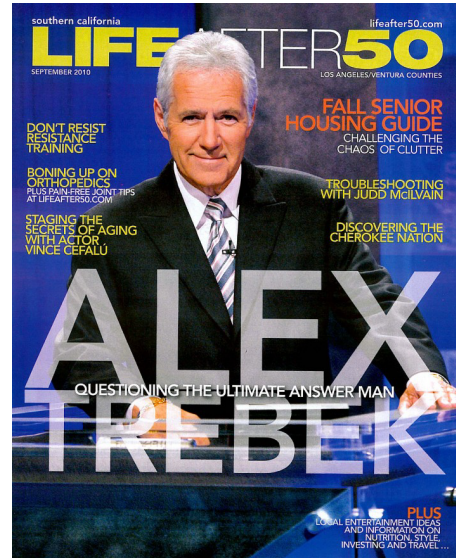


# “GO WITH A PRO WHEN MAKING TRUST AMENDMENTS.”

*By Mitchell A. Karasov, Esq.*

**Question:** My husband and I need to redo our 25 year old trust because I am having health issues, our kids are grown, and we are not even on speaking terms with one of our sons. I tried to contact the attorney that made our trust, but he retired. I called an attorney who quoted me a couple thousand. My husband proposed that we try to do it ourselves by retyping the same trust with our new information or using one of those self-help places. I am afraid our son will be able to undo everything if we go on our own because we don't know what we're doing and it will cost us more later on. Also, I don't want to leave a mess for my other kids to deal with after we're gone. My husband thinks I'm worrying too much because the first trust was done by an attorney and he really doesn't want to spend the money. What do you think?



**Answer:** Your situation illustrates a real problem many people face when they start the process of setting up their estate plan or changing it. Do they go no or low cost route of putting together their plan on their own or pay an attorney to do it. Choosing between the lower cost estate planning legal form services versus higher fees involved when an attorney prepares estate planning documents requires the individual or couple to understand what each service really provides.

Estate Planning or Elder Law attorneys' training enables them to provide the necessary analysis, guidance, and preparation of documents specific to an individual or couple's situation. The analysis would involve but not be limited to a review of the medical issues, family dynamics, and appropriateness of substitute decision-makers, government benefits, finances, lifetime instructions, proposed inheritance plans, possible contests to the estate plan, tax consequences, and any unique situations. Also to be considered are the pros and cons of a will versus a living trust, and having a complete plan including an advanced health directive and a power of attorney for finances. Based on the information gathered, the attorney would then draft documents to reflect the client's wishes and to protect the plan, in the event it is challenged.

Generally, the self-help services tend to be much less expensive than attorneys because they provide only the documents and some basic general guidance. Furthermore, those services do not give legal advice that is specific to the individual's situation. In fact, some of those document services have been sued for botching documents and some have even been shut down because they were promoting very inexpensive estate plans, while selling inferior investments. Another thing to consider is that some courts have taken a more critical approach when ruling on self-created estate planning documents. Having identified the problems, these services can be beneficial in low asset situations with no complications.

Although I am in no way minimizing your husband's concern about the expense of drafting a new plan, especially in this bad economy, I think you're on the right track, not your husband. In my experience, these lawsuits over do-it yourself plans cost much more than the couple thousand the lawyer quoted to draft the new documents. I hope that you convince your husband to retain an attorney to update your estate plan. If not, you might have to take him to see an attorney to let him know the pros and cons of going it on his own. Best of luck. □