



# CHUBB REPORT

## WHAT'S GOIN' ON BY WAYNE CHUBB

I apologize for the abbreviated version of events for September, but reliving the backyard adventures left me a shattered shell of my usual self, unable to think or write normally.

There are a few events, most involving either air or wine (though not involving sparkling wine, ironically). The opening of the season on **Apple Hill**, east of Placerville and home of some of the area's best wineries, occurs Sept 5-7 and lasts through the holidays. The **Harvest Wine Celebration** in Livermore also occurs over the Labor Day Weekend, and the Livermore Valley wines rival anything that Napa can put out.

You can head north or south on Sept 12 and not go wrong. **Wine on the Waterfront**, a gala event on Stockton's beautiful (seriously) waterfront, features dozens of wineries, fine food, and the year's most incredible live and silent auction, all to benefit Big Brothers and Sisters. In Grass Valley, you will find 14 Northern Sierra wineries at **A Grape Affair**. We haven't tried any of these places yet – let us know if you make it.

If you want your high to be a little louder and adrenaline-inducing, I have two suggestions. The **National Championship Air Races** are held in Reno this year from Sept. 16-20. There is nothing that compares to the sound of P-51 Mustang and AT-6 engines, and watching and listening to them come in in formation is unforgettable. I used to meet customers for lunch and golf on the Friday of the air races at Stead Golf Course, and sit and watch the planes all come in over the mountain peak to the west, often escorted by Air National Guard F-15's. It was like going to the races with a free lunch and golf thrown in, and I can't recommend it highly enough. Closer to home, catch the Air Force Thunderbirds, the Warbirds (restored P-51, B-17, and B-24), and lots of other flying and static displays at the **California Capital Air Show** at Mather Field on Sept 12-13. Get there early, and take mass transit if you can – it will improve the experience. One family activity that I just learned is **Cyclebration 2009**, a weekend of biking and bike-related events, in Folsom and at Negro Bar Park September 11-13. Whether you want to watch professional riders, take a trail ride with the kids, or simply ask an expert, it's all available here.

## DIY CORNER BY WAYNE CHUBB

For whatever reason (shadenfreude?), many of you have asked about an update on our home remodel. We haven't updated lately because, frankly, there hasn't been much to talk about. We had been going room by room trying to finish the last details – trim work, caulk and paint details – all the little things that often don't get done for years. We thought that, by doing one room a month, we could be finished by early 2010, missing our 10 year deadline by only a few months. Besides, the old house was essentially gone, as were the associated problems, right? Or in other (famous last) words, what else could go wrong? As it turns out, bad construction fights to the bitter end.

Our neighbors provided the answer – or rather, their new pool did. The dirt from their pool now forms a new hillside in our backyard, and that necessitated the demolition and removal of about 10 yards of concrete, which coincided with the first 110 degree + weekend of the year. As part of that project, we added a dry creek bed behind the house. I hadn't been able to locate the old backyard sprinkler heads since the remodel, and hoped that the removal of concrete and backyard weeds would allow me to find that piping. It did – when a slight "tink" at the end of my shovel was followed by a small geyser. It turns out that the entire irrigation system in back was made using schedule 80 pipe, the ultra-thin gray pvc that is usually only used to shield underground wire. Whoever installed saved, maybe, 30 bucks on \$300 worth of materials, but it means I'll be digging up 150 feet of pipe and replacing it with the correct pipe.

So at this point, most of the bad concrete in back was gone, the weeds were gone, the sprinklers fixed, and only that small bit of concrete where the diving board once was remained to be dealt with. Less than an hour with a jackhammer would do it, but as I got toward the end, I noticed an odd vibrating underfoot. It turned out to be coming from more concrete under what I had thought was just compacted soil, and the fact that the jackhammer bit broke through the 1" thick concrete into, well, nothing, told me that the house wasn't quite done fighting. An hour later I had uncovered a 3'x4'x12' void beside the pool that had been hidden under less than an inch of unreinforced concrete for who knows how long. The mystery was how  
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## Is Your Trust A Paperweight? BY HEATHER R. CHUBB

You love your family and only want the best for them. So you go to a lawyer and have a trust prepared. You feel a weight lift from your shoulders and cross “do estate plan” off your list and feel like all your ducks are in a row. Your plan is placed on a shelf or in a drawer and you don’t think about it again because “it’s done”.

This scenario plays out countless times each year, but if this is all you do, you and your family may be in for a rude shock! The “set it and forget it” mindset is nothing more than false security and a recipe for disaster. Why? Because life is all about change.

You may never have stopped to think about it, but your trust was created based on a snapshot of your life at the time in conjunction with the estate laws, overlaid by some good guesses. So how can you expect your trust to work for you when you need it if things have changed?

Every year something about your situation will change, and every three to five years you can count on some major change happening. It might be your relationship with the people in your life. You might have more children, lose a loved one, move away from friends, end friendships and start new ones. You might have a life altering accident. You could hit the lottery or otherwise make it big, or receive an inheritance. You buy property and sell property, open new accounts and close others. This is to say nothing of our ever changing laws.

You might ask, if my plan’s not up to date how bad could it be? Let’s look at a few simple questions.

### **What if your assets are not owned the right way?**

It’s an unfortunate reality today that many lawyers do their clients a disservice by not emphasizing the importance of transferring ownership of your assets to your trust – it doesn’t happen automatically even if you have a schedule of assets attached to the trust. If they are not owned by your trust and something happens to you – either you become incapacitated or you die – your family could be looking at a probate with all its associated costs and time delays. This will cost your family a big bunch of money and time. Some of your assets, or maybe all, if you never put anything in your trust, may not be available for your family to use immediately and since anyone can go look at your probate file at the courthouse (and in some counties online!) the public will know what you own. Now, your will (you did get a will with your trust didn’t you?) might give everything to your trust, but if you don’t have a will or it was not coordinated with your trust, or your assets were held jointly with someone else your assets may not go where you want



them to. All of this will make life messy for your family as they mourn your loss by appointing an executor to resolve any disputes over your estate.

**What if you have a beneficiary that is financially immature or has substance abuse issues and your plan leaves the assets outright to him?** Best case, the money is spent in a very short period of time and what you worked so hard for is simply squandered. Worse case, your beneficiary uses the money in a way that is harmful to him. I once spoke with a woman whose father died and left an inheritance to her son (his grandson). The young man had a severe substance abuse problem and mom was concerned that if he had a ready source of cash he would buy drugs and overdose in a short time. She wanted to know if there was anything that could be done to put strings on the money. At that point there were only two choices, and both needed the cooperation of the substance abusing son. The first choice was to seek a conservatorship, but the young man would need to consent – highly unlikely and it is questionable whether the court would even grant the conservatorship under these circumstances. Second, the son could set up a revocable or irrevocable trust for himself and have someone else as trustee, but then his access would be limited, again not something he would be likely to agree to. If grandpa had a better understanding of the implications of his plan or had updated it based on more recent information about his grandson the funds could have been protected and potentially used in a way to improve this young man’s life.

**What about assets that have beneficiary designations?** These assets are not owned by your trust and therefore not controlled by your trust, unless your trust is the beneficiary. Typically these assets include retirement accounts, life insurance, and annuities, but could also include bank and investment accounts. Two problems occur with these assets. First, you may have forgotten who your beneficiary is, and second, you may have named the wrong kind of beneficiary.

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## . . . Paperweight (continued)

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I see both of these mistakes frequently.

When you are young and just starting out or are unmarried there is a tendency to name your parents or siblings as beneficiaries. But then you marry and frequently forget to change the beneficiary designation to your new spouse. If something happens to you the current beneficiary designation controls and your spouse is left out.

If you are married and do change the beneficiary there is a tendency to name your spouse and then your minor children. If you divorce and forget to change the beneficiary your ex-spouse will end up with the asset. There are many cases on just this topic and the result is not pretty. The new spouse and/or the existing kids are left out and the ex-spouse takes it all.

**What about naming minor children?** Well, sounds good, but because children under the age of 18 cannot legally manage assets the probate court gets involved and a guardianship must be created. If you did not name a guardian the judge will choose for you. AND your kids will get the money when they turn 18. Think for a minute about the first thing an 18 year old is going to do when they get their hands on the money. That's right, a new car, probably a fast car and likely a whole heap of trouble. Use your imagination.

If your child is not a minor but a **person with special needs** the situation is still not pleasant. If your child receives government benefits (SSI, Medi-Cal/Medicaid, etc.) their benefits will be taken away until their inheritance is spent! If the assets had been given to this child in a special needs trust they would have been able to keep their government benefits and use the funds to improve their quality of life.

And let's not forget about those financially irresponsible or substance abusing beneficiaries. There goes your hard-earned cash!

**Finally, what if the law changes?** I have seen plenty of these cases, too. A plan that was created in the 1980s or even early 1990s was based on estate tax laws with much lower limits than what we have today. At that time, an estate over \$600,000 would pay estate tax (this includes your retirement and life insurance). Compare that to today where no tax will be paid until your estate is over \$3.5 million. Many older plans included estate tax planning that required the trust to split into 2 pieces, with one of those pieces being irrevocable or unchangeable. This strategy is fine and even desirable if you need to minimize es-

tate taxes or want some asset protection (provided the right language is also included), but what if your estate is no longer taxable or what if you never understood what your plan did from the beginning. Now your spouse dies and you are stuck with an outdated plan that doesn't really fit your situation that you never understood and creates more headaches than it fixes.

**If your plan is not up to date it is nothing more than a big paperweight.**

*Written by Heather R. Chubb, Personal Family Lawyer, speaker, and mom. Heather makes it easy for your family to talk about and plan for tough subjects like money, death and taxes, and other life transitions. Visit her online at [www.chubblawfirm.com](http://www.chubblawfirm.com).*

### **Thank You for Your Referrals**

There is no question that I have the best clients on the planet. My business is built on word of mouth advertising and I'd like to thank the following people who were kind enough to recommend my services to their friends and family. Thank you soooo much!

Sue Olmstead  
Jon Roth  
Holly Renner

### **DIY Corner continued . . .**

had 2 yards of material (an amount roughly twice the size of your refrigerator) simply disappeared? The mystery was solved when I hammered away some of the concrete surrounding the pool skimmer. Remember the scene at the start of "The Beverly Hillbillies" where a shot from Jed's shotgun brings oil boiling to the surface, and money flowing into his pockets? Well, picture that scene with dirty water instead of oil and money flowing out instead of in and you get a pretty accurate picture of what happened next. After two sessions draining part of the pool and fibreglassing, then re-fibreglassing, the skimmer, the leak is now patched, the holes are full of gravel, and someday there will be fresh, good concrete poured there.

All that's left is turning the dirt to the south of the house into yard. I'm guessing what may be buried there won't be lost Mayan treasure, unless it's cursed treasure . . .



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Where has the summer gone? Carson is back to school and Owen starts just after Labor Day. We had loads of fun this summer and spent more time in the pool than we ever have before. With Carson's help and encouragement Owen learned to jump into the pool and to swim without his swim vest. He then taught himself how to swim on his back. Once he felt comfortable taking the vest off his progression only took a couple of days. Amazing. We also enjoyed having outdoor movie nights, using my laptop and presentation projector along with our outdoor speaker system to create our own movie screen on the side of the house. You haven't fully enjoyed summertime until you can watch a movie and make s'mores in the fire pit at the same time! These are the things that memories are made of.

Speaking of memories. . . Recently I have been using "Priceless Conversations" to help my clients capture who they are and what is important to them in a way that will be treasured by their family for years to come. My desire to provide this to my clients came after two thoughts collided one day. First was the realization that with the exception of some trinkets I really didn't have anything from my grandparents that gave me insight as to who they were as people, what was important to them, what their values were and their stories. To this end I had always encouraged my clients with young children to write them a letter letting them know how important they are and what their hopes and dreams were for their children. After starting my letter to my kids at least 5 times and never finishing it I realized what a daunting task I had given my clients. Out of this rose the Priceless Conversation—an opportunity for a guided conversation to capture those elusive and important values and thoughts or to just talk about the stories behind some favorite family photos. How precious to be able to listen to a loved one's voice even after they are gone. If you haven't had the opportunity to do a Priceless Conversation with me yet let me know at your next update meeting. My vision is to create a legacy library for you by creating a new Priceless Conversation each time you update your plan.

All my best,

Guiding You and Your Loved Ones Through All of Life's Transitions<sup>SM</sup>

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