

My EVEPC Membership Value

The organization values feedback from all members, guests,
attendees and those that could not attend before, during and after each event

You can fill out the survey online: SAVE TIME! SAVE MONEY! IMPROVE ACCESS TO YOUR COMMENTS!

EVEPC Website Services I used/referenced this month: (select all that are applicable)

Home Page Calendar and Events Reference

Online membership directory

Event Registration

Membership News

Board Members Section

Members Only Section

Other

Website Features I would like to see added: (select all that are applicable)

Active/Current job Bank

Active Advocacy Page

E newsletter

Twitter or Facebook Presence

Other:

Recent EVEPC Membership Impacts

Reached or met a new professional contact

Networked with a fellow member to solve a problem or open a new opportunity

Made or received a referral to/from a fellow member

Utilized information learned from a current or past EVEPC program with a client or peer

Utilized EVEPC program for completing professional continuing education requirements

Learned of an advocacy issue important to my profession

Other:

If you unable to join this month's meeting, or if you have other items for board consideration that would keep your membership value high, please let us know here.

Know of an associate or colleague we should invite to the upcoming meetings.....

Please provide contact information below or email evepc@premiumorganization.com

Name: _____

Organization: _____

Email: _____

Phone: _____

EVEPC Program Evaluation

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Filling out this survey online SAVES TIME! SAVES MONEY! And improves Board access to your comments!

Topic: Estate Planning for the Modern Family

Date: November 18, 2015

Speaker: Kathie Gummere

Did we select the right topic?	Strongly Disagree	Disagree	Neither Disagree or Agree	Agree	Strongly Agree
The presentation matched the topic/ content I was expecting	1	2	3	4	5
The presentation topics is/ was relevant to my practice	1	2	3	4	5
The presentation as planned was easy to follow	1	2	3	4	5
The level of the presentation was appropriate	1	2	3	4	5
The presentation handouts were relevant, helpful and complete	1	2	3	4	5
I learned at least one useful or new thing today	Yes	No	(circle one)		

Additional comments on the presentation topic or suggestions for future topics

Did we get the right presenter?	Strongly Disagree	Disagree	Neither Disagree nor Agree	Agree	Strongly Agree
The presenter was well informed on the topic	1	2	3	4	5
Presenter delivered information in a way I could follow & learn	1	2	3	4	5
Presenter's communication style kept me focused & interested	1	2	3	4	5
I would recommend this presenter	1	2	3	4	5

Additional comments on the presenter or other presenters you'd like to see.

Please tell us about the venue and logistics experience.	Strongly Disagree	Disagree	Neither Disagree or Agree	Agree	Strongly Agree
The breakfast buffet met my expectations	1	2	3	4	5
The event logistics supported a positive membership	1	2	3	4	5
The room logistics supported a positive learning and networking experience	1	2	3	4	5

Additional comments on the venue and logistics:

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EAST VALLEY ESTATE PLANNING COUNCIL

November 18, 2015

Presented by Kathie J Gummere

ESTATE PLANNING FOR THE “MODERN FAMILY”

(with many thanks and apologies to the creators of the show)

FACTS

Family members all live in Arizona

Cast of Characters:

Patriarch – **Jay** – 63, sole owner of successful company with a net worth in excess of \$5.5 Million

Trophy Wife – **Gloria** – roughly the same age as Jay’s children from prior wife – stay-at-home mother

Gloria’s Child – **Manny** – high school age, born prior to marriage to **Jay**, bio father – Javier – is in the child’s life – **Jay** has no legal relationship to **Manny**

Son of Jay and Gloria – **Jose** – age 2

Son from Prior Wife – **Mitchell** – corporate lawyer – high earnings

Mitchell’s Husband – **Cameron** – part-time high school coach, full-time Dad – low earnings

Mitchell’s Adopted Child – **Lily** – **Cameron** has no legal relationship to **Lily**

Biological child of **Claire** and **Cameron** – **Sam** – born during marriage of **Mitchell** and **Cameron**, AND **Claire** and **Phil**

Daughter – **Claire** – working at **Jay**’s company with idea she will take over

Daughter’s Husband – **Phil** – real estate agent – income varies

Daughter’s Children

Haley – Daughter, out of high school, living at home, minimal income and no prospects

Alex – Daughter, about to enter college

Luke – Same age as **Manny**

ISSUES

- **Planning for the business upon the death or incapacity of Jay**
 - With a basic will
 - ◆ The business could be transferred to Gloria
 - Advantage is elimination of estate taxes at Jay's death.
 - Gloria has no interest or talent for running the business. If she owns it and keeps Claire as the COO, we are set up for a family feud. If Gloria hires someone else, Claire is out of a job.
 - This would create a "disinheritance" of Claire (who is more or less running the business) and Mitchell and their children, unless they are provided for with other assets.
 - Gloria would be free to sell the business or leave it to her children.
 - Life insurance on Jay with Claire and Mitchell as beneficiaries might solve the loss of inheritance.
 - ◆ The business could be sold and the profits divided between Gloria, Claire and Mitchell
 - This could trigger estate taxes.
 - There is a potential disinheritance of Jose and/or Manny if Gloria remarries and new husband becomes Gloria's beneficiary.
 - No one really benefits from the business, Claire is still out of a job.
 - ◆ The profits could be transferred to Gloria for her life, then to Claire and Mitchell
 - No one benefits from owning the business, and this could effectively disinherit Mitchell and Claire because Gloria and Claire and Mitchell are roughly the same age.
 - If Gloria does die first, and the business is finally transferred to Claire and Mitchell, or their children, estate tax liability could be huge.
 - ◆ The business could be transferred to Claire and Mitchell as unequal owners.
 - If willed, the estate would have to be probated. Having a trust own the business could eliminate probate.
 - Claire owning 51% v Mitchell 49% would allow Claire to run the business.
 - The business is the main asset, so this leaves little for Gloria and her children.
 - Leaving the business to Claire and Mitchell would trigger estate and possible inheritance taxes.
 - Insurance on Jay's life, held in an Irrevocable Insurance Trust for the sole purpose of paying the taxes might be useful, if Jay is insurable at a workable premium, however this still leaves Gloria with few assets.
 - In the absence of a pre-nuptial agreement, Gloria might claim a "statutory share" which would undoubtedly conflict with the stated plans.

- Putting all appropriate assets in a trust, with Jay as the trustee is probably the best beginning step.
 - ◆ However, if Gloria is a current and future beneficiary, she should not be the co-trustee or successor trustee, if there is discretionary spending for her benefit.
 - ◆ If Gloria has a life interest in the trust, and if Jay becomes incapacitated or dies, Gloria could effectively disinherit Claire and Mitchell by raiding the trust.
 - ◆ This is a perfect scenario for a corporate trustee.

- **Protecting Gloria and her children without effectively disinheriting Mitchell and Claire and their children**
 - Business to Claire and Mitchell, other assets to Gloria
 - ◆ If there are sufficient assets outside the business, this might be the best solution, but in our scenario, there are not sufficient liquid assets (other than the proceeds of a 401(k) or similar retirement plan and/or the possible sale of the residence and) to support Gloria and her children in the life-style to which she has become accustomed.
 - ◆ If there are sufficient assets to purchase a pre-paid annuity for Gloria, effective upon Jay's death, this would allow transfer of the business to Claire and Mitchell, and still give Gloria sufficient assets.
 - ◆ Increasing the value of assets other than the business, such as a 401(k) to benefit Gloria might be workable if the business has sufficient assets to allow such contributions, but because of Jay's age, there may not be enough time to increase the assets to a workable level.
 - ◆ Life Insurance on Jay's life with Gloria as beneficiary
 - Might be prohibitively expensive due to Jay's age, especially if he has any medical conditions and the face-value would need to be not only enough for Gloria, but also enough to cover the estate taxes.
 - If policy is owned by the business, insuring Jay's life (insured), with Gloria as beneficiary, a Goodman Triangle is created which would trigger a gift tax.
 - If policy is owned by Gloria, the gift tax might be eliminated, but it could be problematic in the event of a divorce.
 - Irrevocable life insurance trust would be best, if Jay is insurable.

 - "Sell" business to Claire and Mitchell with profits of the sale to Gloria
 - ◆ Claire and Mitchell are probably not in a position for an immediate purchase.
 - ◆ Stretching out the sale over several years would be problematic if Jay died before the sale is complete.
 - ◆ Proceeds of the sale would have to be held in the trust that would benefit Gloria without making her an immediate owner of the assets, in case of divorce prior to Jay's death.
 - ◆ Gifting small portions of ownership to Claire and Mitchell could take years, and would not benefit Gloria.

- ◆ Depending on the format, there might be significant tax consequences.
 - ◆ A combination of sale and gifting could transfer the business and still give Gloria some benefit of the transfer of ownership.
- Minority interest in Gloria, remainder to Claire and Mitchell
 - ◆ Currently, the parties are amicable, but after the death of Jay, it is certainly possible that the parties will not be so amicable, and having Gloria, with no business experience, as even a minority owner is setting the stage for a family feud.
 - ◆ Depending on the value of the business, this again could trigger an estate tax on the value transferred to Claire and Mitchell.
 - No ownership, but percentage of profits to Gloria
 - ◆ If the business continues to be owned by the trust after Jay's death, percentages of the profits could be left to Gloria, Claire and Mitchell, but the profits may not be enough to support Gloria and her children as well as Claire and Mitchell.
 - ◆ Eventual transfer of ownership upon the death(s) of Gloria and/or Claire and/or Mitchell would trigger estate taxes.
 - ◆ If Claire remains an employee and runs the business successfully, all may be well, but an economic downturn could trigger another family feud.
- With all of the above "solutions", grandchildren and possibly sons-in-law need to be taken into consideration.
 - Don't forget potential Social Security benefits for Gloria and Jose.
 - Caution!! – The beneficial practice of "file and suspend" with one spouse filing for benefits so the other spouse can claim the 50% benefit, is going away as of 2016, for all who were born after 1954.
 - What if Gloria dies before Jay, but after Jay has become incompetent and not able to make adjustments to the plan?
 - Whatever options are chosen, provisions must be made for Jay's incompetence.
 - An independent trust protector would be almost essential in this scenario.
 - Don't forget the possibility of the divorce of Jay and Gloria. As he ages, she may decide to trade him in for a younger model. This must be taken into consideration at each step, because if she divorces him while he is alive but incompetent, that could upset all the best laid plans.
 - If there is a pre- or post-nuptial agreement for any of the couples, it's provisions may seriously impact your planning.

- **Parentage Issues**
 - Because several of the children are not the legal children of their parents, it will be necessary to define “Children”, “Issue”, and “Grandchildren” to protect children and grandchildren who have no legal relationship to their parents and/or grandparents.
 - Jay is raising Manny, but has no legal relationship to him and it might not be possible or even beneficial for Jay to adopt Manny, especially if Manny’s biological father has significant assets.
 - Mitchell is the sole legal parent of Lily, but because Mitchell and Cameron are married, Cameron can and should adopt Lily.
 - Sam is the biological child of Claire and Cameron, born during the marriages of Claire/Phil and Mitchell/Cameron.
 - ◆ Because of the marital presumption, is it possible that he has 4 legal parents?
 - ◆ The marital presumption might not apply to the Mitchell/Cameron marriage because of the specific gender references in the wording of the statute. Does that mean Mitchell is not a legal parent?
 - ◆ What about Phil?
 - ◆ How should they clarify Cameron’s status in light of the presumption statute?
 - ◆ It probably would be advisable for Mitchell to adopt Sam, terminating the rights of both Claire and Phil, and clarify that Cameron is both the legal and biological father. If Mitchell adopts Sam, that would clarify Jay’s relationship to Sam.
 - ◆ If Mitchell doesn’t adopt Sam, is he still an “issue” of Jay through Claire?
 - Providing for additional children is essential.
 - There are lots of benefits outside the normal estate issues that hinge on legal parentage.
 - ◆ Social Security survivor benefits for minor children would not be available for Lily if Cameron dies, or Sam, if Mitchell dies, or Manny, if Jay dies, without further legal confirmation of their status as parents. SS survivor and disability benefits for a minor hinge on whether or not the state intestacy statutes would recognize the child as a child of the decedent for the purposes of inheritance.
 - ◆ Worker’s Comp and personal injury recoveries are also based on a legal relationship between parent and child.

- **Marriage, Unmarried Couples, and Divorce**
 - Marriage dates are very important for estate planning, particularly for Mitchell and Cameron
 - ◆ Obergefell – 6/26/15 – National Marriage Recognition.
 - ◆ Mitchell & Cameron have been together many years, with a California DP Registration and a recent marriage. What is the date of “marriage” for them?
 - ◆ Social Security recognizes the date of marriage as the date of the ceremony, providing the marriage was legal when and where performed.
 - They do not recognize anything other than marriage, such as Civil Unions.

- However, they are also considering “tacking on” periods prior to a legal marriage in certain circumstances.
 - Social Security survivor benefits, for instance, require a marriage of at least 9 months prior to the death of one spouse, so for instance, if a couple married in AZ on 10/17/14 (right after AZ recognized marriage equality), one party died on 12/31/14 (less than the 9 month minimum for marriage), but had a civil union from Vermont from 2004, SS might consider “tacking on” the earlier period to qualify the marriage for survivor benefit purposes. There are several of these claims currently wending their way through the SS system, and there are some that have been granted.
 - This of course only works in specific circumstances and will disappear in the near future, as everyone, everywhere was allowed to marry on 6/26/15. A claim of not being able to marry earlier will not work in 2017.
 - People who had a marriage of at least 10 years are eligible for social security retirement benefits based on the benefits of their ex-spouse, providing the claimant has not re-married. So again, when did the marriage start?
- By-the-way, what if there had been a Civil Union with a prior partner?
 - ◆ There are many couples, unfortunately, who were somehow legally partnered with person A, but think that because their home state did not recognize that union at the time, they were free to marry person B. Oops!
- Non-Marriages for federal purposes
 - ◆ Include Civil Unions in Colorado, Hawaii, Illinois, NJ; Domestic Partnerships in CA, DC, Maine, Nevada, Oregon, Washington, Wisconsin.
 - ◆ Connecticut, Delaware, New Hampshire, Rhode Island, and Vermont automatically “converted” their civil unions to marriages, whether or not that is what the couples wanted, and possibly even without their knowledge.
- Non-married couples need to be considered, such as when Haley moves in with her “unapproved” boyfriend
 - ◆ Estate planning for Haley would specifically name the boyfriend as her agent for all documents.
 - ◆ Statements such as “_____ is my life partner, we depend on each other for emotional and financial support and providing for each other in these documents is essential to our planning,” may prevent the almost certain challenges if Haley has inherited or is in line to inherit from Jay.
 - ◆ Having POAs, AND PODs, AND a will, AND a trust, AND a living together agreement may significantly reduce the inclination of another family member or outside entity to challenge.
 - ◆ Naming boyfriend as agent and beneficiary is fine, but also excluding people who might otherwise try to take over is also highly recommended. Language such as “I want _____ to be in charge of these matters. Furthermore, the following people shall *not* be entitled to receive any benefits, have any fiduciary duties, be entitled to notice, receive any medical information, be

appointed as my guardian/conservator, make arrangements for burial/cremation, or any other action regarding my care, my affairs, or my estate: my evil step-brother”.

- Divorce of any of the parties must be taken into consideration.
 - ◆ Naming the beneficiary as the trustee of her/his share of a trust asset is one way to protect a beneficiary who may be divorced, or who has a problematic spouse.
 - ◆ A pre- or post-nuptial agreement for all couples, stating that all inheritances are to remain the separate property of the beneficiary, and absolving the protected party from the debts of the spouse is also recommended
 - ◆ Counseling the parties on how to maintain separate property as separate property is also recommended.
- **Other Issues**
 - Pre-Marital Wills.
 - ◆ If Mitchell and/or Cameron had wills drawn before their marriage and/or before Lily and Sam were born, they must be redrawn, especially if Mitchell is not a legal parent to Sam prior to Mitchell’s death, or Cameron is not a legal parent to Lily prior to Cameron’s death.
 - Cremation
 - ◆ Cremation practices of some mortuaries in Arizona require the signature(s) of the nearest living relative for authority to cremate, despite any written directives to the contrary.
 - ◆ All of our parties are legally married, but if Haley is living with her boyfriend, for instance, a statement in Haley’s will that Boyfriend has the authority to authorize cremation would not be honored by several mortuaries in the Valley, and Boyfriend would have to get both Claire and Phil to sign the authorization. If Haley and Claire were estranged because Claire did not approve of Boyfriend, or Claire objected to cremation, Boyfriend would be out of luck unless he had the body transferred to another mortuary.

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