Scenario 2

Jack and Diane

Family Circumstances

Jack (age 52) and Diane (age 47) are both in their second marriage and have a blended family of six comprised of themselves and the following four children:

> Allen (age 23) is Jack's son from his first marriage. Allen graduated from college with a business degree, but could not find a job out of college. He ended up spending a winter at their condominium in Steamboat, Colorado and never came back. He is employed there as a ski instructor.
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> Beth (age 21) and Charles (age 18) are Diane's children from her first marriage. Beth is finishing her senior year at the University of Maryland where she has done well and wishes to pursue a master's degree in mechanical engineering. Charles is in his freshman year at a small liberal arts college with an interest in teaching history.
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> Darby (age 14) is the daughter of both Jack and Diane. She is completing her 8th grade year at a private school where she is the best student in her class. She is likely to continue in private school.

Sam (age 50), the father of Beth and Charles, is a high school teacher. He and Diane are on good terms. Sam has always paid his child support. They agreed that they would each be responsible for one-half of the children's college education costs, but it has been a struggle for both and there are $40,000 of student loans for Beth that both Diane and Sam have agreed to pay. There has never been a discussion on who will pay the cost of post graduate education. Sam's parents live on a large farm in the mid-west. Sam is their only child. Diane has reason to believe that Sam's parents have planned well for Sam, Beth and Charles.

Susan (age 51), is Jack's first wife and the mother of Allen. There are no further obligations owed by Jack to Susan under their Marital Separation Agreement, other than the requirement that Jack maintain $300,000 in face value life insurance policy on his life naming her as primary beneficiary and their son, Allen, as the contingent beneficiary.

Diane's mother, Martha (age 70), lives out of town, still works and has an annual income of $45,000. Jack and Diane take Martha on trips and help her out financially from time to time. Diane would like to see her mother move closer to home, to live in a continuing care community if possible.

Financial Resources

Jack is a plastic surgeon drawing a salary of $700,000 per year. He is a partner in a medical professional corporation from which he expects to receive $300,000 as a buy out for his interest, which he hopes to have happen before age 60. There is a buy-sell agreement among the corporation's shareholders with Jack's life covered by a $300,000 20 year term policy that will expire when he reaches age 59.

Diane earns $40,000 per year as a part time administrator of a family medical practice.

In addition to the practice, Jack and Diane have the following assets:

- Home owned as tenants by the entirety valued at $2.5 million, with a $2.7 million mortgage and capital gains basis of $1.0 million.
- A boat in his name only purchased for $1,000,000 with a current value of $800,000 and outstanding lien of $500,000.
- A condominium in Steamboat, Colorado owned jointly between them, valued at $1.5 million with a mortgage of $800,000 and a capital gains basis of $1.3 million.
- An investment account in Jack's individual name ("the Inheritance Account") worth $3.5 million that he inherited in March of 2009 with a capital gains basis of $1 million. This Inheritance Account produces dividend and interest income of approximately $35,000 annually.
- Jack and Diane jointly own a minority membership interest in a hard to value Maryland LLC, Top Investors, LLC, that owns interests in a number of real estate partnerships. The LLC has made annual distributions of profits to Jack and Diane that, over the last 5 years, have averaged $15,000 annually. Their capital account in this LLC is listed in the company financial records as -$75,000 (i.e., they have a negative capital account). Jack and Diane are not sure precisely how they own this membership interest. Their annual Forms K-1 list the addressees as Jack and Diane ", jointly".
- Jack is fully vested in the medical practice's 401K plan. His vested interest is currently valued at $1.7 million.
- Diane has various bank accounts, CDs, etc. in her individual name the total of which is $300,000. The interest on these accounts yields about $3,000 of income.
- Jack owns a term life insurance policy with a $6 million face value death benefit. Although this policy has no cash value, Jack has been assured by his agent that the policy premiums will remain the same until he reaches age 65, that the policy will be renewable at that time, and that, if he wants to start building income-tax free value, he can convert the policy to permanent insurance any time before he reaches age 65.
- Jack also owns a universal life insurance policy with a $1 million face value death benefit and a cash value of $300,000. Jack believes that he is obligated to maintain this policy for the benefit of his former wife, Susan, with Allen as the contingent beneficiary. This policy has a current premium of $27,000 per year, but Jack has been advised that this premium may not be sufficient to maintain the policy past his age 82.
- Diane has no life insurance in place.

Jack and Diane spend everything they make with their only "savings" being the 7% of Jack's salary that is contributed to his qualified plan each year.

Summary of Current Resources

In summary, Jack and Diane's resources are as follows:

Asset		Value	Basis	Ownership	Annual Income
Medical Practice Interest		$300,000	$0	Jack	$700,000
401k Plan Interest		$1,700,000		Jack	
Residence		$2,500,000	$1,000,000	Jack and Diane	
	Equity	-$200,000			
Colorado Condominium		$1,500,000	$1,300,000	Jack and Diane	
	Equity	$700,000			
Boat		$800,000	$1,000,000	Jack	
	Equity	$300,000			
Inheritance Account investments		$3,500,000	$1,000,000	Jack	$35,000
Bank Accounts		$300,000		Diane	$3,000
Top Investors, LLC membership interest		?	-$75,000	Jack and Diane, "jointly"	$15,000
Life Insurance on Jack					
	Term	$6,000,000 face value		Jack	
	Universal	$1,000,000 face value		Jack	
		$300,000 cash value			

Estate Planning Goals and Concerns

Jack and Diane come to you looking for help with their estate planning. They want to take care of each other while either is alive. They want all four children ultimately to benefit from their

postmortem net worth, but Darby's education, including post graduate education, is of primary concern in this regard. Their special goals and concerns are as follows:

1. **Future Taxation**: They do not like either income taxes or estate taxes and wish to minimize both for themselves and their family in the future.

2. **Financial Planning:** They would like to retire before Jack reaches age 60 but they need to plan for the cost of Darby's continuing education as well as consider Diane's contribution toward the college education and loan expenses of Beth and Charles. For all their planning, their paramount goal is to maintain their current after-tax income and lifestyle. They also want to be thinking about a future plan for Martha that gets her closer to their home so that it will be more convenient for Diane to help her mother when needed. They recognize they may spend too much and need a financial planner to help them as soon as possible.

3. **Protection of Assets:** Because of his risks as a physician, Jack wishes to incorporate into his planning all possible asset protection strategies that are consistent with the couple's other goals.

4. **Darby**: Since Darby is the youngest of all of the children, Jack and Diane want to make sure that Darby's physical care and education are well provided for in the event of the untimely death of both of them, even if that means that the other children wait on part of their inheritance until Darby has completed her education.

5. **Allen**: Allen lives in the Colorado condominium full time. He is not involved in any serious relationship. His earnings as a ski instructor allow him to pay for his own utilities, phone and insurance, food and entertainment, but he does not pay rent. Allen is very happy living the life of bachelor and there is no indication that his life style will change anytime soon. It appears that Allen will continue to need their support unless his job status changes. They are also concerned that Allen is a bit of a spendthrift and feel that a trust would be a good way to protect his share of the inheritance.

6. **Distribution Among the Children:** Jack and Diane both want to make sure that Beth and Charles inherit their fair share from Diane. Recognizing, however, that 3 of the 4 children have another parent from whom to inherit, they feel that Darby should receive 40% of their assets when both of them have passed away. Jack also wants Allen and Darby to be the main benefactors of his Inheritance Account, but he is not opposed to Diane receiving a stream of income from all or some part of this portfolio for her life if there are insufficient other assets to provide for her.

7. **Plan Flexibility**. Jack and Diane confide in you that, although they have been happily married for 15 years, they are both "realistic" about the possibility that that may not always be the case. As a result, they are wary of documents that cannot be adjusted in the future, and both worry that their children might suffer divorces as well. In addition, Jack is concerned that he may not live to his actuarial life expectancy. Since Diane comes from a family whose members have routinely lived into their late 80s and early 90s, he wants her to have the flexibility to change their estate plan after his death in case one of

his biological children becomes a drug addict. At the same time, he wants the general parameters of their wishes (as discussed above) to be honored.