

Love in the Time of the Corona Virus

Basic Estate Planning Considerations – Part III

Overview

If the Corona Virus were not actually happening to each of us in Real Time and took place exclusively in Latin America, the Pandemic would actually become a Soap Opera, e.g. novela, shown everywhere in Latin America. My former sister-in-law who is a native French speaker who learned Spanish and sold Spanish novelas around the world for a living. My early exposure to novelas came growing up in the Canal Zone. Believe or not, some novelas are actually very entertaining to watch.

There is a strong demand for Spanish or Brazilian soap operas around the world. Brazilians have told me that when a good soap opera catches the viewing public's attention, the whole country comes to a stop to watch an episode. The one novela of Latin America derivation that garnered the attention of the "Anglo-Sajon," American viewer, is "Ugly Betty" adopted from the Colombian soap opera "Betty, La Fea." Novelas proliferate in every cultural direction covering the lives of El Chapo, and a sundry of related "Narco Traficantes," as well as historical and cultural figures such as Simon Bolivar and Celia Cruz. In our current situation, let us hope that the Corona novela reaches its final chapter quickly.

This is the third installment of articles on basic estate planning. If you do not have the following basic estate planning documents –(1) Last Will and Testament; (2) Living Will; (3) Durable Power of Attorney; (4) Pre-Need Designation of Guardian; (5) Guardianship Provisions for Children;(6) Healthcare Power of Attorney, what are you waiting for?

This article focuses on the need for life insurance in the estate planning process. If the current situation has not made you pause and consider your own mortality, nothing will. In the past, a life insurer purchaser had to be pretty unselfish in order to purchase a product that they would never personally benefit from. These days life insurers have developed products that provide benefits during lifetime for the insured in the event of a chronic illness. It is a critical part of the basic estate planning process. The life insurance industry has responded with innovation and flexibility to make life insurance easier to purchase than ever before.

How Much Life Insurance Do You Need?

I worked in the life insurance agencies before I went to law school and after I went to law school. Life insurance is a financial product that solves many financial problems. A primary focus of life insurance is its role as a financial vehicle for income replacement. Life insurance is the ideal

asset to replace the insured's income when he dies. How much life insurance does a family need? Can you be over insured? Maybe, but I doubt any beneficiary would disclaim part of a death benefit because the family could not find a valid financial need for the extra death benefit.

Everybody likes rules of thumb. However, a rule of thumb never adequately addresses the nuances of a specific family's planning situation. As a result, a rule of thumb such as "ten-times earnings" is better than nothing but fails to take into consideration the hopes and dreams and plans of a family.

The best approach is a financial needs analysis. Most life insurers provide their agents with computer tools to determine how much life insurance is needed. These programs provide the opportunity to make adjustments in the assumptions including the investment rate of return of the death benefit proceeds and annual rate of inflation. The categories include estimates for final expenses; an emergency fund; mortgage fund; education costs; lifetime monthly income need or the monthly income need for an adjustment period. The analysis calculates the present value of the future needs and measures these needs against available liquid funds to meet these needs including any existing life insurance. The gap or shortfall is the amount of life insurance needed.

My planning view has always been to determine the life insurance need using a financial needs analysis. I believe the correct amount of life insurance purchased is the product that allows you to purchase an amount of coverage for the time period needed that fits within a client's budget. Permanent life insurance is a wonderful product except if you need \$3 million of coverage, but the only way to meet the need is through the purchase of twenty-year level term life insurance. Buy the amount that you need now in a manner that fits within your budget!

Planning Example

Facts

Pablo Pueblo, age 35 and his wife, Juana, age 35, live in Florida. They have two children Robby, age 5, and Mary, age 3. Pablo works as an independent contractor delivering for Amazon Prime. He makes \$50,000 per year. Mary works as a paralegal at a law firm and makes \$50,000 per year. They own a three-bedroom house that has a mortgage of \$300,000. Pablo has a student loan liabilities of \$50,000 and a balance on a car loan for his delivery van of \$40,000. He currently has \$250,000 of life insurance which is payable to Juana.

Pablo as part of his estate planning asks his insurance agent, Rafael Ramirez, to provide a financial needs analysis that makes the following assumptions:

- 1) Payoff of the Home Mortgage - \$300,000

- 2) Payoff of the Auto Loan - \$40,000
- 3) Payoff of the Student Loan Balance - \$50,000
- 4) Emergency fund - \$50,000. Six months of living expenses.
- 5) College Fund for Robby and Mary that provides tuition for four years at a public university and two years of graduate school – Undergraduate \$20,000 per year and graduate school \$30,000 per year.
- 6) Adjustment period Income Replacement for Juana - \$100,000 for three years. Mary plans to stay at home for three years if needed.
- 7) Income Replacement for Juana - \$50,000 per year for the next 18 years until Mary is 22.

Planning Strategy

The life insurance needs analysis reflects a need for \$1.5 million additional life insurance above his existing life insurance of \$250,000. His agent proposes a twenty-year level term insurance policy with a face amount of \$1.5 million. The premium is \$100 dollars per month. The beneficiary of the policy is the Pablo Pueblo Revocable Living Trust. The successor trustee is Ramon, Pablo's brother, a financial advisor. Her successor is Pablo's brother, Daniel.

The trust provides Juana with a discretionary income limited to her health, education, maintenance and support needs. The trustee has the discretion to make additional distributions of principal to Juana as needed. Additionally, she has the right to withdraw the greater of five percent of the trust's value or \$5,000, each year. The trustee has the discretion to pay the liabilities of Pablo's estate. The trust provides that at Juana's death, the trust assets will be divided into two separate trusts divided equally for each child. The trustee has the ability to provide for the payment of the college and graduate level education. The trust assets will remain out of the reach of Pablo and Juana's creditors. Trust assets will also be outside of the reach of the children's future creditors.

What About If I Do not Die?

The life insurance industry has been very innovative over the last ten years creating riders that provide for the payment of a portion of the death benefit during lifetime. An early iteration of the payment of a portion of the death benefit before the insured's death was the accelerated benefits rider which paid a portion of the death benefit prior to death providing the insured has less than twelve months to live due to a terminal illness.

Another iteration of the accelerated death benefit is the long-term care rider. The benefit is paid when the insured cannot perform at least two of the activities of daily living. This benefit provided a daily amount for a stay in a nursing home.

The chronic illness rider provides benefits up to fifty percent of the total death benefit frequently with a cap of \$500,000-\$1 million. Qualification requires the inability of the insured to be unable to perform two of the activities of daily living (bathing, continence, dressing, eating, toileting, and transferring) as well as severe cognitive impairment.

It Has Never Been Easier to Buy Life Insurance

One of the early innovations in the life insurance industry due to the Corona Virus pandemic has been the relaxation of medical requirements for underwriting purposes. Virtually every major life insurer has significantly raised the level of coverage that it will underwrite on a non-medical basis, e.g. without a medical exam with a doctor. The limit is as high as five million of coverage depending upon the age of the insured and the insurance company. Insurers will still pursue attending physician statements based on the insured's medical history. In my view, this trend is likely to continue beyond the pandemic in my view.

Summary

In my experience,, most people are underinsured. A financial needs analysis performed by a life insurance agent or an attorney can pinpoint the correct amount of coverage. Life insurance should be coordinated with the rest of the client's basic estate planning considerations. It is something that should be reviewed periodically. Life insurance has never been easier to purchase.

In the current pandemic, it might be hard or impossible to drive down the road to the local attorney's office for a consultation. If you have any questions or would like a consultation on these basic estate planning needs, consider a virtual meeting with a lawyer. Be well and stay well! If you would like to speak with me, I can be reached at:

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