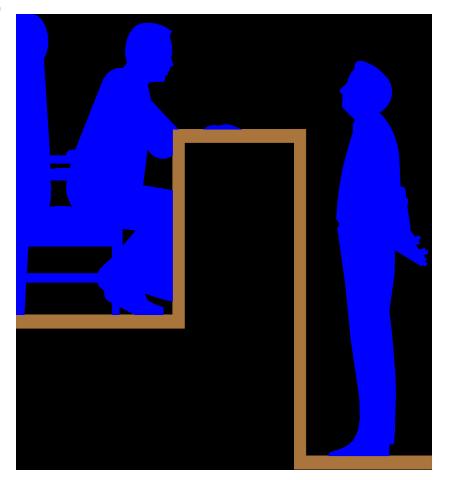
- Only effective at death
- Guarantee probate
- Public
- Easily challenged
- Rarely control all property
- If you die without a will, property will be distributed according to laws of the state

Durable Power of Attorney Minuteman

- _ چې
- A document that allows you to appoint someone else to act on your behalf
- "Durable" means that it is still effective even if you become disabled
- "Springing" POA: Only takes effect when I am deemed incompetent
- "General" POA: Effective when signed
 - A blank check

Guardianship/Conservatorship

- A family member or "friend" petitions the local court to be executor;
- A public hearing may be set if opposition;
- The person in question is "examined"; and
- If the court finds that such person is incompetent, the court will appoint a guardian/conservator for that person.

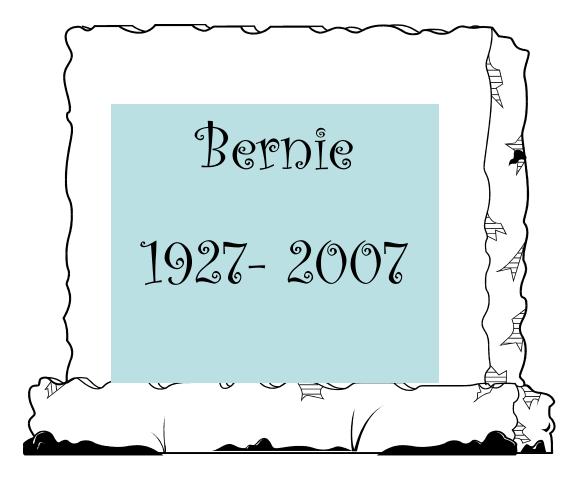


Phyl's Guardian???



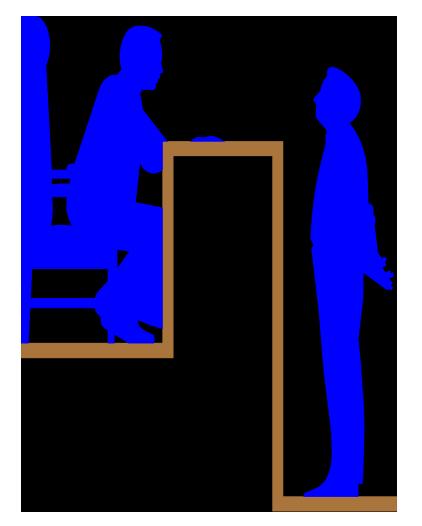
The "New and Improved" John

What Happens at Death?



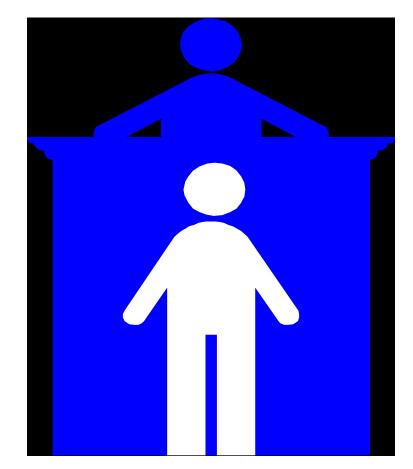
Probating The Estate- Formal

- Appoint a personal representative
- Notify the public that the estate is being probated
- Locate and value all of the property of the estate
- Pay any debts and expenses of the estate
- Distribute all of the assets of the estate



The Probate Estate

- The court retains total control over the probate estate
- Any actions taken on behalf of the estate must be approved by the court



Probate Costs





- These costs include the fees and expenses incurred in probating the estate. The most common probate cost involves attorneys fees.
- According to AARP, attorneys fees consist of 2-6% of the gross estate.

Will and Testamentary Trust

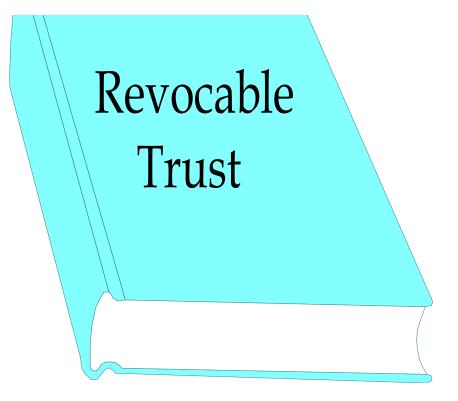
BERNIE'S WILL and TESTAMENTARY TRUST

- "Attached" to back of Will
- Instructions for Kids, etc.
- Does not take effect until death
- Funded with assets left after probate costs
 - Trustees can be different from Executor or Guardian
- Public Record-Probate
 Court
- Probate Accounting with Court every year

Revocable Trust







- Established during life
- Assets in trust pass probate free
- Private
- More expensive than Will and Testamentary Trust
- Trustmaker retains control during life
- Good estate tax planning tool if funded

Revocable Trust continued





- Contains all of the trustmaker's instructions
- Can be revised during life
- To remain effective should be updated regularly
- While no probate, still have trust administration costs

Irrevocable Trusts

- <u>Retained Interest Trust</u> Payments may be made to Grantor.
 - The retained interest portion (whether paid or not) will be considered an asset to the Grantor

Minuteman

- <u>Non-retained interest Trust</u> No payments may be made to Grantor
 - 60-month look back but then no access to grantor so OK with DMA after ineligibility period has run.
- Income Only Trust Trustee obligated (or has discretion) to pay income to Grantor. Access to income only but protects principal.







- Under M.G.L. c. 201, a competent person may designate another as health care "agent"
- Witnessed by two individuals
- Effective once it is determined the principal lacks capacity to make or communicate health care decisions







- Declaration protects up to \$500,000 in equity in your principal residence
- Exceptions taxes and or debt contracted prior to Homestead
- 65 years or older or disabled can declare a \$300,000 homestead
- Both spouses can elect the \$300,000 elderly and disabled homestead for a total of \$600,000 (not sure how courts will treat this "double" declaration)
- Cost is minimal



- Single person all assets above \$2,000, with the exception of the individual's home and some minor assets, are considered "countable".
- Couples the "institutionalized" spouse can have no more that \$2,000 in assets; the "community spouse" can have approximately \$94,000 in assets.
- Your home is usually not countable, however, a lien may be placed upon it.
- Disqualification period up to 60 months

Planning Should Be All Encompassing Minuteman

- Don't just plan for one thing (example Medicaid) and forget to consider all the other ramifications (example – estate taxes)
- Start early and review your documents and overall plan on a regular basis
- Seek knowledgeable professionals who are current with the ever changing rules and regulations

Thank you! Any Questions?





Legal and Financial Tools for Seniors

