

## Plan for the Future but Live in the “Now”

by Charles Warner

I was diagnosed with Alzheimer's in December of 2011. My physician was quite to the point, he told me the diagnosis and said “no more practicing law and no more driving”. Although somewhat taken aback, and I confess a bit in denial, I appreciated his being direct and followed his advice. I closed my law practice and began a new and different life.

I knew I needed to plan for the financial future and to come to terms with having Alzheimer's. I will explain how to address the financial (estate planning) issues. I am still working on dealing with the disease, so that will be a progress report.

### ESTATE PLANNING

*My first piece of advice is:*

#### **1. Plan ahead. Do your estate-planning plan *now*.**

Estate planning is, among other things, the preparation of wills, trusts, advanced health



care directives, and generally what you wish to have happen with all of your assets and possessions upon your incapacity and/or death. This is obvious, of course, but planning your estate is part of acknowledging the disease and its progression. As a person with Alzheimer's you want to do this now while you have the capacity to make your wishes known and memorialized in legal documents.

Preparation of the necessary documents does require using an attorney. You need an attorney that has expertise in the preparation of the documents necessary to carry out your wishes as to the disposition of your personal and real property. This type of attorney usually holds themselves out as one doing Estate Planning, Estates and Trusts and/or Wills and Trusts or descriptions similar to these.

*The second step is:*

## **2. Find a good attorney.**

How do you find an Estate Planning attorney and how do you know whether he or she is "good"? There are at least three free rating services available on the Internet.

On the Internet go to [www.martindale.com](http://www.martindale.com). Martindale Hubble is the oldest nationwide rating service for lawyers. Find lawyers in your geographical area in "estate planning". You can review their various qualifications *if* they are listed. The ratings listings are "av"; "bv"; and "cv". The ratings, as explained by Martindale Hubbell, are below:

- **AV Preeminent (4.5-5.0)**- AV Preeminent is a significant rating accomplishment – a testament to the fact that a lawyer's peers rank him or her at the highest level of professional excellence.
- **BV Distinguished (3.0-4.4)** - BV Distinguished is an excellent rating for a lawyer with some experience. A widely respected mark of achievement, it differentiates a lawyer from his or her competition.
- **Rated (1.0-2.9)** - The Peer Review Rated designation demonstrates that the lawyer has met the very high criteria of General Ethical Standing.

Another, newer, national rating service, also accessible on the Internet, is Avvo. It can be accessed at [www.Avvo.com](http://www.Avvo.com). On Avvo.com look for "lawyers", then find the state, county and city most convenient for you and finally look for the lawyers in Estate Planning. "Superb" is the highest rating. They also post any discipline imposed on any lawyer by the applicable state bar association. In California this would be the "State Bar of California".

Last but not least, there is a supplement to San Francisco Magazine published in the Spring of each year entitled "**Super Lawyers**". This lists the top five percent of attorneys in their fields of practice by county. The ratings are based upon peer evaluations by other lawyers as well as research by the Super Lawyers

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staff. You can access it on the Internet at [www.SuperLawyers.com](http://www.SuperLawyers.com). "Super Lawyers" is also published in most other states in different periodicals. The names of those publications will be on their website.

Some may ask: "Do I really need a lawyer?" The answer is "Yes". Estate planning is too complex and involves very sophisticated legal and financial planning. The "plan" then has to be put in legal documents that will be acceptable to a court if there is an objection (sometimes called a "contest") or questions by heirs. Even being a lawyer, but not an estate planning lawyer, I would *not* have attempted it myself.

Before you go to your chosen lawyer discuss with your spouse what your wishes are as to the disposition of your Estate. What assets do you have? What are they worth? What disposition do you wish to make with regard to those assets, when and to whom? Take all of this information in written form with you to go to the lawyer of your choice.

Remember, this is not an adversarial process. The lawyer is there to carry out *your* wishes in legal documents.

More important, and probably more difficult, is living life with Alzheimer's. I have no magical answers. I can share (which I have below) the philosophy I am "working on" now to deal with the disease.

### **A Realization: Living in the "Now"**

An Alzheimer's diagnosis is devastating. At least it was for me.

When I was diagnosed, I became obsessed about what changes in my life it would inevitably cause knowing what informed people say about the current state of knowledge as to what the future outcome is going to be. I worried incessantly about my wife, my children and, of course, myself.

In retrospect, spending a lot of time worrying about myself was a mistake. It is important to plan for the future but do not let what is going to happen in the future ruin the life you can live now, *before* the disease progresses. I like to think of it as "living in the now". Living in the now means to me that we are better off to look at what we have left and not obsess on what we have lost. One problem with dwelling on what is going to occur in the future is that we may turn around someday to find the future has run out on us.

As Henry James wrote in *The Ambassadors* in 1903:

*"Live all you can; it's a mistake not to. It doesn't so much matter what you do in particular, so long as you have had your life. If you haven't had that what have you had?"*

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