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KEEPING YOUR TRUST PRIVATE! THE DESIGNATED REPRESENTATIVE

By: Guy S. Emerich
December 2009



If you have a revocable living trust, you know that at your passing most revocable living trusts become irrevocable. If a trust is irrevocable, then the trust beneficiaries have certain rights under the Florida Trust Code to be kept informed about what assets are in the trust and their value.

In fact the Florida Trust Code, chapter 736 of the Florida Statutes, states that if a trust beneficiary requests it, the beneficiary is entitled to receive a copy of the trust document as well as information concerning the trust's assets. In addition, a trust beneficiary is entitled to an annual accounting regardless of whether the beneficiary requests it or not.

You may be a person who does not want the beneficiary of your trust to receive information about the trust, especially financial information. For example, as much as you love your 22 year old grandson, there may be reasons why you don't want him to know that a trust has been created for his benefit. If that is you, then there is a way to avoid providing the grandson with information about the trust.

In the age of the designated hitter and the designated driver now comes the trust designated representative. Since the Florida Trust Code came into effect on July 1, 2007, Florida has had the designated representative.

Section 737.0306 of the Florida Trust code allows the maker of the trust (called the settler or grantor) to name in the trust instrument a person or persons to represent and bind a beneficiary. It is even possible to establish a committee to name a designated representative. This designated representative can receive trust notices as well as information, accountings and reports that would otherwise go to the trust beneficiary. There are some limitations as to who can be a designated representative.



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A person named as the trustee cannot also be the designated representative. Another trust beneficiary cannot also be a designated representative unless the person is named by the settlor or the person named is the beneficiary's spouse or a grandparent or a descendant of a grandparent of the beneficiary or the beneficiary's spouse.

If you are someone who wants to keep your trust and information about your trust from a beneficiary for whatever reason, then consider using a designated representative in your trust document.

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