

**REMCO General Meeting Minutes**  
**Austin Heil, Attorney, Trusts Workshop – 10:30 AM**  
**REMCO Luncheon Follows General Meeting (11:35 AM)**  
**Tuesday, March 14, 2023**

10:30 -11:34 AM – Vice-President Scott Johnston introduced Director Lori Norman. Director Norman introduced herself to the members as one of the new Directors whose duties are to set up programs for REMCO and her speaker today is Attorney Austin Heil, who's practice is estate planning, real property and family law in Merced. Director Norman noted that she is a Notary Public and Austin's signature is needed on documents and she was impressed on how Austin handled those documents. Director Norman stated she would let Austin tell everyone a little something about herself and to provide the program information on what's a Trust and why we may need one.

Austin Heil introduced herself as a 5<sup>th</sup> generation Mercedian who had worked in the Merced County District Attorney's Office for about 10 years before she opened her practice and now owns her own practice on O Street in Merced. Austin stated she was grateful to be able to assist and help others every day. Today she wanted to convey the importance of a Living Trust and why one may be needed.

Some clients come in wanting a will but not sure about a Trust. If a client owns property, whether there is a mortgage or completely paid off, the answer is usually Yes, they should have a Living Trust. Austin explained that a Trust is not just for the ultra-rich. If the aggregate value, which means the value of their entire property, is \$184,500 or more, a number set by California, then they would have to go through Probate if there is no Living Trust. A Will only will let someone choose who they want the property to go to but the heir would still have to go through probate. Generally, most property in Merced would be at a value higher than \$184,500. In Probate, the Court supervises the legal title process on how the title will be taken by the future beneficiaries. Sometimes the Court determines who those heirs will be and what those beneficiaries are entitled to if there is no will. The Court evaluates the value of all assets: property, bank accounts, non-retirement investment accounts, and any stocks and bonds that are held by way of certificate. The value of the property is not what is owed but the market value of the home or homes and vehicles as of the date of one's death, determined by the Court if the threshold of \$184,500 is reached, the probate process is required when there isn't a Living Trust. The filing of Probate can take 6-8 weeks for a Court date and payment of a \$500 Court fee. Once the letters of Administration are received it can take up to 6 to 8 months if not a year for the disbursement of the assets to the heirs. The cost of Probate is statutory, meaning that the state sets the amount paid in the probate process. There are attorney fees, and administration fees. The administrator ensures that the assets are being disbursed as the Court states and to whom they are to go. The fees for the first \$100,000 of the property's value is 4% for both the attorney and the administrator, the second \$100,000 of the property's value is 3% for both the attorney and the administrator and the final \$800,000 of the property's value is 2% for the attorney and the administrator. For a home that is worth \$200,000, the combined fees for the attorney and administrator would be approximately \$14,000 in fees. That does not include the costs to publish or the \$500 to file in the Court or other costs that may come with it. Those fees and costs could often be for a house that has no mortgage. Austin provided an example of a client who had been raised by her grandfather. She took care of him until his death and he had graciously named his granddaughter to be the heir of his free and clear house worth about \$320,000 in his will. However, without a Living Trust, the client has to go through the probate process which will cost her about \$20,000, a prime example of the importance of a trust.

Austin noted that she was giving a discount to anyone who brings in her flyer or mentions they had attended this (REMCO) meeting, and that the cost of a Trust is much less than the fees and costs of the probate process. Aside from probate avoidance, the Living Trust avoids conservatorship of one's estate if one becomes incompetent to handle their estate through the Court's by naming a successor Trustee to manage the assets during one's lifetime as part of the Living Trust. A Living Trust also allows for private asset distribution so that the public isn't aware of how much went to one heir versus another heir. In probate the public is aware of who and how much each of the heirs received. A trust is a legal document that allows your property to be taken by way of title in the name of the Trust which includes property, bank accounts, and other assets which are determined on the individualized needs of the person and family. When creating a trust you have three titles: Trustee: during your lifetime, you manage everything in your estate under the name of the Trust and you appoint someone in your living trust to disburse your assets the way you want it done by choosing someone you trust and who are dependable to get things done when you pass; Trustor: the person who creates the trust, putting all of the assets into the trust, during your lifetime and after your lifetime until all of your trust is administered; and as a beneficiary: you benefit from the entirety of your estate in the living trust until you pass away. You choose how you want your assets allocated when you pass away.

Austin provided an example that whatever assets are in the name of the trust is no different than her having those assets as an individual as she owns that property either way; Her's to do as she chooses. Another benefit of a living trust is contingencies that can be placed on beneficiaries such as the age to receive their distribution or what reasons money can be distributed or you can add a substance abuse clause on when a family member can inherit. Sometimes clients come in that are not looking at the future headaches their children will go through if the parents don't make detailed plans and choices with a living trust and a will. Some people will pay for the Living trust as that is a smaller investment over the fees and costs of the probate process. Over all a living trust is an individualized determination of where and how your assets will be distributed after one passed away which is inevitable.

Austin noted that on one side of the flyer it does mention that everything involved in a living trust and accompanying documents. Austin also transfers property into the name of the trust, drafts advanced healthcare directives, known as a medical power of attorney, not only for the end of live decisions but could include strokes, accidents and what needs to be done for the individual to have the best health care outcomes. Also, there is a financial power of attorney, which is known as a durable power of attorney. This document names a person to help you while you are the trustee, if you are unable or unwilling to manage your finances during your lifetime. Another document is a pour-over will that is more for your tangible items, items that you can touch, such as jewelry, coin collection, gun collection, and other items. The pour-over will is in addition to real property, your accounts, and other items that you will hold in title in the name of the trust.

Austin stated she would be happy to go over anything as a lot of information was presented. She asked if anyone had questions.

1. One member asked what if the existing trust is 25 years old, should it be looked over? Austin replied absolutely as long as it is a revocable trust and that is another advantage of a living trust, it is amendable and revocable throughout the entire duration of your lifetime. You can amend so long as your trust is labeled either a revocable or a living trust. There are such things as an irrevocable trust, but if your trust is outdated you may want to amend and restate it. That is something that Austin could do and to make sure all of the property is properly listed in the name of the trust. If your assets aren't in the name of the trust, then the deed or other paperwork doesn't mean anything if they are done online as that document isn't recorded at the Records office or isn't in the name of the trust.

2. Another member asked would cars and bank accounts be in the name of the trust. Austin replied that vehicles are not but generally bank accounts are. Everything is individualized to their needs, some are recommended to include both checking and savings accounts, others would be just savings accounts. All documents would be discussed in a consultation to identify what should be in the name of the trust and what could be outside of the trust with maybe a beneficiary named in a pour-over will.
3. Another member reported that her parents had a 1966 Mustang that they had in their trust. Austin said you can put that in a trust if you chose, but vehicles are bought and sold which could lead to modifications.
4. Austin relayed that she had visited her grandparents and they had given her their wedding rings as they don't wear them anymore and they were something special to her, but if they had been in their will or trust, changes to their will or trust would have been made at additional cost as you don't strike out something on a legal document, it would need to be redrafted or separate property instructions called a codicil that acts like a supplement to the will so you can write down all of your individual tangible property such as vehicles that you would like to go to individual people. Austin noted that DMV can be a pain to work with while we are here, but they aren't difficult to deal with when people have passed.
5. Another member asked does a living trust protect you from a third party trying to take unauthorized title to it without your permission. Austin relayed that she couldn't answer without further information to know what kind of lien he was talking about. He replied it wasn't a lien, others mentioned that it was fraud. He said it is a fraudulent transaction that seems to be gathering steam in this society that they go to the clerk's office and transfers your property in their name and then you don't own your house anymore. Would a living trust be like a firewall to protect your property? Austin said as the name of the trust is in your name as trustee and as the grantor and grantee you are the only one that can grant that property to anyone.
6. Another member mentioned she didn't put some stocks into her trust, but her children were the beneficiaries. Austin asked if they were certificates or in their personally managed account. If they are held as certificates they can be put in the name of the trust. If they are personally managed accounts usually the name of the accounts depends on what type of account it is such as a non-retirement account.
7. Another member stated that she has a house that she bought and she wants it to go to her daughters and someone told her that her ex-husband would get the house. Austin asked who was on title, and she replied she is on title, it's her house. She bought it herself and has been divorced 25 years and wants to know if her ex-husband would get the house as she had been informed. Austin replied she had no reason to believe that her ex-husband would get the house. There could be a divorce decree that may need to be looked into, but by way of probate her house, if the house is in her name as an individual and her house was probated in accordance with probate code, your ex-husband would not be entitled to the house. The member relayed that she had a will and a trust but she had been informed that her ex-husband would get the house. Austin said she would be happy to make an appointment to talk with her because this is an individualized situation and she would rather talk to her privately rather than discussing her situation in a public format.
8. Another member had a question on beneficiary upon death filed with the recorder's office or her house had a beneficiary upon death filed with her banking institution, would that prevent it going to probate? Austin replied that if her bank allows for a beneficiary upon death then it may be okay and sometimes that is something that is just for her banking institution. The member replied that she did that for her house as well as she received title through survivorship when her husband died and filed a beneficiary upon death with the County. Austin replied that real property has statutes that are very different than

financial institutions, and she hadn't heard of a house being transferred to another beneficiary upon death.

9. Another member asked if someone goes into a MediCal or Medicare facility can the institution come back and get any of the properties or tap into their living trust or financial accounts. She understood they can drop down \$130,000 without you knowing a lien was attached. Austin replied with a legal answer and an experienced answer. Yes, Medicare can go back 7 years and attach a lien against the property. Austin asked if the property is in a trust; if it is in a trust, it might be a little harder to attach a lien on the house and often times it is more difficult than it is worth to do so. Member continued they had put the property in their children's names before they went into the facility say seven years or five years, does that protect the property? Austin asked was this after the Trust had been fully administrated? Member said they had it in the trust and they changed the deed so that the property would go to the kids. Austin replied the way that a trust transfer deed works is that the property is transferred into the name of the Trust. It would be in her name or names as trustee or trustees of your trust. Once you pass away, then it would be changed to the successor trustee, whomever you listed as successor. They would be in charge of allocating the property as deemed fit in your trust. Austin asked are you talking about them being trustees or has the property already been distributed? Member reported that the property was already transferred out of the trust with a deed to the children in like five or four years. Austin stated she couldn't answer that, after it was transferred out of the name of the trust, on what happens then after it's to the beneficiaries. Member reported it had been transferred into their names. Can they come after that? Austin couldn't answer that without more information but felt that they wouldn't.
10. A member returned with a quick question on transferring property into a trust, do I just scratch it out on my old document? Austin quickly responded No, don't do that! When you are talking about any asset, in particular real property, specifically a rental piece of real estate, the name of the trust would remain the same as the original trust of 25 years ago, so then it would just be a trust transfer deed that would transfer your name as an individual to the name of the trust and would be recorded with the County.
11. Another member asked if one had a reversable trust and you are married and have two children, one is your spouse's daughter, and then your spouse dies and you remarry and now you have four children. So, can you change just her half of that trust? Austin stated, yes you can change her half of the trust. Sometimes the surviving spouse will be able to amend the entirety of the trust. Whereas, most of the time half (50%) of the trust will become irrevocable and we can do allocations.
12. Another member stated she didn't have a question, but would highly recommend that members use Austin's services because she is in the last month of distributing her mother's living trust who died last February. Her mother had to be put in an Alzheimer's care home in 2014. The only glitch she had, she had a Power of Attorney for paying the bills and taking care of her house, is when her mother became where she totally didn't understand anything, didn't know who her daughter was, that the daughter had to go to Court to become successor trustee and have two doctors attest that the patient was unable to handle her affairs. There is a little extra that has to be done and Austin would be able to take care of that documentation. She will charge for the services but it will be worth every penny! Members laughed.  
Austin said even this is cheaper than probate, right? Member confirmed that statement and went on to say every penny of the \$1,500 for Austin's services will come back tenfold with the heartache, the effort that you have to put into taking care of someone with this disease, and a lot of us may end up with Alzheimer's, and she is starting to worry about it herself. The other caution is that she wasn't prepared for, her brother died and he wasn't a successor trustee because he was a meth addict and she didn't have to fight with him

over everything because all he wanted was all the money. Number one is the individual account that Austin was talking about because you may want to keep an individual account. A lot of institutions tell you that Social Security will not accept a Social Security direct deposit into a trust and so you may want to keep a separate account for that and then you have the bank transfer it every month after its received and you keep that balance very low. Another one is IRAs, the banks will know you have a trust because you have accounts with them that are in the trust, but when you go in to get the IRA, they will only distribute to the beneficiary on the IRA so pouring it over isn't something to do so the banks are going to take the taxes out and put the withholding towards your Social Security number. So, she wasn't prepared for that, and additionally her mother had a TSP (Tax Shelter Plan) here which would be our retirement plan, and she doesn't know how our retirement plan works but the TSP, which usually has significant funds in it, also will not allow you to pour it over into a will so unless you set up the trust as the beneficiary of the TSP you will get all of the tax burden.

These are things that you have to be very careful of because the most significant thing that you own may be that retirement plan and it's your intention to split it between the children and the grandchildren of the deceased. And once they have distributed it to you in your name, it's your tax burden and its huge. Austin stated that the member makes a great point and thank you for bringing that up because it is true. A lot of these accounts you may have heard me say kind of repeatedly, non-retirement investment accounts, or IRAs, those are beneficiary designations, so if your spouse, if you have a spouse, I usually designation as number one, and then as I said normally the second beneficiary is the trust. Again, she gave her disclaimer that depending on individualized needs and concerns, it may differ, but for the most part the trust is listed as the second beneficiary is certainly helpful and not only that but if you want some of it to be distributed to your grandkids, or God forbid, your children or child passes away prior to your passing and it goes to your grandchildren just by flow of heirs, then it goes to your grandkids right when they turn 18 and you may not want them to get that chunk of change right at that age. Putting in your trust as a second beneficiary it allows for that distribution to flow through the same contingencies that you placed in your trust, via age, education, etcetera.

Member states all of this information for just \$1,500! Just hearing it is worth \$1,500. Austin is going to take care of the trust draft paperwork and transfer your primary residence which is a real pain! She did her own, but highly recommend that you pay the \$1,500. Of course, I'm not getting any commission! Members laugh. Having been through this for a whole year now, overwhelmed even with the trust, I highly recommend that you spend the \$1,500. Austin replied, thank you all very much. Members clapped as she left the dais.

11:35 AM

#### CALL TO ORDER

Vice President Scott Johnston hosting while President Jackie Walther-Parnell is recuperating after surgery, called the business portion to order at 11:35 AM. He led the Pledge of Allegiance followed by a moment of silence for Military and Public Safety personnel and REMCO members who have passed.

Vice President Johnston introduced himself, Secretary LaVon Justice, Treasurer Lola Barnett, Directors Eric Swenson, Mike Harris, Guest Austin Heil, Directors Richard St. Marie, Bernadette

Castaneda and Lori Norman. Absent: President Jackie Walther-Parnell and Past President John Carlisle.

Vice President Johnston reminded members to get their tickets before drawings are called and to use the Suggestion Box or contact an Officer to recognize members for volunteerism, trip destinations, or Speakers/Presenters/Topics of interest such as Austin Heil, Attorney, who spoke on what's a Living Trust and why it might be needed during the Workshop held at 10:30 AM. He reminded members that if they are not a member of the Facebook Retired Employees of Merced County, Inc. please join the group to remain up to date.

Vice President Johnston reported that 2023 is the year for elections of Officers which are the President, Vice President, Secretary and Treasurer, are open for nominations for a 2-year term beginning at the September 12, 2023 Business Meeting. He reported that he and Treasurer Barnett had given notice that they will not continue to serve but will remain in their positions as Vice President and Treasurer until they are replaced. For anyone who is interested in serving please direct the nominations to Director Richard St. Marie before the end of the March 14<sup>th</sup> meeting.

Vice President Johnston reported that the winner of the \$50 quarterly random draw using the REMCO Membership list is Alice Balderas from Los Banos. Winners will be sent a congratulatory letter with a \$50 check if they are not present as winners do not need to be present.

Vice President Johnston noted that Friends of the Merced County Library and The Food Bank of Merced County sent letters of Thank You for their donation and what impact the donation had on their organizations. REMCOAI usually donates up to \$500 for local non-profits at the December meeting. The Board of Directors had chosen to split the \$500 donation to make two \$250 donations to impact two local non-profit organizations.

Vice President Johnston reminded members that the deadline for Scholarship Applications is March 31, 2023. Winners will be announced at the June 13, 2023 General Meeting.

Vice President Johnston stated that President Jackie Walther-Parnell is the Delegate for the CRCEA Conferences and he serves as the Alternate Delegate. He will be attending the CRCEA Spring Conference in her absence on April 23- 26, 2023. Also attending will be up to three Directors to learn about the CRCEA activities and report back to the Board of Directors at the July 19, 2023 meeting.

Vice President Johnston reported that he also serves on MercedCERA Board as Retirement Board Representative, along with Director Mike Harris as Alternate Retirement Board Representative. Good news for Tier 1 Retirees that the Retirement Board approved a 3% COLA in the April Statement, with a carry-over to be banked.

Vice President Johnston reported that that next General Meeting is June 13, 2023 so make your reservations early. The Newsletter should be delivered before that date, if anyone has something they want in the Newsletter get in touch with Director Mike Harris. This meeting will be posted on Facebook live so members can catch what they may have missed if they came in later.

Vice President Johnston stated he would let everyone know when lunch is ready and the order of tables released would be.

With no other business items Vice President Johnston closed the meeting at 11:40 AM.