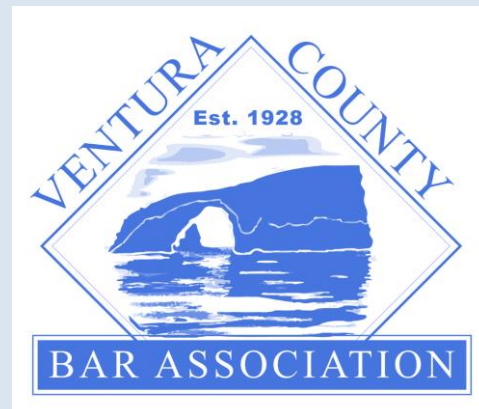


# Navigating Trusts and Conservatorships with a Fiduciary: Key Insights for Probate Attorneys.

Estate Planning & Probate Section  
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# What Will We Cover?

Introduction.

How did we land in your matter?

Pitfalls of Trusts.

It's only harder in a Conservatorship.

How can we work together smarter, not harder?

Questions?

# Introduction – Angelique Friend

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# Introduction – Laura Viets

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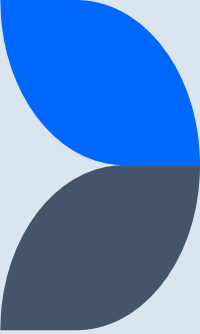
(805) 309-0399

PF #571

# Case Loads

- 161 Active Fiduciaries in Los Angeles County
- 19 Active Fiduciaries in Santa Barbara County
- 118 Active Fiduciaries in San Diego County
- 13 Active Fiduciaries in Ventura County
  - 3 Fiduciaries Accept Court Appointments (That we know of).

In 1920, the older population (65 years or older) was 4.9 million people (less than 1 in 20 people). In 2020, the older population rose to 55.8 million (now 1 in 6 people). This represents a growth rate of about 1,000%.



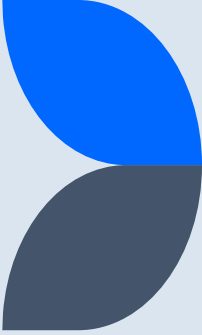
“

Business opportunities are like buses. There's always another one coming.

Richard Branson

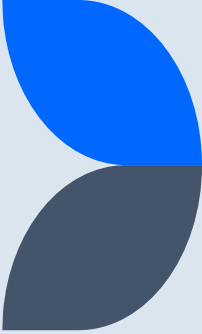
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# How did we land in your matter?



- Referrals
  - CPA
  - Attorney
  - Family
  - Financial Advisor
- Court Appointments
- Mediators
- Public Guardian via Adult Protective Services

# At what point can we help?



## Planning

No family or friends  
No one to trust or can count on

## Blended Family

Avoiding conflict  
(Neutral 3<sup>rd</sup> Party)

## Bond

Successor cannot qualify

## Accusations

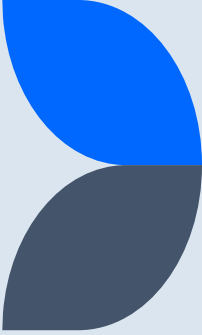
Matter is filed, accusations are made.

## Access to resources

Successor no longer lives in the area, can't administer from afar or no one is available

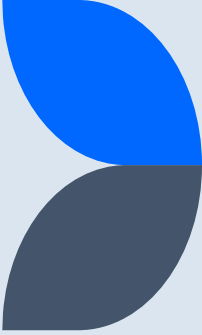


# Collaboration and Communication with Our Attorney



- Key responsibilities
  - Determine WHO is really the client
  - Sharing information
- Meeting expectations
  - Check-in
  - Reports/telephone calls
  - Meeting deadlines
    - Reminders
- Complimenting each other
  - Establishing a collaborative working relationship to benefit the client

# Collaboration and Communication with Our Client



- Key responsibilities
  - Determine WHO is really the client.
  - Determine WHO is our main contact (could be family)
- Meeting expectations
  - Check-in, when we need to do it.
  - Reporting, finances, health, etc.
  - Client's emergency? Well, is it really?
- Complimenting each other
  - Establishing a collaborative working relationship to benefit the client
  - Managing time and fees

# General issues that arise in some matters

## Arbitration

### Agreements

- Financial Advisor agreements
- Care provider agreements
- Tax preparer agreements

## Ethical Boards

- No previous AHCD, no history
- Inconsistent with AHCD

## Financial Institutions

- Order of the Court
- Language in the Order
- Conformed copies or Certified copies (stamp)
- Notes on the margins or language changes
- Mistakes made by banker when account is opened by deceased person

# More issues that arise in some matters

## Gifts and Tips

- Holiday gifts for caregivers and family
- Birthday gifts
- Cash gifts and tips

## Caregiver

- It's the only person your client trusts, but they don't work for a service
- Relationship evolves with caregiver
- Stealing (but Client wants her personal property to remain)
- Pets - Who cares for the pet when the caregivers won't?

## Need to Change the other Trusted Professional

- CPA costs
- Advisor doesn't understand our role
- Doctor refuses to complete Capacity Declaration or draft a letter
- Doctor isn't listening

# Estate Planning and Trust Administration

Can we streamline and simplify the process? Common challenges and pitfalls.

- A PF is sometimes the easy answer, but not always the right fit.
- If named, let us know sooner than later.
- What is the value of the SNT after the Settlor passes?
  - After distributions, what's really left for the beneficiary?
- Trust Protectors.
- Trust Restatements, please. Amendments are sometimes more complicated when it comes to banking.
- When the Health Care Agent is not the named PF, and agent is not doing their job.
  - How do we get the capacity letter without help?
- Settlement Agreements, give us time to review and have them reviewed before committing a successor to the job.



# Conservatees and ships, what happens when...

- Conservatee is married and financial obligations are to both of them.
  - Working with family who is involved with “healthy spouse”
- Conservatee refuses healthcare
  - First responders don’t understand your role
  - Family demands that you “do something”
- Someone else is Trustee and holds all or majority of funds.
- Conservatorship dies with the Conservatee, but who is making post death decisions when there’s no one, or heirs are fighting (which is why you were appointed in the first place).
- Conservatee gives his/her stuff away.



# Adhering to legal and ethical standards, why is this a problem?

- Juggling priorities.
- Explaining over and over why we can't meet their demand.
- Client or beneficiaries do not like what they are told.
- Post death wishes that cannot be honored.
- When the bequeathed personal property does not exist.
- The result leads to complaints, claims, and negative reputations.

# Lessons learned

\*Choosing the right representation and choosing the right Fiduciary, not just the one willing to take the case.

\*Good cop/bad cop works for us

\*Not offended when it's time to switch, not just when the client/beneficiaries think it's time.

\* Be wary when the referral source says "this a good one."

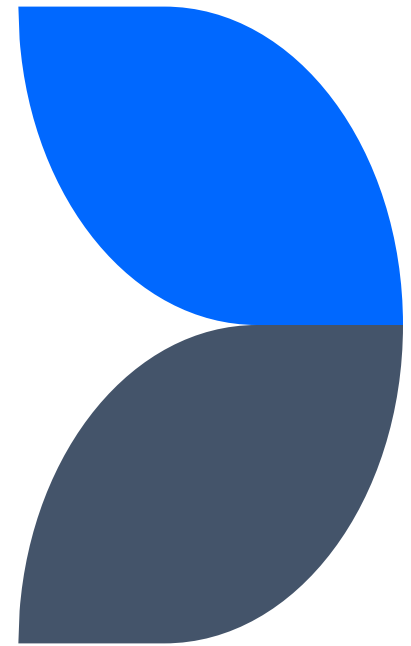


# What else are we up against?

- For Clients:
  - Rising costs, especially in care
  - The client with the least amount of assets often requires the most amount of time and effort
- For Fiduciaries:
  - Staffing
  - Nothing is as easy as it used to be, more hoops
  - Costs
    - Overhead
    - PF requirements by the state. Continuing education, fees, insurance, take more time every year
  - Work, family, balance
    - We are responsible 24/7

# Questions?

- \* Now, how can we help you?
- \* How can we address your concerns or scenarios?
- \* Open for discussion.





# Thank you

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