



You Shouldn't Rely on the Pour-Over Will to Fund a Client's Trust-Based Estate Plan

You Shouldn't Rely on the Pour-Over Will to Fund a Client's Trust-Based Estate Plan

A Pour-Over Will is a legal document that Encore uses in conjunction with a Revocable Living Trust. The primary purpose of a Pour-Over Will is to ensure that any assets not explicitly transferred to the Trust during the individual's lifetime are "poured over" into the Trust upon their death. While a Pour-Over Will can be a useful tool, there are some limitations and reasons why it may not be advisable to rely solely on it to fund a Trust:

1. **Probate Involvement:** Assets transferred through a Pour-Over Will still typically need to go through the probate process. Probate can be time-consuming and costly, defeating one of the primary purposes of creating a Revocable Living Trust, which is to avoid probate.
2. **Privacy Concerns:** Probate proceedings are a matter of public record, meaning that details of the deceased person's assets, debts, and beneficiaries become accessible to the public. A Revocable Living Trust, on the other hand, allows for a more private and efficient transfer of assets outside of probate.
3. **Costs and Delays:** Probate proceedings can involve court fees, attorney fees, and other expenses that can erode the value of the Estate. Additionally, the probate process may result in delays in distributing assets to beneficiaries.
4. **Incomplete Funding:** Relying on a Pour-Over Will to fund a Trust is not considered best practice. It should only serve as a backup plan for funding. There's a risk that significant assets may be left out of the trust, leading to potential probate issues. Financial Professionals should do their best to ensure clients' Trust is fully funded.
5. **Potential Challenges:** Pour-Over Wills may be subject to legal challenges, especially if family members or other interested parties believe that the

document is not a true reflection of the deceased person's intentions. This can lead to additional legal costs and delays.

While a Pour-Over Will can serve as a safety net for assets inadvertently left out of a Trust, it is generally recommended to fund the Trust proactively during the individual's lifetime. This involves transferring ownership of assets into the trust, which helps maximize the benefits of a Revocable Living Trust, such as avoiding probate and maintaining privacy. Regular review and updating of the Trust document are also crucial to ensure that it accurately reflects the individual's wishes and includes all relevant assets.