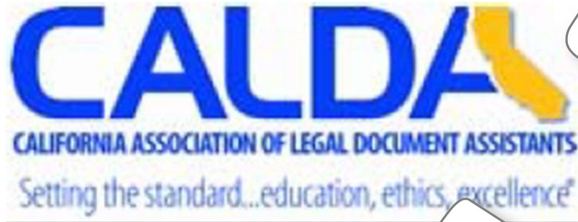

ESTATE PLA NG

This brochure has ilable in yo unity by the following CALDA member:

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CALDA

CALIFORNIA ASSOCIATION OF LEGAL DOCUMENT ASSISTANTS

Setting the standard...education, ethics, excellence®

PLANNING YOUR ESTA[illegible]

You've worked hard for your money and made every attempt to be a [illegible]ious [illegible]. So it's only natural that you want some control over what h[illegible] your asse[illegible]t of your death. At the very least, you probably want to mini[illegible]tential hass[illegible] headaches for your loved ones. A comprehensive estate [illegible] is impo[illegible] to accomplish your estate planning goals.

WHAT HAPPENS IF I DON'T HAVE A WILL O[illegible] TRUST?

The legal term for dying without a will [illegible] intestate. If y[illegible] specify through a valid will or living trust who will re[illegible]roperty, sta[illegible] controls and generally distributes your property to your spous[illegible] or y[illegible]t heirs. This may or may not be what you intended. Furthermore, if you fail to [illegible]ate a g[illegible] for your minor children, the court may appoint someone you wouldn't trust to [illegible] legal gu[illegible]f your minor children. Finally, by failing to appoint someone to carry out your [illegible]s, the court can appoint anyone (as outlined in the law) to be the admin[illegible] propert[illegible] the administrator may have to pay certain fees or post a bond at th[illegible]ense [illegible] he or she can begin to distribute your assets.

IF YOU HAVE A VERY SIMPL[illegible]TE

A simple will [illegible]ppropriate for people [illegible] not own property and do not have a lot of savings. If y[illegible]ve less than $150,000 in cash or other assets, such as stocks or mutual funds, [illegible] may [illegible]ur situation.

IF YOU HAVE [illegible]E TH[illegible]UST A VERY MODEST ESTATE

If you own a home ([illegible] any value) or if you have savings in excess of $150,000, you sh[illegible]onsider making [illegible]vocable living trust as the centerpiece of your estate plan. A [illegible]erly-funded revocable [illegible] trust will allow your estate to avoid the expense and delay of [illegible] probate [illegible]

SAMPLE

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OTHER DOCUMENTS THAT SHOULD BE A PART OF EVERY ES[illegible] PLAN

Any comprehensive estate plan, whether it is centered on a simple w[illegible] a revoc[illegible] living trust, should also include other vital documents, such as a Durabl[illegible] of [illegible]ney for Property Management, Advance Health Care Directive and Final Dispositi[illegible]ns. These documents are described in more detail below.

FORMS NEEDED IN A TRUST-CENTERED ESTATE PL[illegible]N

1. *Revocable Living Trust* – A living trust supplements [illegible]nal will and all[illegible] for a simpler transfer of property after your death. The trust names [illegible]stee to m[illegible]e and control the trust property while you are alive and well [illegible] names a[illegible] t[illegible] to take over for you when you pass away or become inc[illegible] The purpo[illegible] trust is to distribute your assets to your beneficiaries in a w[illegible] byp[illegible] the expense a[illegible] delay of the probate process. Trusts are described in more d[illegible] in the nex[illegible]on of this brochure.

2. *Trust-Related Documents* – Other "suppor[illegible]nt[illegible]ompany most revocable living trust packages to ensure the funding and proper operat[illegible]ust. The Certification of Trust is a simplified summary of certain pro[illegible] of the trust [illegible] which makes it easy for financial institutions to transfer your a[illegible]ust. Variou[illegible]ment" forms should be included as well. An Assignment of P[illegible]orm should be included to transfer your tangible personal property such as jewelry[illegible]rtwor[illegible] living trust and an Assignment of Business Interest should be executed to tran[illegible]le-prop[illegible]artnership and LLC businesses to your trust.

3. *Pour Over Will* – [illegible]perly your trust must take title to your assets. If this is not done[illegible] trust [illegible]ose assets. The pour over will ensures that any assets that not held [illegible] trust at death [illegible] be transferred to your trust after your death. This is not the most effic[illegible]d for transferring assets to your trust as those assets should be transferred during your lifeti[illegible] trust to work properly and avoid probate. If the property transf[illegible]der the pour over [illegible]xceeds $150,000, those assets may require a probate proce[illegible]

4. *Trust Tr[illegible] Deed* – [illegible]y is owned it is important to transfer that asset into your trust. This is [illegible]mpli[illegible] by recording a Trust Transfer Deed which will transfer the property from your in[illegible]me to your trust.

5. *Durable Power o[illegible]ney For Property Management* – This document designates an [illegible] who to manage you[illegible]ncial affairs if you cannot become injured, ill or otherwise [illegible]pacitate[illegible] pay your bills, does your banking, runs your business and takes other [illegible] y require your signature. Having a power of attorney is critical and it ta[illegible]ce of a co[illegible]ourt-supervised conservatorship.

SAMPLE

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6. *Advance Health Care Directive* – This document designates an age[illegible]make health care decisions for you if you become ill or incapacitated. It also allows you t[illegible]ess your [illegible]es in writing regarding end-of-life decisions and the disposition of your rema[illegible]

7. *Final Disposition Instructions* – Lets your survivors know how you w[illegible]emains to be handled after you die; whether you want burial or cremation, what you[illegible]for ceremony are and whether you have already made pre-arrangements at a funeral home.

FUNDAMENTALS OF LIVIN[illegible]TS

A living trust will be used as the mechanism to manage your prope[illegible]nd after[illegible]death as well as provide how those assets, and the income earn[illegible]the assets[illegible]ed after your death. If you should become incapacitated or d[illegible]essor trus[illegible]you have named will manage the affairs of the trust for you[illegible]enefic[illegible]living trust i[illegible]t subject to probate and, therefore, all provisions of the trust[illegible]remain pri[illegible]

The "living trust" described in this brochure is a r[illegible]livi[illegible]st. It is sometimes referred to as a revocable inter vivos trust, or a grantor trust. A r[illegible]may be amended or revoked by the person creating it (commonly known[illegible]"trustor," "g[illegible]"settlor") at any time during the trustor's lifetime as long as the trus[illegible]ent.

A trust is a written legal agreement be[illegible]the[illegible]creating the trust and the person or institution named to manage the assets h[illegible]the t[illegible]"trustee") for the benefit of the trust's beneficiary. In most cases, you will [illegible]trustor, t[illegible]tial trustee of your living trust and the beneficiary of the t[illegible]all at one t[illegible]If, at some point, you need assistance in managing the trust the suc[illegible]ll mana[illegible]trust for your benefit as the beneficiary.

In a living trust agreeme[illegible]

• The trustee has the legal r[illegible]age and control the assets held in the trust.

• The tru[illegible]describes the persons [illegible]ble organizations ("beneficiaries") who will receive the tr[illegible]he initial benefici[illegible]'s death.

• The t[illegible]s given[illegible]tain powers and authority to manage and distribute the trust propert[illegible]prudent[illegible]on. [illegible]trustee is a "fiduciary." A fiduciary is an individual or company who occ[illegible]p[illegible]n of trust and confidence and is subject to strict responsibilities, usually higher standa[illegible]erformance than one who is dealing with his or her own [illegible]. Without the t[illegible]express written permission the trustee cannot use trust property [illegible]he trustee's own perso[illegible], benefit or self-interest. A trustee must hold the trust property [illegible]ely for th[illegible]the b[illegible]iciaries of the trust.

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Three basic types of revocable living trusts include:

- A probate-avoidance trust for an individual
- A probate-avoidance trust for a couple who own property togethe[illegible]
- A probate-avoidance and estate tax-saving AB trust for prosperous co[illegible]ica[illegible] couples with a net combined estate worth over $5 million (according to current law).

A living trust can be an important part, in many cases the m[illegible]rtant part of your estate plan. Not everyone, however, may need a living trust. The greater t[illegible] incapacity or [illegible], the greater the need for a living trust. The greater the value of your asse[illegible]rly if [illegible] include real estate, the greater the need for a living trust. A [illegible]althy in[illegible]w assets probably does not need a living trust right now [illegible] real estate [illegible]per who is frequently buying, selling or refinancing his or he[illegible] estate [illegible]gs want a living trust to hold those assets. On the other hand, many people [illegible]ize that a [illegible]g trust will be helpful in the future so they set up a living trust now to have [illegible] in [illegible]vent of an accident or sudden illness.

KINDS OF TRUSTS

Revocable Living Trusts – A revocable [illegible]st you can [illegible]voke at any time. They're called "living" trusts because they're crea[illegible]hen y[illegible] not at your death like some other kinds of trusts. Sometimes, living trusts are [illegible] by the[illegible]ame: inter vivos (among the living) trusts. There are two common types of [illegible]ble living [illegible]usts.

Basic living trust [illegible] inh[illegible]ur property without going through the notoriously slow and ex[illegible]robat[illegible]asic living trust does nothing to reduce federal estate tax, however [illegible]le don't have [illegible]rry about that. Only a tiny fraction, less than 2% of estates owe estate tax.

AB trust - Both avoids probate [illegible] also allow your heirs to save thousands of dollars on es[illegible]your death. An A[illegible] trust works by making the first spouse's estate subject to ta[illegible]ted as part of the second spouse's estate at the second death. That wa[illegible]h spouse's [illegible]nder the estate tax threshold; they're never combined for estate tax pur[illegible]

With the pres[illegible] tax levels and portability, this type of trust is unlikely to benefit m[illegible]stors. Currently, [illegible] tax effects only people who die leaving a taxable estate of more [illegible] $5.25 million. Howe[illegible]ith portability, a surviving spouse will be allowed to pass up to [illegible].5 milli[illegible] fre[illegible]ortability of the federal estate tax exemption between married [illegible] first spouse dies and the value of his or her estate does not require the [illegible] or her f[illegible]l exemption from estate taxes, then the amount of the exemption that was not used for th[illegible]ceased spouse's estate may be transferred to the surviving spouse's

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exemption so that he or she can use the deceased spouse's unused exemption pl[illegible] or her own exemption when the surviving spouse later dies.

However, there are a few circumstances in which an AB tru[illegible] still b[illegible]ful including if your marriage is unrecognized by the federal government beca[illegible]ishes one's right to portability. Another circumstance in which an AB trust may be us[illegible]ou are in a second marriage and you want your spouse to be able to use your property after [illegible]h, but you want your property to go to your children after your spo[illegible]'s death.

Other common types of trusts include:

Testamentary Trusts - Trusts which are set forth in your will an[illegible]herefo[illegible]not provide for any management of your assets during [illegible]ime. Tes[illegible]s can, however, provide for young children and others w[illegible]ement of [illegible]ets after your death.

Irrevocable Trusts - Trusts which, imme[illegible]on th[illegible]reation, are not amendable or revocable by you. These are generally [illegible] documents. Some examples include irrevocable life insurance trusts, [illegible]ocable trus[illegible]dren and charitable trusts. A qualified estate planning lawyer should [illegible]d with respe[illegible] documents.

Special Needs Trust's (SNT) – T[illegible]et [illegible]ically to supplement or address special needs of individuals who receive mean[illegible]ed s[illegible]ices or benefits. Most of these individuals have profound disabilities and [illegible]enefits [illegible]ceive (such as Supplemental Security Insurance) do not [illegible]er or provide [illegible]eir special needs. These trusts allow the beneficiary to receive a b[illegible]sets o[illegible]rust without exercising any direct control over the trust or its man[illegible] to manage resources while maintaining the individual's eligibility [illegible]assistance [illegible] The family can place assets in the trust to be used to supplement the [illegible]ies' needs. The trust is managed by a trustee for the benefit of the disabled beneficiary. [illegible] government has recognized the validity of special needs trusts, [illegible]ringent rules and reg[illegible]govern the use of funds and the management of the trust. A[illegible]cial Needs T[illegible]sts may be subject to the rules and regulations imposed by [illegible]l and [illegible]agencies, it is vital that any family contemplating the creation of a [illegible]consult [illegible]owledgeable about special needs trusts and current government bene[illegible]gra[illegible]

W[illegible]T CAN A LIV[illegible]RUST DO?

[illegible] living trust can provi[illegible]he private management of your assets if you choose not to act as trustee o[illegible]re un[illegible] to do so, by the person or persons whom you appoint as trustee. [illegible]tated your trustee can assume responsibility for your assets and manage [illegible]your bene[illegible]ithout direct court intervention or supervision. At your death the trustee

SAMPLE

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acts much as an executor would, gathering your assets, paying valid debts, clai[illegible] taxes and distributing your assets as you have directed in your living trust.

If you are acting as trustee of your own living trust and become i[illegible]citated, [illegible]ver you have named as your successor trustee will assume the responsibi[illegible] your assets on your behalf. If your assets are not in your living trust, someone else [illegible] them. How this is accomplished may depend on whether the assets are your separate [illegible] property. If you are married, assets earned by either you or your spouse while married [illegible] a resident of California are considered to be community prop[illegible] On the other hand, a ma[illegible] individual may own separate property as a result of assets owne[illegible] marriage or received by gift or inheritance during marriage.

TRUST MANAGEMENT AFTER YOUR DEATH

Assets held in your living trust at your death can [illegible]anaged [illegible] trustee of yo[illegible]iving trust and distributed in accordance with your directi[illegible] the trust. T[illegible]ustee is also accountable to your beneficiaries for the trust assets held for the[illegible] after [illegible] death. The trust is not under the direct management of the probate court at and a[illegible] and, therefore, the value and the nature of your assets and the identity [illegible]ur beneficia[illegible] become a public record. At your death, however, notice must be [illegible] of your he[illegible] all beneficiaries of your living trust, advising them, among othe[illegible] right to obta[illegible] copy of the living trust.

If your assets were in your name alone a[illegible] dea[illegible] they would be subject to probate. Probate is the court-supervised process dev[illegible] under [illegible]ornia law which has as its goal the transfer of your assets [illegible] your death to t[illegible]eficiaries set forth in your will and in the manner prescribed by yo[illegible] ion is filed with the court, usually by the person or institution na[illegible]r notice is given and a hearing is held, your will is admitted to pro[illegible] an executor [illegible]nted. A full inventory of the assets held in your name alone at your de[illegible]d with the court and the probate continues until your estate is ready for distribution and th[illegible]proves the final distribution of your estate. Probate can take mo[illegible] complete then the [illegible]tion of your trust following your death. Assets held in a li[illegible] readily accessible to beneficiaries than those in a probate. The cost of a pr[illegible] is ofte[illegible] cost incurred by a comparable estate managed and distributed und[illegible]ving tr[illegible]

LEAVING PRO[illegible] MINORS AND YOUNG ADULTS

[illegible]e are several way[illegible]range for an adult to manage property inherited by a young person. [illegible]he most com[illegible] are:

[illegible]erty to an adult to use for the child. Many people don't leave property [illegible] a child. [illegible]ad, they leave it to the child's parent or to the person they expect to have

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care and custody of the child if neither parent is available. There's no formal l[illegible] arrangement but they trust the adult to use the property for the child's benefit.

Name a "custodian" under the Uniform Transfers to Minors Act [illegible]A). In C[illegible]nia, you can name a custodian to manage property you leave a child until th[illegible] reach[illegible] or 25. If you don't require management to last beyond that age, a custodianship is [illegible]e way to go. As a general rule, the less valuable the property involved and the more mat[illegible]ild, the more appropriate the UTMA is because it is simpler to use.

Create a child's sub trust. If you require managemen[illegible] age 25 or if the amou[illegible]f property you are leaving the beneficiary has significant value, [illegible] wish to use t[illegible] child's sub trust to postpone distribution past age 18 or until an age you c[illegible]he sub t[illegible]nds at whatever age you designate, then any remaining pro[illegible]ned ove[illegible]tright. If you have adult children with special needs (i.e., [illegible], etc.) you [illegible]nt to seek legal counsel regarding how to set up special ma[illegible]nent in t[illegible]n of a "Speci[illegible]Needs Trust" for that individual.

Create a "pot" trust. This is a legal struct[illegible]establish in your will or trust. Instead of creating a separate trust for t[illegible]perty you l[illegible]ch child as with the other trust options, you create one trust for all t[illegible] you leave [illegible]ildren. You name a single trustee to manage the property for th[illegible]hildren as [illegible]up, without regard to how much is spent on an individual child. T[illegible] tru[illegible]t until the youngest child turns an age you specify. Final disbursement of the [illegible]is wi[illegible]til the youngest reaches the age specified.

For each minor or youn[illegible]ou lea[illegible]operty in your will or trust you must decide which management ap[illegible] use.

SELECTING A TRUSTEE

As noted, many people act as their [illegible]e until their incapacity or death. Others determine that they n[illegible] assistance and m[illegible]ment of their assets simply because they are too busy or [illegible]mply don't wish to have the responsibility of day-to-day managemen[illegible]eir financ[illegible]

Perhaps the mos[illegible]ort[illegible]cision for you to consider is your choice of a trustee to act in your pl[illegible]e. As you hav[illegible]our trustee will have considerable authority and responsibility, [illegible] is [illegible]under direct [illegible] supervision and will assume that responsibility either during your lifetime (if you so [illegible]e) if you become incapacitated or at your death. A trustee may be a spouse, [illegible]ren, [illegible] relatives, family friends, business associates or a professional [illegible]onal fiduciary may be a bank or trust company which must be licensed by [illegible] of Calif[illegible]. You may also provide for co-trustees. There are a number of issues to consider. For exa[illegible], will the appointment of one of your adult children cause undue stress in

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his or her relations with siblings? What conflicts of interest are created if a bu[illegible] associate or partner is named as your trustee? Will the person named as successor tr[illegible] have the [illegible]ime, organizational ability and experience to do the job effectively?

DISADVANTAGES OF A LIVING TRUST

Because living trusts are not under direct court supervision, a trustee who does no[illegible]r best interests or in a prudent fashion accountable to you or [illegible]ur beneficiaries may, [illegible] cases, be able to take advantage of the situation to a greater [illegible]han would be possible [illegible] the trustee been under direct court supervision which prov[illegible] safeguards as [illegible]ourt accountings and, in some situations, a bond.

In some cases, the cost of preparing a living trust a[illegible] planning [illegible] will be higher than the cost of simply preparing a will. [illegible]ever, [illegible] complex [illegible] plans the difference in cost may not be significant.

Once created, the trust must be "funded." The fu[illegible] tr[illegible] simply the transfer of assets from your own name to whomever is acting as truste[illegible]ving trust - you or some other person. Deeds to real property must [illegible]fore, be pr[illegible]d recorded, bank accounts transferred and stock and bond acc[illegible]tificates tra[illegible]s well. These are not necessarily expensive tasks but they a[illegible] and require [illegible]e paperwork to complete in order to make your trust effective. [illegible] in [illegible]usinesses (for example, real estate development) sometimes find that havin[illegible]iving [illegible]tes excessive problems in the operation of the business when it is necessary [illegible]l with a [illegible] party, such as a title company.

DO I NEED A WILL I[illegible]ST?

If you have a living trust [illegible]ld also ha[illegible] or pour-over will. Your will affects any assets which, for one reason [illegible], were held in your name alone at your death and not in your living trust or in some othe[illegible]f ownership. With the living trust, your will usually contains as it[illegible] primary provision fo[illegible]ibution of your estate, a "pour over" provision which sim[illegible]ny assets held in [illegible] name be transferred at your death to your living trust. Of [illegible]ided with respect to those assets which are transferred to your living [illegible]y your w[illegible] may also nominate the guardians of the person and estate of your [illegible] childr[illegible] care a[illegible] provide for them.

T[illegible]XES

[illegible]e Taxes – As [illegible] you are the trustee or a co-trustee, no separate income tax returns are [illegible]equired to be filed [illegible]ur living trust. The taxpayer identification number for the trust is your soci[illegible] num[illegible]nd all income and deductions related to the assets held in the trust [illegible] individual income tax returns. When you are no longer a trustee of your [illegible] incom[illegible] returns must be filed by the trustee, reporting all of the income and deductions relati[illegible]he trust assets to the IRS and attributing them to your personal return. No

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additional tax is assessed by reason of the living trust. After your death, the i[illegible] taxation of the living trust is similar to that applicable to a probate estate.

Estate Taxes - While a living trust may contain provisions which can p[illegible] reduc[illegible] ven eliminate estate taxes, similar provisions could be placed in a will to acco[illegible] e tax planning.

TRANSFERING ASSETS TO YOUR LIVING TRUST

Once your trust has been signed, a very important ta[illegible] be acco[illegible] rder to achieve your objectives of avoidance of court-su[illegible] ed co[illegible] rship proc[illegible] s if you are incapacitated or require probate at your [illegible] assets n[illegible] be transferred to the trustee of the living trust. As discussed above, this is k[illegible] "funding[illegible] trust.

A living trust can hold both separate and community p[illegible] ommunity property is held in a living trust, then both spouses are the [illegible] s. Care mu[illegible] n to carefully designate the property held in a living trust by marr[illegible] either separ[illegible] mmunity property.

If you own real estate in another state it [illegible] rop[illegible] nsfer title of that asset to your trust to avoid probate in the other state.

You may also want to consider changing ben[illegible] ry design[illegible] ons on life insurance policies, to the trust. As for benefici[illegible] on a q[illegible] ed plan, such as a 401 (k) or IRA, serious income tax issues req[illegible] rofessional concerning the appropriate beneficiary designation o[illegible] sets.

BEWARE OF FINANCIAL A[illegible] TE PLANNING SERVICES

There are m[illegible] o call themselves "tr[illegible] alists," "certified planners" or other titles which are intend[illegible] the person h[illegible] received advanced training in estate planning. California [illegible] erien[illegible] f promotions by unqualified individuals and entities which have [illegible] one real [illegible] n access to your finances in order to sell insurance-based products [illegible] s a[illegible] es and other commission-based products. Here are some helpful hints and suggesti[illegible]

Before consid[illegible] living trust or any other estate or financial planning document or service, cons[illegible] with a la[illegible] or other financial advisor who is knowledgeable in estate planning and w[illegible] to se[illegible] product which may be unnecessary.

[illegible] the pers[illegible] ttempting to sell you the trust is a not a lawyer, he or she must be a registered and b[illegible] Legal Document Assistant or the employee of a Legal Document

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Assistant. A non-lawyer cannot say he or she is "affiliated with" or "supervi[illegible]y" an attorney unless you actually meet in person with the attorney. Only an attorney or [illegible]ered and bonded Legal Document Assistant can sign a contract with you and accept fees f[illegible]ou.

• Always ask for time to consider and reflect on your decision. Do [illegible]elf to be pressured into purchasing any estate or financial planning product.

• Know your cancellation rights. California law requires that sellers who co[illegible] home to sell goods and services (not including insurance a[illegible]uities) that cost more t[illegible] must give you two copies of a Notice of Cancellation form [illegible] your agreement. You, the buyer, may cancel this transaction at any time prior to midnight o[illegible] business d[illegible]er the date of this transaction.

• Be wary of home solicitors who insist on [illegible]ential and [illegible]nformation about your assets and finances.

• Find out if any complaints have been [illegible]st the [illegible]pany by calling local and state consumer protection offices or the Better Business [illegible]

• Know whom you are talking [illegible]ist on ident[illegible]f the person and a description of his or her qualifications, educatio[illegible]expertise in [illegible] of estate planning.

• Always ask for a copy of any d[illegible]ent y[illegible]t the time it is signed.

• Report high-pressure tactics, mis[illegible]entations [illegible]aud to the police immediately

FUNDAMENTALS O[illegible]

A will is a legal d[illegible] which [illegible] person's property should be distributed after his/her death. With[illegible]cument you [illegible]gnate your executor (the person who will handle your assets and ultimat[illegible] distributions per your instructions) and your beneficiaries (the person or entities which will re[illegible]s from your estate).

You mu[illegible] and of "soun[illegible]mind" to create a valid will. You must know what a will is, w[illegible] does [illegible]king one. You must understand the relationship between you and th[illegible]ho you [illegible]y provide for in your will, such as your spouse or your children (this [illegible]not [illegible] you must provide for these individuals). You must also be able to understand the k[illegible]antity of property you own and how you wish to distribute it.

A will should be su[illegible] for your estate planning:

• [illegible] val[illegible]f your assets at the date of your death is less than $150,000 not [illegible]hat has a beneficiary provision and any asset that is in joint tenancy (or other [illegible]le tenancy)

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- if the value of your real property at the date of your death is less than $[illegible]000

DYING WITHOUT A WILL

If you die without a valid will, money and other property you own a[illegible] will be[illegible]ded and distributed to others according to your state's intestate succession law[illegible] divide all property between the relatives who are considered closest to you according [illegible]ormula a[illegible] it completely excludes friends and charities. Furthermore, these legal formu[illegible] do[illegible] mirror most people's wishes.

Also, if you have minor children, another important reason [illegible] a will is to name a personal guardian to care for them. This is an important concern of m[illegible]s who wo[illegible]at their children will be left without a caretaker if both die o[illegible] unavailab[illegible]te [illegible]sion laws do not deal with the issue of who will take ca[illegible]ildren. W[illegible]on't name a guardian in your will it is left up to the courts [illegible]ocial [illegible] agencies to [illegible] and appoint a personal guardian. The court makes the f[illegible]ecision wh[illegible]ppointing a guardian for your children after your death but the court will [illegible]ccept [illegible] nomination. A guardian's legal responsibility is to provide for your child's physic[illegible]

CARRYING OUT THE PROVIS[illegible] YOUR W[illegible]

The process by which the provision[illegible] carried ou[illegible]llowing your death is known as "probate." Probate is the court-sup[illegible]d pr[illegible]veloped under California law which has as its goal the transfer of your assets at [illegible] death t[illegible]eficiaries set forth in your will and in the manner prescribed by your will. It [illegible]rovides f[illegible]e relatively quick determination of the validity of any clai[illegible] against [illegible] assets at your death.

Probate is usually a [illegible]pensive [illegible]e process that can be avoided by using a living trust, which is des[illegible] the prior se[illegible] of this brochure. A probate has advantages and disadvantages. The pro[illegible]rt is accustomed to resolving disputes regarding the distribution of your assets in a re[illegible] expeditious fashion and in accordance with defined rules. In [illegible]ou are assured th[illegible] actions and accountings of your executor will be reviewe[illegible]robate court.

Disadvanta[illegible] a proba[illegible] public nature; the provisions of your will and the value of your assets [illegible]e a[illegible]lic record. Also, because probate court fees, lawyers' fees and executors' com[illegible]re based upon a statutory fee schedule, the expenses may be greater [illegible] the expenses [illegible]ed by a comparable estate managed and distributed under a living trust. If your probate is no[illegible]plex, however, you may be able to utilize the services of a registered Legal [illegible] Assis[illegible] to prepare your probate paperwork saving the statutory lawyer fees. [illegible]factor. Often distributions to beneficiaries can be made pursuant to a living [illegible]ore quic[illegible]an in a probate proceeding.

2013 CALD[illegible]IGHTS RESERVED

PROPERTY NOT AFFECTED BY YOUR WILL

Generally speaking, your will affects only those assets which are in your [illegible] alone at your death. Some assets which are not affected by your will include:

- Life Insurance proceeds when the policy has a valid beneficiary d[illegible]
- Retirement Plans with a valid beneficiary designation.
- Assets owned as a Joint Tenant - real estate, autom[illegible]biles, bank accounts a[illegible] property held in joint tenancy will pass to the surviving j[illegible]nt upon your death, n[illegible] accordance with any directions in your will.
- Assets owned as Community Property with Righ[illegible]urvivors[illegible]ried [illegible]es can own property this way which is very similar to joint [illegible]n an ass[illegible] this way, the property transfers to the surviving spouse, not [illegible]ordan[illegible] instruction[illegible]our will.
- Transfer on Death or Pay on Death - [illegible]nk acc[illegible] and savings bonds security accounts may be held with a beneficiary desig[illegible] transfer on death" ("TOD").
- Living Trusts - assets held in [illegible]ocable livi[illegible] your death are distributed pursuant to the provisions of that trust[illegible]
- Your spouse's half of Commun[illegible]ope[illegible] California, any assets acquired by you and your spouse from earnings during y[illegible]arriag[illegible]mmunity property. You and your spouse own equal shares of those assets. [illegible] will, th[illegible], affects only your half of the community property, not y[illegible]ouse's.

THE EXECUTOR O[illegible]

Your executor (or pe[illegible]epresentative) is responsible for collecting and distributing your property after y[illegible]d for arranging to pay your debts and taxes. It is both common and [illegible]propriate to name a c[illegible]ive or friend to do the job. Your choice need not have specia[illegible] knowledge; he [illegible] can hire an attorney and accountant to do any necessary [illegible]

Your choice fo[illegible]utor sh[illegible]

- agree to se[illegible]
- be trusted by y[illegible] your beneficiaries
- li[illegible]e to y[illegible]state to more effectively handle his or her duties
- [illegible]ikely t[illegible]ive you

SAMPLE

2013 CALDA [illegible]S RESERVED

NAMING YOUR BENEFICIARIES

The main purpose of your will is setting forth who gets your property when y[illegible]e. For many, this is an easy task - you may want it all to go to your spouse, your kids, [illegible] partner or your favorite charity.

In your will you can make specific bequests, that is, leave specific prop[illegible] specific people or groups (beneficiaries). After the gifts are distributed the remainder [illegible]sets are distributed to your residuary beneficiaries. Your residuary beneficiary receives a[illegible] does not go, for one reason or another, to the beneficiarie[illegible]ou named to receive [illegible] bequests. There is no need to describe, in your will, the pro[illegible] residuary beneficiary [illegible] receive. By definition, your residuary estate is the rest of your pro[illegible] does not pa[illegible]tside of your will or in a specific bequest, so it is impossible to know exact[illegible]will in[illegible].

COMPARING WILLS AND TRUSTS

	Will	**Li[illegible]Trust**
Probate	Subject to probate procee[illegible] Out-of-state property requires [illegible] proceedings in that [illegible] as well. Provides court s[illegible] handling beneficia[illegible]al[illegible] creditor disputes. Becomes public record [illegible] time of your[illegible]	Not[illegible]ect to probate proceedings. A[illegible]s the cost of a second-state [illegible]te proceeding where there is out-[illegible]operty. No auto[illegible]atic court supervision to deal [illegible]ith disputes. [illegible]mains private.
Tax Savings	Same [illegible]g provis[illegible]le as are ava[illegible] basic Probate Avoiding Trus[illegible]	NOTE: an AB trust can eliminate estate tax for couples who together own up to twice as much as the estate tax exemption.
Management o[illegible] Your assets	In addit[illegible], must use a [illegible]owe[illegible]ttorney or [illegible]atorship to manage assets.	Allows you as the grantor to manage the trust assets as long as you are willing and able. Makes a provision for a successor trustee to take over in your place.

SAMPLE

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Costs	Costs less to prepare a will than a trust. Cost to probate a will can be substantial.	Costs more to prepare, fund and manage a trust than [illegible] prepare a will, but avoids proba[illegible] [illegible]sts if all assets were held by th[illegible] [illegible]st.

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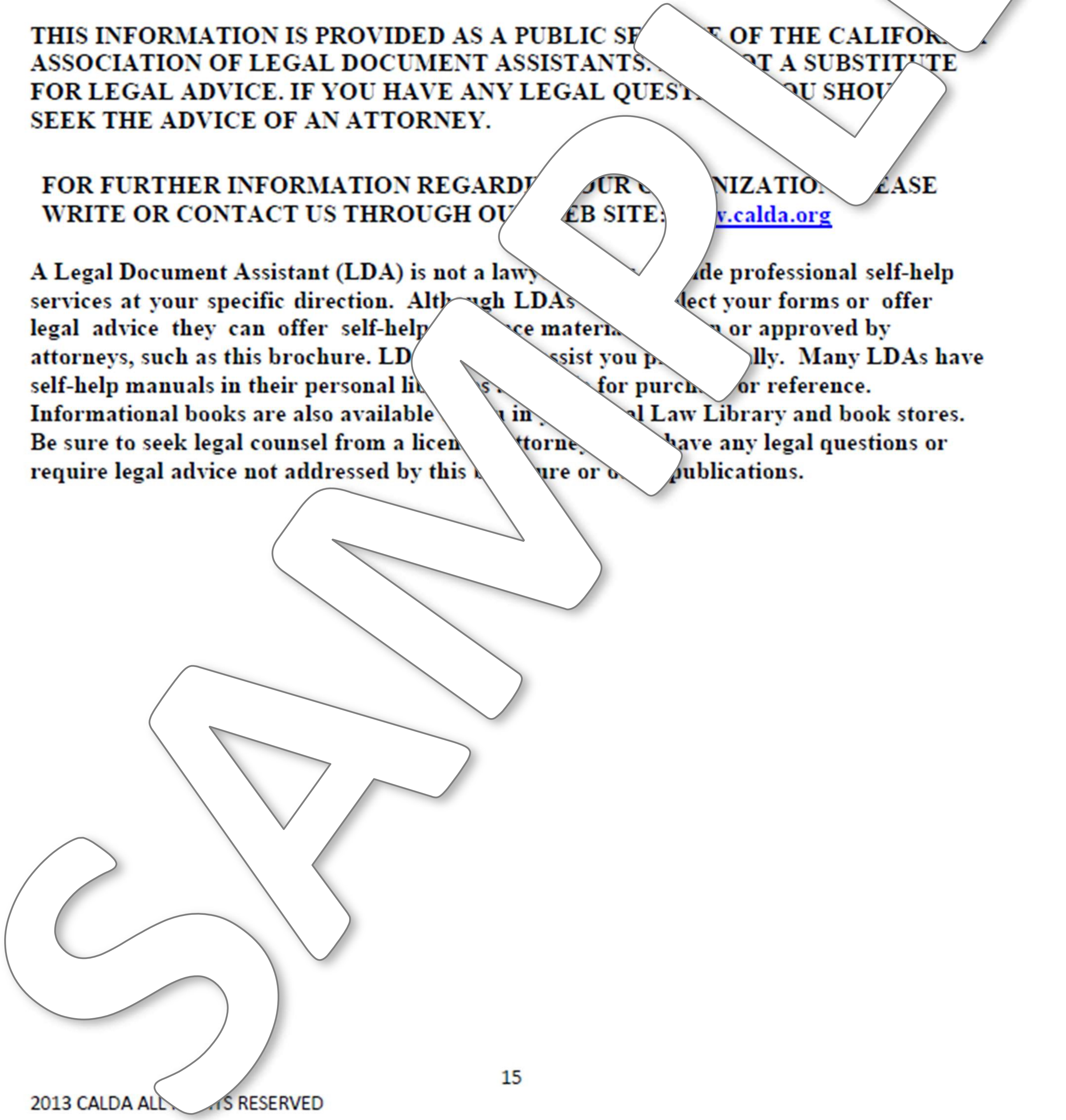

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