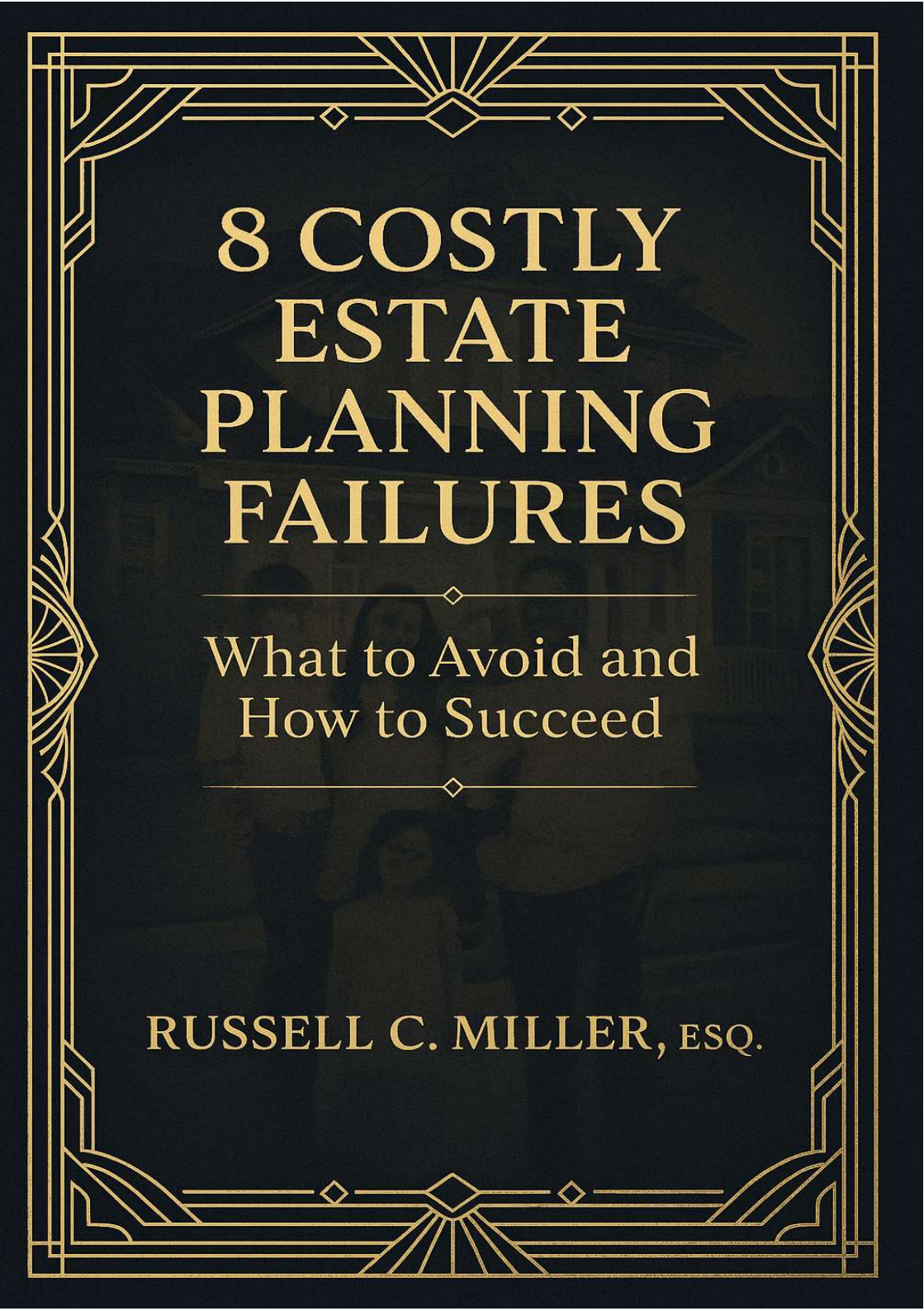




8 COSTLY ESTATE PLANNING FAILURES

What to Avoid and
How to Succeed

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Introduction

Most families know they need an estate plan — but few realize that the wrong kind of plan can cause just as many problems as having no plan at all.

Every day, I meet people who thought they were “covered” because they had a living trust or a will. Unfortunately, what they really had was what I call a “**Death Plan**” — a bare-bones document that only avoids probate after death but fails to protect during life.

The greatest danger comes from disability. If you become disabled, your family may be unable to help you without going to court. Accounts can be frozen, banks may fear accusations of elder abuse, and medical privacy laws can block access to vital information. Without proper disability planning built into your trust, your loved ones are left powerless while your estate is drained by long-term care costs.

The truth is this:

- The average cost of a California nursing home is **\$13,656 per month!**
- **70% of people will become disabled** during their lifetime.
- And if a trust has **no disability planning**, it disregards the most important issue that can drain your estate and leave your loved ones helpless.

The good news? Once you know the mistakes to avoid, you can take action today to protect your family, your home, and your savings.

Mistake #1: Do it Yourself Planning

Some families try to handle estate planning without legal advice. They may hear well-meaning but dangerous tips from friends, relatives, or even what I call “**bad hairdresser advice.**”

For example, clients are often told:

- “Put your children’s names on the title of your home”
- “Just give your house to your kids — that will protect it from Medi-Cal”

The reality? These quick fixes create enormous problems.

The dangers of DIY estate planning include:

- Losing control of your property once a child becomes a co-owner
- Exposing your home to your child’s **divorce, creditors, lawsuits, or bankruptcy**
- Probate risk if your child dies before you
- Family conflict — when multiple children are placed on the title, all must agree to sell. The more owners, the greater the chance of deadlock.

What seems like a “simple solution” can actually cause the very problems you were trying to avoid — and sometimes worse.

The Better Way: A properly designed **Revocable Living Trust** protects your home from Medi-Cal, keeps you in full control during your lifetime, and ensures smooth transfer to your family without exposing your property to their personal risks.

Mistake #2: Doing Nothing

The biggest mistake families make is doing nothing at all.

Too many people put off estate planning, thinking they have plenty of time. But none of us know when disability, illness, or death will strike. Waiting until “someday” often means waiting until it’s too late.

The consequences of doing nothing are severe:

- Your family may be forced into probate court, facing months or even years of delay and thousands in legal fees.
- If you become disabled, your loved ones may have to pursue an expensive **conservatorship** just to manage your care and finances.
- Without planning, Medi-Cal can come after your home and estate for repayment of care costs.
- Your children’s inheritance is left unprotected — vulnerable to divorce, creditors, lawsuits, or even ending up in the hands of strangers.

Doing nothing leaves your family without a plan, without guidance, and without protection.

The Better Way: Taking action now with a properly designed **Revocable Living Trust and Life Plan** ensures your loved ones are protected today — not someday.

Mistake #3: Relying on a Will Alone

Many people believe a **Last Will and Testament** is enough to protect their family.

Unfortunately, this is one of the most common — and most costly — estate planning mistakes.

A will does **not** avoid probate. In fact, it guarantees it. That means when you pass away, your loved ones will be forced into the probate court system.

The consequences of probate include:

- Months — or even years — of court delays
- Thousands of dollars in attorney's fees and court costs
- Public exposure of your family's private financial matters

This is exactly what most families want to avoid. Sadly, relying only on a will ensures the very outcome you were trying to prevent.

The Better Way: A properly drafted **Revocable Living Trust** keeps your family out of probate court and allows your estate to be handled privately, quickly, and efficiently.

■ **Mistake #4: Having a “Death Plan” Trust**

Many families believe they are protected simply because they “have a trust.” Unfortunately, most of these are what I call “**Death Plans.**”

A Death Plan trust is designed only to avoid probate after you die. It ignores the most important threats families actually face during life.

The problems with a Death Plan include:

- No protection if you become disabled — your family may be forced into conservatorship court
- Accounts may be frozen by banks or brokerage firms if they fear elder abuse or fraud
- No provisions for the surviving spouse beyond probate avoidance
- Outright inheritance left to children, exposing them to divorce, creditors, or lawsuits
- Attorneys often charge high fees for these inadequate documents

Families who think they are “covered” often learn too late that their trust fails when it matters most.

The Better Way: A true **Life Plan** is designed to protect you during disability, safeguard your spouse and children, and keep your assets in your family line — starting the day you sign, not just after you’re gone.

■ **Mistake #5: Failing to Plan for Disability**

Disability is the greatest threat to your estate. Studies show that **70% of people will become disabled during their lifetime.** Yet most estate plans fail to address this critical issue.

When a trust has no disability provisions, your family may be left powerless when you need them most.

The consequences of failing to plan for disability include:

- Frozen accounts — banks and brokerage firms often lock assets when the owner is disabled
- Financial institutions fearing accusations of elder abuse, identity theft, or fraud if they allow access
- Loved ones forced into **conservatorship court** just to manage your care or finances
- Delay, stress, and expense for family members who are only trying to help

Without proper planning, your family may spend thousands in legal fees and months in court while your estate is drained by long-term care costs.

The Better Way: A properly designed **Revocable Living Trust** — what I call a **Life Plan** — includes the provisions your family needs to step in, manage your care, and protect your assets immediately, without court involvement.

Mistake #6: No Plan to Pay the Nursing Home

The most dangerous financial threat to your estate isn't probate — it's the cost of long-term care.

In California, the average nursing home costs **\$13,656 per month**. At that rate, even a lifetime of savings can be wiped out in just a few years.

Families often assume that Medi-Cal will cover these costs automatically. But what they don't realize is that Medi-Cal can demand repayment after death through **estate recovery** — even against the family home. Without proper planning, your loved ones may be shocked to discover that everything you worked for is subject to collection.

The consequences of failing to plan for nursing home costs include:

- Savings drained by long-term care expenses
- The family home lost to Medi-Cal estate recovery
- Surviving spouse and children left without the protections you intended

The Better Way: A Life Plan anticipates these dangers and includes strategies to protect your home and savings, while still allowing you to qualify for the care you need.

Mistake #7: Leaving an Outright Inheritance

Many parents assume that leaving an outright inheritance to their children is the best way to pass on their legacy. Unfortunately, this mistake can cause everything you worked for to be lost within a generation.

The dangers of an outright inheritance include:

- **Divorce:** If your child divorces, part of their inheritance could go to an ex-spouse.
- **Creditors & Lawsuits:** Inheritances can be seized to pay judgments, debts, or lawsuits.
- **Predators:** Unscrupulous people may take advantage of an heir with newfound wealth.
- **Sideways Inheritance:** If your child dies without their own plan, assets may go through probate and end up with in-laws — or even complete strangers.

This is the exact opposite of what most parents want. Instead of protecting their children, an outright inheritance leaves them exposed.

The Better Way: A Life Plan creates **inheritance safeguards** that protect your children's legacy from divorce, creditors, predators, and sideways inheritance — ensuring your wealth stays in your family line.

■ **Mistake #8: Incomplete Planning**

Many families think they are protected because they “have a trust,” but what they really have is an **incomplete plan**. Attorneys often cut corners, leaving out essential documents or failing to follow through on the most important steps.

The most common problems with incomplete planning include:

- Missing essential documents such as a **Pour-Over Will, Power of Attorney, or Advance Health Care Directive**
- Clients being left to handle **trust funding** (retitling assets into the trust) on their own, which is often overlooked or done incorrectly
- No guidance on how to handle future changes, leaving the plan outdated when it’s most needed

The result? The trust fails. Assets still end up in probate, families must return to court, and the money spent on the plan is wasted.

The Better Way: A Life Plan is **complete**. It always includes all the essential legal documents, proper trust funding, and ongoing guidance. Nothing is left unfinished — and your family is protected from the start.



The Solution: A Life Plan

Most attorneys sell “**Death Plans**” — living trusts that look impressive in a binder but fail when it matters most. They only avoid probate after you die, but they ignore the dangers of disability, nursing home costs, Medi-Cal recovery, remarriage risks, and sideways inheritance. Families who rely on them often learn too late that their trust doesn’t work.

At *The Miller Elder Law Firm*, I create **Life Plans**. A Life Plan is a complete estate plan designed to protect your family:

- **During your lifetime** if you become disabled or need long-term care
- **For your spouse** with asset protection and remarriage safeguards
- **For your children** with inheritance protections against divorce, creditors, and predators
- **For your home and savings** with Medi-Cal planning strategies to prevent the state from taking what you’ve worked for
- **For peace of mind** with every essential document included and trust funding handled properly

A Life Plan goes beyond avoiding probate. It keeps your family safe, your assets secure, and your legacy intact.



Take Action Now

The biggest mistake of all is waiting. None of us know when disability, illness, or crisis will strike. By then, it may be too late to protect your family and your assets.

You've worked hard your entire life to build a home, savings, and security for your loved ones. Don't let it all be lost to probate, conservatorship, nursing home costs, or Medi-Cal estate recovery.

With a properly designed **Life Plan**, you can:

- Protect your family immediately — not just after you're gone
- Safeguard your home and life savings from nursing home costs
- Provide inheritance protections for your children and grandchildren
- Ensure your wishes are honored without court interference



The only time to plan is now.

Schedule your Free Consultation today and let's build the plan your family deserves.

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