SUMMERALL LAW

KEEPING IT EASY FOR YOUR TRUSTEE: YOUR TRUST MAINTENANCE GUIDE

Great work getting your estate plan signed! You've taken important steps to avoid probate costs and fees — and to make things easier for your loved ones! You can make things even easier for your trustee by funding your trust and keeping key information organized and updated over the years.

You can help your trustee be prepared in 3 easy steps:

- ❒ Let your trustee know they should act — and where to find your trust.
- ❒ Complete your beneficiary designations / trust funding.
    - In the future, for new assets, follow the same steps and use this guide to keep an updated list of your assets with your estate plan.
- ❒ Provide your trustee with key contact info for your family, guardians, and beneficiaries.

Fill this form in | **Follow the instructions** | **Keep updated over time**

Step 1: Let Your Trustee Know They Should Act

No one will let your trustee know they are needed, **you have to tell them**. To document how you let them know, **check the boxes below** to show how you shared key information. We recommend you:

- ❒ Send the **trustees a copy of the trust.** If the first trustee is a professional fiduciary that will be selected later, send to trust protectors, health care agents, and custodial guardians.
- ❒ Make sure **health care agents** know how to contact the trustee, and that the trustees know the health care agents are the people to contact in case of a medical emergency.
- ❒ Let the trustees know **where the estate plan is stored.**

Our office will not contact your trustee when you pass away. We won't know you've died (despite what movies might suggest). Immediate family and health care agents are often contacted by police if someone passed away in an accident. Then they can contact our office, or any attorney's office for help on what to do (it's okay if we all die/this firm disappears, your trust is still valid).

Step 2: Fund Your Trust and Keep Track of Your Assets

Overview

- How Your Trustee Collects Accounts

Your trustee will present your death certificate (which includes your Social Security number) to each financial institution where they know you have assets. The institution, in most cases, will then pull all accounts related to the social security number, and release the funds to the appropriate party **without court involvement**, provided that **you funded your trust.**

- Funding Your Trust

For financial accounts, you generally have three options:

- ❒ Designate the trust as a beneficiary/backup beneficiary.
- ❒ Title the account in the name of the trust
- ❒ Keep the account under $200,000.

- Designate Beneficiaries

1. Log into your account and search for "beneficiary form".
2. List your trust or individual beneficiaries as the beneficiary using the details described below

- Title in the Trust.

Go to the bank, with a copy of the trust, or get a notarized form from the bank. Not available on retirement, life insurance and college savings accounts.

- Stay under $200,000.

If the total value of your assets that do not have a beneficiary designated and are not owned by the trust is $200,000 or less, those assets can be collected by your trustee with a very simple process.

Details

- **Guidelines for Beneficiary Designation:**

Check your Trust Funding Summary for details. Generally, the instructions below apply.

List your trust as the **100% primary beneficiary** unless one of these exceptions applies, then list the trust as the contingent beneficiary:

- ❒ If your **spouse or partner** is your primary beneficiary, keep them listed as the **100%** primary beneficiary and list your trust as the contingent beneficiary.
    - For joint accounts, trust is primary beneficiary. If you can't make the trust (or your beneficiaries) the beneficiary, change ownership to the trust or keep under $200,000.
- ❒ If your beneficiaries are **adults or charities**, consider listing them **directly (using their names on the beneficiary form)** as beneficiaries. (Details on the next page.)
- ❒ If you have a **special needs trust**, always **designate the trust as the beneficiary** (or backup beneficiary if you have a spouse or partner).

Should I list Adult Beneficiaries or the Trust?

- Trust as Beneficiary: This is the best option for making sure **wishes are followed as defined in your trust** and is especially important if you have **young or disabled beneficiaries**, or **a complex distribution plan.** This creates more work for your trustee and may delay distributions. Trust litigation claims are common. This might not result in optimal tax implications for each beneficiary.
- Listing Beneficiaries Directly: If you name your beneficiaries, it can **reduce the administrative burden on your trustee** and help ensure assets will be distributed quickly. It is very hard to litigate the validity of beneficiary forms, so this may reduce the risk of litigation for those assets.

Here are the Pros and Cons:

	Trust as Beneficiary	**Beneficiaries Named Directly**
Advantages:	- Exact distribution plan - Protects minors	- Faster - Less burden on your trustee - Decreased chance of litigation
Disadvantages:	- Not great for retirement accounts - Potential increase in trust litigation	- Harder to ensure exact distribution - Does not work for minors or those with disabilities.
Best Use Case:	- Required if minor or disabled beneficiaries - Complex distributions	- Adult beneficiaries - Charitable gifts - Retirement plan distributions

Crypto

- Make sure your trustee **knows how to access your wallet**.

Business Interests (LLCs) and Investment or Equity Interests in Start-ups/Non-Publicly Traded Companies:

- Keep a copy of the incorporation documents/shareholder agreement/investment agreement with this trust - your trustee must follow those rules.
- You can title your shares or change the ownership to the trust, but most people rely on our general assignment clause (no action necessary) in order to avoid unnecessary legal fees for their business/investment.
    - Pros – generally works out for no additional cost, worst case, assets require a court order to collect, but not a full probate.
- **For Your Business:** Note your business partners and key employees on the contact info page and ensure another signer is added to the account if the account goes over $200,000.

Additional Tip for Trust Creators who are Elderly or Have a Disability:

It is advisable to complete a **power of attorney** with any bank where your trustee will manage funds on your behalf during your lifetime - and/or provide them with online access.

Bonds:

If You Already Own I-Bonds

- Log into your TreasuryDirect account and confirm ownership and beneficiary designations.
- Existing I-Bonds may require a formal TreasuryDirect reissue process to transfer them into your trust.
- If you do not transfer the bonds to your trust, consider adding a payable-on-death beneficiary to help avoid probate.
- You may also choose to redeem the bonds at maturity and reinvest the funds into trust-owned accounts or investments.

If You Plan to Purchase I-Bonds in the Future

- Consider purchasing the I-Bonds directly through a TreasuryDirect account registered in the name of your trust.
- Purchasing bonds in the trust's name from the outset is generally simpler than transferring later.

Trust Funding Tracker

Financial Institution	Type of Account	Probate Avoidance Plan
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Joint Account/Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account

Financial Institution	Type of Account	Probate Avoidance Plan
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Trust Account
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		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Joint Account/Trust Account
		☐ Plan to keep <$200K ☐ Beneficiaries Designated ☐ Joint Account/Trust Account

▸ Updates to Real Property

Use the section below to list new properties. Noting your mortgage and insurance information is a kindness to your trustee as it makes their life easier.

To avoid probate/court expenses, real property generally must either:

- Be **titled in the name of your trust**
    - If you title in the name of your trust, you **need to call your homeowner's insurance** and ask – " Will you add my trust as an additional insured?"
    - If you title in the trust a property that is not your primary residence, please confirm with your lender that the transfer will not impact your mortgage. If you take our advice and use a transfer on death deed instead, there is no need to check with your lender as there is no impact on your mortgage.
- Have a **transfer on death deed recorded** – we will record any deeds we prepared; you don't need to take any action (no need to call your lender or your insurance company).

For **rental properties**, keeping a copy of the rental agreement and contact information with your estate plan will make life easier for your trustee.

For **out of state property**, contact a paralegal or attorney in that state and ask them to title the property in the name of your Trust or prepare a Transfer on Death Deed.

Address	Ease of Administration Plan	Insurance and Mortgage Info
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ______________________ (bank) ☐ Auto debit through my account with ____________ or ☐ Monthly check ☐ Homeowners insurance with ______________________
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ______________________ (bank) ☐ Auto debit through my account with ____________ or ☐ Monthly check ☐ Homeowners insurance with ______________________

Address	Ease of Administration Plan	Insurance and Mortgage Info
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ____________________ (bank) ☐ Auto debit through my account with __________ or ☐ Monthly check ☐ Homeowners insurance with ________________________
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ____________________ (bank) ☐ Auto debit through my account with __________ or ☐ Monthly check ☐ Homeowners insurance with ________________________
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ____________________ (bank) ☐ Auto debit through my account with __________ or ☐ Monthly check ☐ Homeowners insurance with ________________________
	☐ Transfer on Death Deed ☐ Titled in the name of the Trust **and** ☐ Homeowner's Insurance Updated.	☐ No mortgage ☐ Mortgage with ____________________ (bank) ☐ Auto debit through my account with __________ or ☐ Monthly check ☐ Homeowners insurance with ________________________

▸ Updates to College Savings Accounts (optional)

Use the section below to *list new college savings accounts.*

To avoid probate college savings accounts must:

- ❒ Have a successor participant or successor guardian named, or
- ❒ Be part of the portion of your estate without beneficiary designations or trust ownership that totals less than $200,000

Most people use up these accounts before they pass away, so this step is less important.

Financial Institution	Probate Avoidance Plan
	☐ Successor Participant Named ☐ Plan to keep <$200K
	☐ Successor Participant Named ☐ Plan to keep <$200K
	☐ Successor Participant Named ☐ Plan to keep <$200K
	☐ Successor Participant Named ☐ Plan to keep <$200K

▸ Updates to Cars (optional)

Use the section below to list cars. You do not need to update the title or list a beneficiary.

Type of Car	Location of title

Step 3: Track next-of-kin, beneficiaries & more (optional)

A place to *track & update contacts for your estate over time.*

▸ Next-of-kin defined

The trustee will need to send notice to your next of kin, so keeping contact information up to date is useful. Your next of kin will be defined based on California law and who is living at the time you pass away, but a good place to start is as follows:

> **Level 1**: Any living spouse, children, grandchildren & great grandchildren, if none, then
>
> **Level 2**: Living parents, siblings & then children of siblings, if none, then
>
> **Level 3**: Living grandparents, aunts, uncles & their children (cousins)

Listing your grandchildren (and great-grandchildren) is optional if they have a parent that is still living and in good health. List your grandchildren if their parent (your child) has already passed away.

▸ Contact Info (for people who don't know each other)

If your **important people** - trustees, beneficiaries, health care agents, guardians, temporary guardians, pet guardians - **do not all know each other**, or are hard to find (for example, they live internationally and have a common name) list their contact information below. If you don't know all the information, noting even the name and city where they last lived is useful.

Name and Relationship	Email	Phone	Address

Name and Relationship	Email	Phone	Address

Additional Insurance Information

It's not required, but it's helpful if you list additional information as specified below that can be pertinent to your estate.

Type	Description
Health	
Auto	
Other	
Other	
Other	
Other	

People of Interest

Use the section below to list other people that might impact your estate. People who are trusted to take care of your children, CPA's, Financial Advisors, Vet, key business employees etc.

Name	Email	Phone	Address	Why they matter

Additional Information for Beneficiaries with Special Needs

Purpose:
This letter, sometimes called a Memorandum of Intent, is designed to accompany the Special Needs Trust or Financial Management Trust for your beneficiary that needs help. It provides current and future trustees, caregivers, and service providers with a clear and compassionate picture of that person's daily life, routines, preferences, and needs. While not legally binding, it is an invaluable guide to help ensure continuity of care, quality of life, and dignity for that person if you are no longer able to speak on their behalf. You can update this letter over time as that person grows or as their circumstances change. Store it with your trust documents and make sure a copy is accessible to your successor trustees.

Financial Management:
Financial management for Special Needs Trust beneficiaries is **complex and the law changes frequently**. We recommend all trustees of a Special Needs trust, work or consult with a **professional fiduciary** that works with special needs trust beneficiaries. There are **low-cost non-profit organization** that provide these services for a minimal fee. Currently, a couple of ideas are: Special Needs Trust Foundation, Jewish Family Services, and Commonwealth Community Trust.

Instructions for Parents or those close to the beneficiary:
Complete this letter in your own voice. Be specific and descriptive. Update it annually or after any major life changes.

Include any personal touches that help someone new truly understand that person.
Prepared by: ________________________________ Date: ______________________

Beneficiary Full Name:___________________________ Date of Birth: ____________________

Diagnosis / Medical Summary:

____

____

____

Communication Style:

____

____

____

Daily Routine

Morning (7:00 AM – 12:00 PM):

Afternoon (12:00 PM – 5:00 PM):

Evening (5:00 PM – 9:00 PM):

Things That Help:

Things That Cause Distress:

Health & Medical:

Medications:

Key Service Providers (doctors, social workers, therapists):

Emergency Protocols:

Allergies:

Goals and Hopes:

Any other thoughts: (i.e. this person cannot have cash)