

# Where There's a Will, There's a Wait!

What Medicine Can Consumers Take to Cure the Cuts to California's Constricted Courts?



**T**eachers and firefighters are not the only public employees to fall beneath the steamroller of nationwide budget cuts: March's issue of the ABA Jour-

nal outlines a litany of problems in cash-strapped courts of twenty-nine states that range from suspending civil jury trials in New Hampshire to judges soliciting free office supplies for their courts in Georgia. The article, titled "Beggaring Justice," quotes witnesses at a hearing in California who state that budget crunches in courts have

system? Orange County is fortunate to have an excellent force of judiciary officers—our probate judges, commissioners, and court associates are hard working and dedicated servants of our legal system. Our probate courts are especially well managed under our current presiding probate judge, who is recognized as both knowledgeable and efficient in her supervision and administration of the probate functions of the county.

However, the current financial woes of our state are out of her control. The website [OCPROBATECOURT.COM](http://OCPROBATECOURT.COM) advises readers that recent cutbacks have caused long waiting times just trying to open probate cases. The probate process itself can take years to complete, isolating family members from assets their parents intended them to receive as their legacy from Mom and Dad.

complete control over their assets. Upon their death, the named successor trustee then distributes the assets to the intended recipients. This means that the assets in the trust do not have to be processed in probate because they pass to family members under the terms of the trust. By choosing a trusted family friend, member, or professional, the family member can pass by court proceedings completely. This means cutting the cost of passing the assets, reducing the time it takes to get the assets to the children, and keeping the process private rather than exposing the assets to public scrutiny in probate.

Brad Pitt and Jennifer Aniston had a private judge for their divorce, the late Michael Jackson hired a private judge for a child custody battle, and corporations hire expensive private judges every day to expedite their legal disputes. The rest of us can avoid overburdened courts and expensive private judges for our estates when family members die by placing our assets into a living trust—the only cure for court cuts in probate cases.

## Are probate courts as troubled by financial woes as the rest of the court system?

led to a reduction in civil rights for poor people in criminal cases and increases of unresolved disputes between businesses in civil litigation.

Pity the Poor: the article points out that poverty's people are more frequently going to jail as a result of the condition of "cash-hungry courts." But what do business owners and wealthy people seeking divorces do to navigate around the problems of underfinanced courts? They hire "Private Judges" to hear their cases, according to *Trial*, a trade journal which presents studies on law and judicial systems. Anyone who Googles the topic "private judges" will find resumes for retired judicial officers peddling their services for all manner of business and divorce cases, but nothing for families whose loved ones have died: probate cases are confined to the courts. Any family who has a death of a family member who either died with a will or who died without any planning at all will be confined to the Probate Court.

Are probate courts as troubled by financial woes as the rest of the court

What is the cure for the problems these budget cuts cause for consumers planning their families' estates? The family trust is the only course for families wanting to avoid the probate process. The trust avoids the need to go to court, immunizes the family estate from the probate process, and cures the court cuts before they occur.

How does the family trust avoid probate? A family trust allows parents to name a trustee to manage the passing of their assets to their children or other recipients. The family simply transfers title to their assets into a trust, which is owned, by the named trustee or trustees. During the lifetime of the parents, they may serve as their own trustee and retain



**Donald A. Hunsberger practices law in Orange, California. He can be contacted via email at [Don@HunsbergerLaw.com](mailto:Don@HunsbergerLaw.com) or telephone at (714) 663-8000.**