FROM THE SHORE *A will points the way — but only a trust keeps your estate out of the current.*

ESTATE PLANNING & WEALTH

Why a Basic Will Is *Not Enough*

A will is a start — not a finish. Here is what probate really costs a California family, and why a trust is the document that keeps your estate private, protected, and out of court.

TAMARA L. HARPER, ESQ. • 6 MIN READ • WILLS · TRUSTS

You have probably seen it in the movies: a family gathers, a will is read, and property passes cleanly to the heirs. Real life rarely works that way.

A solid estate plan uses a combination of trusts and wills to designate how and to whom your property passes, to minimize estate tax, and to avoid court oversight and approval. Having only a will does **not** keep your estate out of a court process called probate — a proceeding that is notoriously expensive, public, and slow, taking nine months at a minimum to settle. This issue walks through what probate costs, what a will can and cannot do, and how a trust changes the outcome.

AT A GLANCE **What this issue covers**

01 **The cost of probate**
Even a simple $300,000 estate can lose $22,774.50 to fees and costs.

02 **Fees scale with your estate**
Statutory fees rise with estate value — often $26k to $126k or more.

03 **What a will can't do**
It's public, contestable, and can freeze accounts — and it can't plan for incapacity.

04 **Will vs. trust, side by side**
Four scenarios show exactly what happens to your estate under each.

— CONTINUED ON PAGE 2 —

FOLLOW THE MONEY

What probate actually costs

"My estate is small — I don't own much. Why would I need a trust?" It is the most common question we hear, and the numbers answer it plainly. Probate fees are set by law and awarded to the person and the attorney who administer the estate — before a dollar reaches your heirs.

CASE STUDY · A $300,000 ESTATE

Statutory minimums — filing & hard costs not included

Probate e-Filing fees	$495.00
Publication fee	$570.00
Bond *per year*	$1,800.00
Letters fee	$127.50
Probate referee fees	$800.00
Final petition fees	$982.00
Statutory executor fees	$9,000.00
Statutory attorney fees	$9,000.00
TOTAL FEES & COSTS	**$22,774.50**

> *Even a simple probate on a $300,000 estate can cost your family $22,774.50 in fees and costs — money a trust would have kept in their hands.*
>
> TAMARA L. HARPER, ESQ.

AND IT SCALES · STATUTORY FEES BY ESTATE VALUE

ESTATE VALUE	EXECUTOR FEE	ATTORNEY FEE	TOTAL	% OF ESTATE
$500,000	$13,000	$13,000	**$26,000**	5%
$1,000,000	$23,000	$23,000	**$46,000**	5%
$1,500,000	$28,000	$28,000	**$56,000**	4%
$2,500,000	$38,000	$38,000	**$76,000**	3%
$5,000,000	$63,000	$63,000	**$126,000**	3%

Minimum statutory executor and attorney fees only — court filing fees, bond, referee, and publication costs are additional.

— CONTINUED ON PAGE 3 —

THE RIGHT TOOL FOR THE JOB

What a will can — and cannot — do

A properly executed will is a good start. If you die without one, state law controls who receives your property. But a will still runs through probate, and there are limits to what it can protect.

A Three provisions worth putting in a will

Guardian for your children. A will names a guardian for minor children if both you and your spouse die. Choose carefully — be sure the people you elect are willing and able to accept the responsibility.

Creation of trusts. For longer-term goals — funding a child's education, providing for an elderly parent — a will can instruct that testamentary trusts be created at your death.

Naming an executor. Your executor is your personal representative: administering the estate, distributing assets, making tax decisions, paying debts, securing life-insurance and retirement benefits, and filing the necessary returns.

A WORD ON DIY WILLS

Get it wrong once, pay for it later

Estate, probate, and tax laws are complex. A "do-it-yourself" will often misses the legal language that actually protects you — work with an attorney to build one that holds up.

B What relying on a will alone can cost you

A will does little to address how taxes affect your estate — and nothing to keep it out of probate. If you pass away with only a will in place:

- Your financial accounts may be **frozen**.
- Probate can be **lengthy**, with assets subject to claims of heirs and creditors and to court examination and approval.
- Settlement costs **decrease the size** of your estate.
- Your will becomes a **public document**.
- Interpretation can **vary by state** if you die somewhere other than where the will originated.
- It may **not control all your property** — joint-tenancy titles and beneficiary designations pass outside it.
- Your will **can be contested**.
- Assets left to a spouse are subject to **federal estate tax** at their death (rates as high as 40%), plus any state death taxes.
- If you become **incapacitated**, a will makes no provision for your care.*

Some things are worth protecting for the long haul.

*For planning that covers incapacity, see our companion article, **"HIPAA, CMIA, DPA, AHCD & POLSTs — Oh My!"** (The Tides, Issue 03) on the Advance Health Care Directive, Durable Power of Attorney, and Physician Orders for Life-Sustaining Treatment.*

— CONTINUED ON PAGE 4 —

FOUR SCENARIOS

What happens to your estate

The difference between a will and a trust is easiest to see side by side. Read down the rows to find your situation — and what it means for your family.

IF YOU DIE WITH…	PROBATE & COURT APPROVAL	WHO CONTROLS YOUR PROPERTY
Nothing *No will and no trust*	**Yes — full probate**	**State law** controls the disposition of your property, not your wishes.
A will only *Will, but no trust*	**Yes — full probate**	**Your will** dictates disposition — but only after the public, costly probate process.
A trust & a will *The complete plan*	**No — avoids probate**	**Your trust** dictates disposition, minimizes estate tax, stays private, and shields assets from creditors.
A trust only *Trust, but no will*	**Partly — gaps go to probate**	Court appointments like **guardianship** aren't covered, and any asset **not titled in the trust** passes by state law — not your wishes.

The takeaway is simple: a will is better than no will, but a trust is what keeps your estate **private, protected, and out of court**. Together — a trust to hold your assets and a will to catch what it doesn't — they form a plan that actually does what you intend.

FOR YOUR READING LIST

- → California Courts — Wills, Estates & Probate
  courts.ca.gov · how probate works & what it costs
- → The Tides, Issue 03 — Planning for Incapacity
  tamaraharper.com · the documents that protect you while living

A note from counsel

I appreciate your referrals and your business, and I look forward to showing you ways to protect and maximize your wealth. If you already have a will, review it periodically — a change in residence, dependents, marital status, finances, or the tax law is reason enough to update it.

LET'S TALK

Keep your estate out of the current.

Whether you're starting your first plan or updating an old will, schedule a virtual or in-office appointment and we'll build a plan that keeps your wealth with the people you choose.

BOOK A MEETING →

CALL 805-409-0530 ↗

This article is provided for general informational purposes and does not constitute legal advice. Fees shown are illustrative statutory minimums and will vary by estate; court filing fees and hard costs are additional. For guidance specific to your situation, please contact our office.