## Estate

1. There is no such thing as a trust estate and there is no such thing as an estate beneficiary. An Estate, for probate purposes, is defined as personal property that was abandoned by a decedent at the moment of passing. Probate is an action in rem wherein the estate is impugned as the defendant and all probate related “claims” are either assertions of rights to a portion of the estate or, allegations of a sum certain owed to the decedent by third parties that are alleged to be part of the decedents estate. The real parties in interest to a probate estate are called heirs.

## Trust

Trust is both a noun and a verb but only in the following context can both the noun and verb be defined as concurrent and concomitant. A **Trust** is defined as **a fiduciary relationship in regard to property**.

The instrument that defines the fiduciary relationship is called the **Indenture**. The properties held under the indenture are called **Corpus**. A trust has one indenture; one or more **Trustees;** one or more **Corpus;** and one or more “**Beneficiaries”**.

There is no such thing as a trust estate. A decedent’s corpus is called a cadaver, the decedent or “the body”, depending upon the context in which it is referenced. A decedent’s estate has heirs, it does not have beneficiaries and a trust corpus has beneficiaries, it does not have heirs.

## The Relationship

A trust is a form of agreement comprised of an indenture and a corpus. The indenture defines the relationship wherein the trustee owes active fiduciary duties (and not merely nominal duties) to be performed by the trustee for the sole benefit of the beneficiary. The trustee holds bare legal title to the corpus only for that purpose while the beneficiary holds equitable title to the corpus and has the full right of enjoyment. The beneficiary is considered the true owner of the trust corpus.

## The Components

A trust relationship requires (1) the **separation of legal and equitable titles** and (2) **affirmative fiduciary duties to be performed by the trustee for the benefit of the beneficiary** and (3) the duties to be performed by the trustee must be **enforceable by the beneficiary**.

**Merger**: If legal and equitable titles to the corpus merge in the beneficiary the trust collapses and the corpus becomes property of the beneficiary in their individual capacity and not protected in trust.

**Active and Passive Trusts**: If the obligations of the trustee are merely nominal and not active, there is no trust and if the affirmative obligations of the trustee are not enforceable by the beneficiary there is no trust. The corpus of a passive trust vests in the beneficiary. A trust becomes passive when there are no active fiduciary duties to be performed by the trustees for the benefit of the beneficiaries.

In my view a trust is completely worthless as attorneys will manufacture controversy for their own benefit and probate is a lawless organized crime environment. The only way to avoid probate is with joint tenancy. We have a: **Principles Only, Joint Tenancy Covenant with Rights of Survivorship**.

“**Principles only**” means no 3rd party representation. If there is a controversy no one can hire an attorney and if there is a guardianship no one can re-present the “ward” in regard to this covenant. If you become disabled your ability to enforce your rights will depend entirely upon the love of those with whom you share joint tenancy.

**Joint Tenancy** in contrast to Tenants in Common is vital because joint tenants each own 100% whereas tenants in common each own a percentage. If one common tenant is sued the property of the other common tenants can be sold to pay the judgment (up to the amount of the one common tenant’s interest). A joint tenant can be sued but since each owns a 100% property interest sale cannot be forced unless all of the joint tenants are sued in the same proceeding.

**Rights of Survivorship and right to maintain status quo** means if one joint tenant dies the remaining joint tenants continue to each own 100% and no paperwork is necessary.