

How To Keep The Gold In The Golden Years

Is now a bad time to think about how to pay for the most expensive time of your life?

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Upcoming Webinars:
Saturday, March 26 at 10am
Thursday, April 7 at 3pm
Saturday, April 23 at 10am

GET ANSWERS TO YOUR QUESTIONS:

- How do I protect my health, home, lifesavings, family and legacy?
- Why is an outdated will worse than no plan at all?
- How can I be sure people I trust will make medical and financial decisions for me, if I cannot?
- How can I control the care I get (and do not get) in a medical emergency?
- How can I protect my kids' inheritance from divorce, bankruptcy, and their own poor decisions?
- How do I avoid heavy taxes from the new law on my retirement plans (like my IRA or 401k)?

Join Us
at Our Live, In-Person,
Group Workshops!

Grand Rapids

Saturday,
March 26
10am
(616) 361-8400
4965 East Beltline Ave NE
Grand Rapids, MI

Holland

Thursday,
March 24
3pm
(616) 796-9600
12330 James Suites B10
Holland, MI

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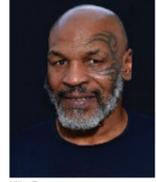
32 Years Serving Michigan Seniors

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CAN YOUR PLAN SURVIVE A PUNCH IN THE MOUTH?

“EVERYBODY’S GOT A PLAN... UNTIL THEY GET PUNCHED IN THE MOUTH”

IRON MIKE TYSON, PHILOSOPHER



Mike Tyson
Creative Commons: Glenn Francis

WHY DO 96% OF TRUST-BASED ESTATE PLANS FAIL? YOU PAID GOOD MONEY, WHY DID YOU GET SUCH A LOUSY PLAN?

YOUR BANKER, ACCOUNTANT, INSURANCE AGENT, TAX PREPARER, FINANCIAL ADVISOR, ATTORNEY ALL KNOW YOUR TRUST WON'T WORK... WHY AREN'T THEY TELLING YOU?

"No plan of operations extends with certainty beyond the first encounter with the enemy's main strength."

Von Moltke the Elder, German Field Marshal

Is it easy to plan for the future? How can we anticipate changes in the law, changes in the rules, changes in our health? Sure, you like your kids now, but what if one of them [Fill-In-The-Blank]? Do things always turn out just as you expect?



Von Moltke The Elder
Creative Commons

For example, let's say you are evil. And decide to invade a neighboring country. Seems like a good idea to you. Everybody thinks it'll be super. Plus, everybody says the people in that neighboring country will welcome your bullets, bombs, death and destruction. They simply cannot wait for you to rescue them from independence. So you plan. Poorly. Who needs extra food rations or ammo? Not us! Instead, your invading soldiers pack their dress uniforms for a Victory Parade. What? Me worry?

What if things do not go according to your plan? What if you get punched in the mouth? What if your invasion takes days rather than hours? Weeks rather than days? Thousands of your guys dead? And your missiles are falling on maternity hospitals? Plus you have run out of gas, your vehicles break down, and your tires are falling apart? And because your military radios don't work, you use open access civilian walkie-talkies. Your economy in shambles? Then what, Mr. Evil Invader Guy? Are you in deep trouble?

Maybe. But what if your primary geopolitical adversary is a corrupt career grifter whose primary skill is steering bribes to family members? What if this opponent was also an aw-shucks front for multinational corporations? What if he was well known for plagiarizing the homespun life stories of other politicians? Lucky you, Mr. Evil. Maybe you'll be OK.

Of course, that is all so unrealistic and fantastical, it could never happen in real life. Ha ha. Mr. Evil invading a sovereign country in the heart of Europe... ridiculous! Bumbling, ineffective opposition who claims "I maybe Irish, but I'm not stupid!"... preposterous!

And since we are being so silly and ridiculous, let's add a few more what-if's, shall we? What if that grifting politician was also suffering from the onset of dementia? And what if the second-in-command was also a grifter, as well as a national embarrassment and disgrace? And what if the next backup replacement was, of course, also a grifter, but over 80 years old with mannerisms indistinguishable from public drunkenness? Absurd, of course, Mr. Evil Invader Guy would sure have to be lucky!

Too outlandish. But remember what Yogi Berra said:

"It's tough to make predictions, especially about the future!"

What if you seek normalcy? You have had enough excitement. All you want is for things to go smoothly. Calm. Peaceful. Simple. So you plan for peace. To run things, you hire a guy who says he is a no malarkey, down-to-earth fella. And you believe him.

All of a sudden, Mr. Evil appears. Wars erupt. Prices skyrocket. Food shortages are threatened. People getting shot in the streets. Atomic war back on the table. People at each others' throats. And all you did was hire a nice old man to take care of things for a little while so the world could simmer down. So much for your plans.

Planning is tough. No kidding. It takes a lot of work to make things work. As the Dread Pirate Roberts, a/k/a Farmboy Wesley, said to Princess Buttercup:

"Life is pain, highness. Anyone who says differently is selling something."

William Goldman, *The Princess Bride*

WHY YOUR TRUST WILL FAIL, DESPITE YOUR BEST LAID PLANS
Your trust will fail because you will not retitle your assets to the trust. That is it. Simple. In your trust binder is a memo telling you to put your stuff into the trust. You did not do it. That is how your assets will wind up in probate. That is why your trust will not avoid probate. And because you got the memo, it is all your fault.

You have heard all this before, right? Boring! So let's go to the next level.

HOW LADYBIRD DEEDS COST REGULAR FOLKS MILLIONS OF DOLLARS

HOW A LADYBIRD DEED MAY COST YOU \$68,500

WARNING: THIS PART IS REALLY CONFUSING

Seems like lots of folks are doing ladybird deeds. Also known as "enhanced life estate" deeds. Or "transfer on death" deeds. There are many reasons to avoid ladybird deeds, except in precise circumstances. Unfortunately, many folks (including so-called elder law attorneys) think these deeds are "Medicaid-friendly." They cannot tell you why these deeds are so "friendly," but they will repeat the phrase endlessly.

We are not getting into all the reasons ladybird deeds are disastrous. Like a laser beam, our focus is how the misguided ladybird deed can cost a married couple \$68,500. And why the hapless, hopeless person who told you to do a ladybird deed should stick to doing something else. Like drunk driver defense or something...

As you know, the Elder Law Reporter is an infallible source of witty repartee, banter, life lessons, and easy-to-understand concepts. What follows is none of that. So do not complain to me if you keep reading.

I call this the "Pump Up the Pie" technique. If you can have half a pie, do you want a small pie or a big pie to start? I say, let us make the pie as big as possible. This technique has saved hundreds of families well over a million dollars:

BACKGROUND: HOW IT USUALLY GOES, THE \$68,500 MISTAKE!

1. A married couple. John and Jane. (Or Jane and Jane, etc, it's up to you.)
2. John and Jane own a house worth \$137,000. Ladybird deed to the kids. Or a trust.
3. John and Jane have a checking account with \$139,000.
4. John has dementia, needs skilled long-term care, checks into a Skilled Nursing Facility ("SNF") for the duration. At \$12-\$15,000 per month.
5. Jane says "Oh dear! How will I pay?"
6. The Protected Spousal Amount - Minimized By Poor Planning
 - a. SNF social worker says, "Jane, what do you and John own?"
 - b. Jane: "House with ladybird deed."
 - c. SNF Social Worker: "We don't care about that. Homestead with or without ladybird deed is exempt. What else?"
 - d. Jane: "Checking Account with '\$139,000.'"
 - e. SNF Social Worker: "Well, John gets to keep \$2000. And you can keep one-half of what is left! Your Protected Spousal Amount, that you can keep, is \$68,500."
 - f. Jane: "What?"
 - g. SNF Social Worker, "After you 'spend down' to \$68,500, Medicaid will pay the bills."
 - h. Jane: "Oh happy day! I thought I'd go bankrupt!"
 - i. SNF Social Worker: "Yes, happy days are here again."
7. Jane pays the SNF the \$68,500 and 4 months later, John is on Medicaid. With a dodgy roommate. And one shower a week. And laundry service that lost all his clothes, but provides others "just as good."
8. Jane is entitled to the "Minimum Monthly Maintenance Needs Allowance" and gets some of John's income through the "Community Spouse Income Allowance" so she can make ends meet, month to month.

SUMMARY: When a married person needs Medicaid to pay for long-term care, the Community Spouse can keep one-half of the lifesavings up to a maximum of \$137,000 (for 2022). Remaining lifesavings go to the facility for care of the Institutionalized Spouse (Or other spend-down.)

NOTE: Is it obvious that lots of details are being left out? Well, lots of details are being left out.

PLANNING AHEAD: DO NO HARM, PRESERVE LIFESAVINGS
Here's how we get John the Medicaid benefits that he and Jane have earned, without calamitous "spend-down" of lifesavings security.

1. A married couple. John and Jane. (Or John and John, etc, your call.)
2. John and Jane own a house worth \$137,000. Deeded to their basic, vanilla, nothing special, garden variety, revocable living trust ("RLT").
3. John and Jane have a checking account with \$139,000.
4. John has dementia, needs skilled long-term care, checks into a Skilled Nursing Facility ("SNF") for the duration. At \$12-\$15,000 per month.
5. Jane says "Oh dear! How will I pay?"
6. The Protected Spousal Amount - Maximized by Brilliance
 - a. SNF social worker says, "Jane, what do you and John own?"
 - b. Jane: "House that is deeded to our RLT."

c. SNF Social Worker: "Oh no! That is terrible! When a house is deeded to an RLT, it is NOT exempt. It counts just as if it were cash! So sad... What else?"

d. Jane: "Checking Account with '\$139,000.'"

e. SNF Social Worker: "Well John gets to keep \$2000."

f. SNF Social Worker: "Now we have to figure out how much you can keep as your Protected Spousal Amount. Let's see, there is \$137,000 of house that counts like cash, PLUS, \$137,000 of real cash. That is a total of \$274,000. And you can keep one-half! You can keep \$137,000."

g. Jane: "That's great! With a ladybird deed I could only keep \$68,500."

h. SNF Social Worker: "Yeah, but now you have to sell the house. And give us the money."

i. Jane: "Urk!"

7. Jane has a Special Telephone Conversation with her Attorney from the parking lot:

a. Jane: "#@*%#! \$@!#\$%!!"

b. 20 minutes later...

c. Attorney: "Jane?"

d. Jane: "I can't believe you cost me my house! You are Mr. Evil. ->-@#!!"

e. Attorney: "I may be Irish, but I'm not evil."

f. Jane: "Prove it!"

g. Attorney: "Because the house was in the trust on the first day of continuous care, which is also called the Initial Asset Assessment Date, or the snapshot date, the house counted as cash."

h. Jane: "I already know that you hellhound!"

i. Attorney: "Because the house counted as cash, your Protected Spousal Amount (aka Community Spouse Resource Allowance) is maxed out at \$137,000."

j. Jane: "Enough with the double-talk you shifty shyster. You cost me my home!"

k. Attorney: "No, not at all... because we anticipated this situation and wrote the trust and the powers of attorney as we did, you can now deed the house out of the trust to you and John."

l. Jane: "So what?!"

m. Attorney: "So now, the house is not countable cash, it is exempt homestead once again!"

n. Jane: "You mean it just disappears?"

o. Attorney: "No, we account for the house to the Medicaid folks, but now it is exempt homestead, because it is in your name and John's."

p. Jane: "David, is this legal?"

q. Attorney: "Oh yes, Bridges Eligibility Manual 405 says 'Converting an asset from one form to another of equal value is not divestment even if the new asset is exempt.' We are converting your home from countable asset to exempt homestead."

r. Jane: "I think you're giving me the old razzamatazz!"

s. Attorney: "What we have done together is a plan that just saved you \$68,500, because John immediately qualifies for Medicaid without any spend down."

t. Jane: "That's OK, I guess."

8. What if Jane dies first?

a. Jane: "But what if I die first? Then John owns the house and all the assets and they all melt away like snowflakes on a hot griddle!"

b. Attorney: "Good point. So here's what we do next:

- i. Deed the house from John to Jane, only.

ii. Amend the RLT to provide that at Jane's death, if John is still alive, the RLT assets, including house and money, all go to a new trust established by Jane's will.

iii. Deed the house from Jane to the RLT, but NOW using a ladybird deed. This way the house does not actually transfer until Jane dies. This way the house does not count like cash."

c. Jane: "Why do I have to do a new trust established by my will? That sounds like make work for you lazy lawyers!"

d. Attorney: "Honestly, I don't know why they make us do it this way, but BEM 401 says the trust must be "established by a will" or all the assets will count against John."

e. Jane: "But you keep saying that wills mean probate!"

f. Attorney: "Yes, there is a two-page filing in probate court to set up this trust for John, but no inventory or accounting. Simple and quick. First with experience and quality."

g. Attorney: "Now all the family assets are held for John's benefit."

h. Jane: "That's OK, I guess."

9. What happens when John dies?

a. Jane: "So what happens to the leftovers after John dies?"

b. Attorney: "The trust in your will says to put the assets back in the original trust after John dies, so the distribution to your kids and beneficiaries stays private and out of the probate court."

c. Jane: "Well, you certainly seem to have thought of everything!"

d. Attorney: "Yes, we are amazing!"

If you are still reading this, you may be getting the idea that there's a lot going on here. And you would be correct. The bigger question: Is it worth it?

EVEN IF THIS ALL WORKS... IS IT WORTH IT?

Imagine that your dad is a high-flying politician. That you are a crack-smoking, self-indulgent, profane, idiot who likes to video his sex and drugs and rock n roll on his laptops. And then lose various laptops at least 3-4 times. Imagine that you can break all the rules because you funnel the back channel bribe money to Pops. Welcome back my friends to the show that never ends... Money just keeps flowing...

Well, if that is you, what does \$68,500 mean? Seriously, \$68,500 is last night's bar tab, not including the broken furniture or "room service."

To some people, \$68,500 is not much. Certainly nothing to worry about.

But what is \$68,500 to Jane? John is not around to fix things. Not here to cut the grass. Or shovel the snow. Not running errands anymore. How is Jane supposed to cope? Especially with her financial security cut in half? What is \$68,500 to Jane? It is making sure John gets all the care he needs... whether Medicaid will pay or not. That money is a lifetime of blood, sweat, tears and coupon clipping. Common sense frugality that provided a comfortable way of life. That should not be sacrificed because some clown with a shingle or a shiny website can't be bothered to learn how this stuff really works.

CAN YOU REALLY DO THAT? IS THAT LEGAL?

Faithful readers know that The Elder Law Reporter does not write the rules, we merely read them. And report the results to you. Not making stuff up. Whose fault is it that nobody told you about these things? Sure, the blame game is pretty popular with some folks. We think it is better to light one candle than curse the darkness. Let's take it from here without the coulda, shoulda, woulda, shall we?

This "Pump Up the Pie" technique has been used by many families over the last 30 years. Saving millions. Legal? As the day is long. Approved repeatedly over the decades by the Michigan Department of Health and Human Services. Because it is the law. Of course, applications must be documented to a fare-thee-well. Hundreds of pages of audit-proof financial records. So, yes, you can really do that. If you do it correctly.

WHY WOULD MEDICAID LET YOU GET AWAY WITH SUCH PIE-RACY?

Is it piracy when the State lets you keep some of what you have earned? Is it ridiculous for you to get a bit of return on your tax dollars? Do you deserve nursing home poverty?

Of course, the State answers, "Yes, yes, a thousand times yes!" to these questions. So why do they allow us to Pump Up the Pie? Who knows? Probably because most families are not aware of it and do not get to keep as much as they should. It is not that big a deal for them. It is a big deal for you, and that is what LifePlanning™ is all about.

IS NOW A BAD TIME FOR A REAL SOLUTION?

Do you have all the answers? Maybe you do not see any problems at all. Is it possible that you do not believe in the passage of time or its effects on you?

Peace of mind and financial security are waiting for everyone who practices LifePlanning™. You know that peace only begins with financial security. Are legal documents the most important? Is avoiding probate the best you can do for yourself or your loved ones? Is family about inheritance? Or are these things only significant to support the foundation of your family?

Do you think finding the best care is easy? Do you want to get lost in the overwhelming flood of claims and promises? Or would you like straight answers?

Well, here you are. Now you know. No excuses. Get the information, insight, inspiration. It is your turn. Ignore the message? Invite poverty? Or get the freely offered information. To make wise decisions. For you. For your loved ones.

The LifePlan™ Workshop has been the first step on the path to security and peace for thousands of families. Why not your family?

NO POVERTY. NO CHARITY. NO WASTE.

It is not chance. It is choice. Your choice.

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