

VOLUME 5 ISSUE 1

ESTATE PLANNING & ASSET PROTECTION



JANUARY 2014 IN THIS ISSUE:

ESTATE PLANNING FOR YOUR CHILD

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THE UGLY WORLD OF PROBATE

Are you at risk?

DO-IT-YOURSELF WILLS

The deadly truth behind this consumer trap



WFP

WEALTH FAMILY PROTECTION

Attorneys at Law

WHEN LEGACY MATTERS

At Wild Felice & Partners, we implement estate planning and wealth transfer techniques such as the use of Florida Revocable Trusts and Irrevocable Trusts, Family Limited Partnerships, Limited Liability Companies and other advanced estate planning tools to help our clients avoid probate and limit or eliminate estate tax burdens on family members. We realize that each client is unique and every plan is tailored accordingly to every individual need. Our firm aims to shed the tax attorney paradigm and focus instead on the dynamic relationships between our clients and their loved ones. WFP Law realizes that estate planning is truly for the loved ones that we leave behind

It's a Wild world. Are you protected?



*Protecting What You Value Most Through
Estate Planning and Asset Protection*

PROVIDING SOLUTIONS THAT SECURE AND ENHANCE YOUR WEALTH AND YOUR LEGACY

Everyone understands the benefits of having insurance to protect your assets from unanticipated events. Hazard and casualty insurance is necessary to provide protection from the risks of fire, floods, and wind damage. Liability insurance is necessary to provide protection from the risks of auto accidents and personal injury. But what can you do to protect your assets from claims in excess of your insurance or from risks of lawsuits or from unexpected business liabilities or from an overabundance of tax consequences? Fortunately having an asset protection plan in place can help insulate you from these potentially significant risks.

We believe in providing you with effective solutions so that you can have confidence that your assets and your legacy are protected. An effective asset protection plan needs to be in place before a lawsuit or claim is made against you, and well in advance of your retirement or death, so it is important to take the step toward greater protection today.

WFP Law is a full-service, Fort Lauderdale, Florida based law firm with a specialty in asset protection. We utilize a combination of estate planning, real estate law, corporate formation, family law, and asset structuring to assure that our clients are protected from potential litigation, creditors, and any other threats that may be looming. A properly designed asset protection plan can accomplish many of your most important objectives:

- Protection of family savings and investments from lawsuits and claims.
- Protection against inadequate or unavailable insurance coverage.
- Insulation of rental properties reducing your exposure to potential lawsuits.
- Protection of business assets and accounts receivable from potential claims.
- Elimination of probate.
- Reduction of estate taxes.

It's a Wild world. Are you protected?



A NEW ADDITION TO THE FAMILY: ESTATE PLANNING FOR YOUR CHILD

If January has brought you a winter baby, an important dimension has been added to your estate plan. It is critical to plan for the care of your child in case of parental incapacity or death. A guardian should be appointed to look after your child in the event something tragic happens to you or your spouse. If you are a single parent, this need becomes even more pressing.

Failure to select a guardian for your child will result in a lengthy judicial process to determine the guardianship of your little one. Undesirable candidates may become his or her new caregiver. Your little one might even become ward of the state.

There are two kinds of guardians to consider. The first is known as a guardian of the estate. This is someone who manages the money or assets held by a child. On the other hand, a guardian of the

Every American should have an estate plan in place but the need for comprehensive estate planning is even greater when you have children.

person is someone who becomes a substitute parent for the child. For example, your accountant brother-in-law may be the ideal candidate as guardian of your child's estate, but his unceasing workaholic nature may not make him the preferred choice for guardian of the person. Another important matter to consider is protecting your minor child from probate and a hefty estate tax bill by establishing a contingent trust. Don't risk having your little one left with nothing. Protect assets from any predators or even the whims of an immature child with a spendthrift nature by consulting with your South Florida attorney now.

It's a Wild world. Are you still protected?

PROBATE: THE GOOD, BAD, & THE JUST PLAIN UGLY

The probate process is necessary to wind up the affairs the decedent leaves behind. It is necessary whether or not a decedent drafted a will. If someone dies without a will, he or she dies intestate. This means that Florida statutes determine the distribution of assets. On the other hand, a will determines how assets will be allocated to beneficiaries based on the wishes of the decedent.

A Circuit Court Judge supervises the probate proceedings. The Last Will and Testament is validated and a personal representative is appointed to administer the estate. Creditors, including the IRS, must be properly paid before any beneficiary gets his or her share.

This entire process involves extremely complex considerations that are not apparent to anyone who is not trained in the practice of probate administration. Slight mistakes can result in a significant increase in both time and money; and thus it is very important to ensure that the estate is being administered properly. This process will involve tax related consequences, dealing with creditors, inventorying property, appraising property, paying off debts, court filings, procedures to avoid litigation, and considerations associated with exempt property, family allowance, and elective share benefits. In Florida, you cannot avoid the probate process, but you can shift the burden to a trusted attorney who can provide the most expedient and stress free process as possible.

Furthermore, in terms of its financial impact, probate can easily cost between 3% and 7% of the total estate value. A will can also be contested which can delay the distribution for years adding to the expenses of the estate in the form of attorney fees and court costs.

Talk to your South Florida attorney today on how you can avoid the probate process through a comprehensive estate plan!



HAPPY NEW YEAR – START ANEW BY UPDATING YOUR PLAN

Welcome this New Year with a resolution to make an appointment with your South Florida estate-planning attorney to review your current estate planning documents and make any necessary updates to ensure all your wishes will be met. It's time to embrace 2014 by shedding the old and starting anew.

Prudent individuals greet the New Year by taking the time to reflect on the past and set goals for the future. For the health conscious, this could mean taking the time to exercise, eat healthy, and making that doctor appointment for that annual medical checkup. For the savvy motorist, this means taking that precious car for a routine mechanical servicing. For the wise estate planner, making the time to see his or her estate-planning attorney to review documents is a high priority. Estate planning is not a one time process that is done once and never revisited. It is an ongoing activity because life can be capricious and people change.

Don't be that person who leaves loved ones with the extra burden of straightening your financial affairs. Unforeseen snares lie in wait to snag even the most carefully constructed estate plans. Many circumstantial changes may arise that affect major impact upon your life- without a moment's notice. Is it not better to take some time to consult your attorney and be safe than sorry?

A South Florida estate-planning attorney has the requisite training and skill to shield clients against such uncertainties in life and construct a comprehensive plan on your behalf and for the protection of those you love most. Don't delay and let another minute pass you by. Ward off the potential for disaster by calling your attorney today.

It's a Wild world. Are you protected?

DID YOU KNOW?

Do-It Yourself Wills can cause more harm than good.

When it comes to estate planning, an ounce of prevention is worth a pound of cure. Planning ahead does not mean go to the office supply store and get a "fill-in the blank" will or download it from an unknown source. For a will to be valid, it must adhere to the Florida laws and requirements. There are very specific formalities for properly executing this legal document, such as, who can or should be a witness and, where and when you and your witnesses may sign. Improper execution can also cause a will to be contested. Also, certain family members may have rights given by statute.

Minimize the possibility of your will being contested or invalidated by seeking a South Florida Estate Planning attorney. In addition, you may have certain desires that cannot be achieved with a "cookie cutter" document. A knowledgeable attorney will be able to guide you through this process and draft a will that meets your specific needs.

Elder Law

Personal Care Agreements

How to Use a Caregiver to Reduce Costs and Enhance Medicaid Eligibility

On any given day, there are over 150,000 Floridians receiving home care services. Such care ranges from homemaker/companions to registered nurses, providing services of everything from meal preparation to medical treatment. When structuring an arrangement for long term care, the individual's environment plays a critical role in their quality of life, as studies have shown that patients recover faster in the comfort of their own homes.

There are a variety of factors that should be considered in order to structure a cost effective arrangement for home care, while both enhancing the older adult's quality of life and preparing for future Medicaid eligibility. Often, when an older adult is in a condition of health that does not require medical nursing care, a family member or friend will assist with personal care. This can become quite burdensome for the relative or friend, who must balance daily obligations with the responsibilities of caregiving. As a result, many have turned to personal care agreements (a.k.a. personal services contracts), allowing the older adult to contract with a relative/friend for services rendered. The caretaker is compensated, the older adult receives necessary assistance, and the payment is considered a transfer of value (not a gift); thus reducing the older adult's countable assets, and enhancing Medicaid eligibility.

A personal care agreement should specifically address the duties of both parties, and structured in a manner that ensures legal enforceability. The agreement should be in writing, signed before the services are rendered, and the compensation must be reasonable (in comparison to what other third party caregivers are charging for the same services). Furthermore, the contract should include the following terms:

- When the care will commence and terminate - this is important in ensuring that the amount paid is for value, rather than a gift. In terms of termination, the instrument should provide whether advanced notice is required, as well as a means of effectuating termination.
- Compensation - the agreement should specifically state the amount to be paid in relation to a specific period of time. This can be hourly, daily, weekly, etc. If the parties agree on hourly payment, the caregiver will need to keep detailed records in the event that the payment is challenged.
- What duties will be performed - this should include basic services, as well as any duties the caregiver should perform in the condition that the older adult is required to reside outside the home for any period of time.
- Contract modification - the agreement should include a statement that the contract can only be modified by mutual agreement of parties, in writing.
- Tax consequences - the contract should include specific language that ensures the caregiver will be treated as an independent contractor, rather than an employee. This is critical, because if the IRS determines that the caregiver is an employee, certain tax consequences will be triggered. Furthermore, the patient can only deduct the costs as "medical expenses" under specific conditions, so it is important to seek an elder law attorney to mitigate tax consequences.

A personal care agreement is an excellent tool for older adults who wish to use a family member or friend as a caregiver, while accelerating their Medicaid eligibility. For these arrangements to work effectively, it is very important that the contracts are drafted properly. For this reason, older adults that are looking into a personal care agreement should consult an attorney who is familiar with elder law issues to first determine whether the agreement is appropriate under the circumstances, and to further ensure that it is structured to enhance all potential advantages.



Welcome to the Firm, Horacio Sosa

Horacio Sosa is a partner of Wild, Felice & Partners, P.A. Mr. Sosa has vast experience in estate planning, elder law, real estate law, and business law. He graduated cum laude from Universidad Católica de Asunción Law School in Asuncion, Paraguay in 1992 and began his legal career immediately upon graduation at Paraguayan law firm Peroni, Sosa, Tellechea, Burt & Narvaja. He also worked as an In-House Counsel for a wireless telecommunication carrier.

In 1996 he was awarded a Fulbright scholarship and obtained an LLM degree for foreign lawyers from the University of Minnesota Law School. In 2001 he obtained the Juris Doctor degree from William Mitchell College of Law, St. Paul, Minnesota. Upon graduation, he was admitted to the Minnesota Bar (inactive status) and later, in 2002, to the Florida Bar.

Horacio is a member of the Florida Bar (Real Property, Probate and Trust Law Section and Elder Law Section), the National Academy of Elder Law Attorneys (NAELA), Academy of Florida Elder Law Attorneys (AFELA), American Academy of Special Needs Planners, and Elder Counsel.

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Mr. Sosa has solid experience in the following areas:

- *Basic and Complex Estate Planning for residents and non-resident aliens, including drafting and funding of revocable living trusts and irrevocable trusts, drafting of wills, durable powers of attorney, health care surrogates, and living wills*
- *Medicaid Planning, including drafting and funding of qualified income trusts, drafting of personal services contracts, and submission of Medicaid applications*
- *Asset Protection*
- *Special Needs Trusts*
- *VA Planning, including preparation and submission of VA applications;*
- *Representing heirs, personal representatives, and guardians in probate and guardianship proceedings.*
- *Business Transactions such as formation, governance, restructuring, dissolution, and liquidation of all types of business entities in Florida (corporations, partnerships, limited partnerships, limited liability limited partnerships, limited liability companies)*
- *Drafting of operating instruments (bylaws, operating agreements, and partnership agreements)*
- *Shareholder's Agreements and Buy-Sell Agreements*
- *Commercial Transactions such as mergers and acquisitions and franchising and distribution agreement, joint ventures, strategic alliance, etc.*
- *Represents buyers and sellers in real estate transactions;*



IN THE NEXT ISSUE:
VALENTINE'S DAY EDITION

ROSES ARE RED, VIOLETS ARE BLUE. PROTECT WHAT IS YOURS, AND CONTROL IT TOO.

What asset protection strategies you can use for utmost protection, while maintaining maximum control.

MY HEART BEATS FOR YOU ... UNTIL IT DOESN'T

How to protect your loved ones in the event of sickness or death.

YOU THOUGHT HALF WAS BAD...

How a divorce can render your old estate plan ineffective!

A LITTLE FABLE AT THE COUNCIL TABLE



THE OLD WOMAN AND THE WINE-JAR

An old woman found an empty jar, which had lately been full of prime old wine and which still retained the fragrant smell of its former contents. She greedily placed it several times to her nose, and drawing it backwards and forwards said, "O most delicious! How nice must the wine itself have been, when it leaves behind in the very vessel which contained it so sweet a perfume!"

The memory of a good deed lives on, but nothing is more devastating to a family than litigation over an estate. Plan ahead, leave things in order so that your legacy unites rather than separates your family.

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Michael D. Wild is a Florida attorney specializing in the areas of estate planning and asset protection. For more information on successful Florida estate planning and asset protection techniques, please contact the South Florida law firm of WFP Law at 954-944-2855 or via email at info@wfplaw.com to schedule your free consultation.

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