

# SMART PLANNER

Useful Tips for a Better Tomorrow

Fall 2019

## Long-Distance Caregiving Tips: Get Organized

Caring for an aging loved one can be a challenging responsibility, even under the best of circumstances. But, when the caring must be done long distance, you add a whole other layer of complexity and difficulty.



There are a lot of moving parts to manage when you're taking on the role of caregiver. Not only are there day-to-day and health considerations to worry about, there are also financial issues, long-term considerations, and unexpected developments that come out of nowhere and blindside you.

As you transition into the role of caregiver, think about what you can do up front to help get all the proverbial ducks

in a row. You'll have an easier time of it if you're able to have all the information you need more or less at your fingertips.

**Here is a starter list of some information and documents you may want to look into:**

1. **Gather as much information as you can** on your loved one's medical history, health, and medications. For your own convenience, make sure you have permission for online access (when available) to medical records and appointment schedules, etc.
2. **Do some research into any specific medical conditions** your loved one may have. This will help you know what to expect, what to look for, and also help you empathize with their experience.
3. **Locate and centralize all your loved one's important documents** including birth certificate, social security card, insurance documentation (health, auto, life, homeowner's, etc.), bank accounts and other financial assets.
4. **Review and update all relevant legal documents** that you may need in place to effectively manage and support your loved one, including medical release forms, health care directives, Will and power of attorney, any trust documents, etc. Also consider possibly creating joint ownership of particular assets in order to ensure easier access and the ability to manage things on behalf of your loved one.

In addition, you can save yourself a lot of stress when an emergency arises if you've done a little extra planning for unexpected travel.

- If your loved one lives within driving distance, make sure your vehicle is always in good repair and ready to go at a moment's notice.
- If you need to travel further via alternate modes of transport, do some research ahead of time to determine best travel options and routes.
- It's also a good idea to prep your employer for unplanned absences, and look into the possibility of taking unpaid leave under the Family and Medical Leave Act.
- If you have children and/or pets, have a plan in place to provide them with care in case you need to be away.

Being organized always helps us to perform better – in all areas of our lives. And since caring for a loved one long-distance presents so many challenges, upping your organization game is a great idea. ■

## DO YOU KNOW...



### The #1 Predictor for a Happy Retirement?

It isn't financial, although money is critical. Having lasting friendship, hobbies, and other interests can make a tremendous difference in your long-term happiness post-work.

## Q & A

**Q:** My wife has dementia and will be moving into an assisted living facility. Can I deduct the facility cost?

**A:** Unreimbursed long-term care expenses can be deductible as a medical expense for taxpayers who itemize their deduction. For 2019, you can deduct qualified medical expenses that exceed 10% of adjusted gross income.



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It's Time. Plan Today for Your Tomorrow.

# Debt After Death: Who Owes the Money?

The saying “*you can’t take it with you*” is meant to remind people that no matter how much wealth you accumulate in your lifetime, you’ll have to leave it behind when you shuffle off this mortal coil. Unfortunately, for your heirs, the same goes for your debts.

Turns out that dying is no excuse for defaulting on debt.

The pertinent questions then become:

- a) who is responsible for making good on any financial obligations, and
- b) can your assets be used to satisfy certain debts?

In most cases, creditors are compensated from the portion of your estate that passes through probate, in other words—any assets that are part of a Will. This means that the person you appoint as the executor of your estate is responsible for settling any debts before any inheritance is paid out to your heirs.

**If you aren’t careful, and you accrue more debt than your estate is worth, your heirs will potentially receive nothing.**

And what if the value of your debts exceed the value of your estate? In that case, your creditors may be out of luck.

However, in certain instances, creditors can pursue other means of reimbursement. For instance, if someone was a co-signer or guarantor on a debt, they would assume that debt. Also, if there is debt related to property and that property was jointly owned, the co-owner is responsible to pay off the debt.

**Here are a few other common debt scenarios:**

## Your Mortgage

If you owe money on a piece of property, and it is jointly owned or inherited, that joint owner or heir becomes responsible for

the balance of the mortgage. They are not, however, expected to pay it off immediately. In most cases, the remaining party simply assumes the mortgage payments.

## A Home Equity Line

On a related note, anyone inheriting property becomes responsible for paying back any home equity debt accrued against that property. And, unlike with a mortgage, banks can require immediate payment in full. Since this is often impossible without selling the property, most banks will allow an heir to assume the monthly payments going forward.

## Car Loan

Similarly, if someone inherits a car, they can usually just take over the payments going forward. If, however, they fail to make the payments, the lender can repossess the car.

## Student Loan

Unless there was a co-signer, lenders are not able to compel anyone to pay off unsecured student loans. Since Connect-

icut is not a community property state, the spouse cannot be held responsible (if the loan was made during the marriage).

## Credit Cards

Since credit card debt is also unsecured, the bank holding it won’t have any recourse to collect if the estate can’t pay and there wasn’t a joint account holder. If there was a joint account holder, that person does inherit the debt, but that same burden does not apply to anyone who was simply an authorized user.

The good news is that there are some assets that are usually safe from creditors. Primarily, these are retirement accounts and life insurance benefits. In both cases, these are assets that do not go through probate — since they are paid directly to your named beneficiaries. ■



## WHAT'S UP WITH US

**Brendan Daly**, our fearless managing partner and self-proclaimed non-dancer, is taking dance lessons and will be competing in the Alzheimer’s version of Dancing with the Stars! We sure are proud of his courageous spirit and contribution to the Alzheimer’s Association . . . and will let you know if he wins!

Join us in welcoming long-time judge and recently retired probate court administrator, **Paul Knierim** to the firm. Paul has joined our litigation team to lead our expansion into the dispute resolution practice area.

We are so happy to have attorney **Ruth Fortune** back from maternity leave and excited for her and her husband who recently welcomed their second child into the world. Baby Elle is absolutely adorable!



Brendan Daly



Paul Knierim



Elle Fortune

# The Joy of Audio Books

## What was the last book you read?

It's easy to blame the proliferation of digital devices for the decline of reading among younger generations, but how about among more mature audiences? Have we replaced reading books with watching television, or does the reason have more to do with either a lack of time or maybe compromised eyesight?

Whatever the reason, it's a shame that we're reading less. Reading offers so many benefits to young and old alike.

The good news is that you can reap these benefits even if you don't have two minutes to sit down with a good book or have vision issues that make reading a challenge. The secret to making reading more accessible is audio books. Some advantages that come with listening to a book:

**Allows you to multitask.** If you struggle to find time to read in the traditional way, audio books can open up a world of new reading possibilities. You can listen while making dinner, commuting to work, walking the dog, or even while showering.

**Gives your eyes a rest.** You don't have to give up reading because of vision issues. The option to listen to a book means you don't need to worry about eye strain or headaches.

**Offers a more emotional experience.** Hearing someone else read a story can make the experience more immediate and intimate than reading ink on a page. And today's audio book productions feature highly skilled voiceover artists who know how to bring a story to life.

**Allows you to enjoy a story with a friend.** It's fun to listen to a book with someone else. Audio books are great for road trips or even as an alternative to television in the evening.

## Listening to books provides the same benefits as reading them

If you're still not convinced, maybe you need a little reminder about all the great things reading does for your mind and well-being. (And that holds true whether you're reading the printed page or listening to a story.) Here are just a few of the reasons you should be reading more.

**Reading is good for your brain.** "Use it or lose it" is no laughing matter. Reading provides cognitive stimulation that



helps keep your gray matter in tip-top shape and can even slow the progress of Alzheimer's disease and dementia.

**Reading specifically helps improve memory.** Each new memory you create strengthens existing brain pathways, or synapses, and forms new ones. Reading a book – especially a novel – helps train your brain by making you remember characters, plot lines, story arcs, and details about dialog and settings.

**Reading helps you relax.** There's nothing like losing yourself in a great story, and studies have shown that reading can reduce stress levels by as much as 68%.

**Reading makes you intellectually and emotionally smarter.** Not only does reading increase your knowledge and expand your vocabulary, it can also improve your ability to empathize with others by giving you a way to experience the world through someone else's eyes.

So many of us started out listening to stories rather than reading them. A parent, grandparent, teacher, or librarian introduced us to the wonderful world of imagination by reading stories to us out loud. The act of listening helped us learn to focus and concentrate even as we immersed ourselves in the joy of a good story.

Just because you're all grown up doesn't mean you have to give up the pleasure of listening to someone else read you a story. There are countless audio books available today through both paid services like Audible and local libraries.

So, go ahead—treat yourself to the experience of listening to a book. You may just get hooked, and a world of new reading opportunities will open up for you. ■



## Two fewer things to think about

- 1 Coffee:** Forget the warnings about coffee's link to cardiovascular issues. A 2017 review of 400 studies determined that most people can safely drink up to 32 oz a day (sans sugar, of course).
- 2 Carbs:** Carbohydrates are the body's top fuel, source, and should be, so don't shun them. "A smarter strategy: Focus on reducing refined carbs (like white bread, pasta and sweets) rather than cutting out all carbs."

Source: *Real Simple*

**It's Time. Plan Today for Your Tomorrow. Call us at (860) 236-7673.**



To see our Adult Education schedule, visit [www.ctseniorlaw.com](http://www.ctseniorlaw.com) and go to SEMINARS

- Nov. 12 ..... [Legal and Financial Planning](#)  
– Alzheimer’s Assoc., UCONN Genome Sciences Bldg., Farmington
- Nov. 14 ..... [Legal and Financial Planning, Alzheimer’s Panel Discussion](#)  
– Wilton Library
- Dec. 2 ..... [Creating a Strong Estate Plan](#) – Bethel Senior Center
- Dec. 4 ..... [Planning for Long-Term Care](#) – Elim Park, Cheshire
- Dec. 11 ..... [Creating a Strong Estate Plan](#) – Elim Park, Cheshire
- Dec. 18 ..... [What the Heck is a Trust?](#) – Elim Park, Cheshire



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### Overhaul in Connecticut Trust Law, FINALLY

By Jeff Rivard

#### Exciting news for estate planning practitioners and their clients!

Recently, on the very last day of its legislative session, Connecticut's General Assembly enacted HB 7104 "An Act Concerning Adoption of the Connecticut Uniform Trust Code" (the "Act").

First developed by the National Conference of Commissioners on Uniform State Laws in 2014, the Uniform Trust Code was the first attempt to develop a comprehensive model trust code that embodies most generally accepted common principles of Anglo-American trust law. The hope was that various states would each adopt the Code as a way of bringing greater consistency nationwide. As of 2016, 31 States had enacted versions of the Uniform Trust Code – but Connecticut was not among them. For many years proponents tried unsuccessfully to persuade the legislature to adopt the Uniform Trust Code here as well. Now at long last it has happened.

The Act will become effective January 1, 2020. In its entirety it is quite lengthy, running to some 120 pages. Much of it is of a fairly dry, technical nature. Yet there are a few major changes. Here is a quick summary of some of the new features of the Act that we feel are significant:

#### Connecticut Uniform Directed Trust Act

A "directed trust" is a trust where someone other than the

trustee can be directed to assume some powers and responsibilities over some aspect of trust administration. This part of the Act defines a number of new terms for Connecticut. For example, a "trust director" is someone who holds a "power of direction" while a "directed trustee" is the trustee subjected to that direction. Example of powers that might be helpful to direct might include things like powers of investments, management tasks and/or decisions about distributions of trust property or other aspects of trust administration.

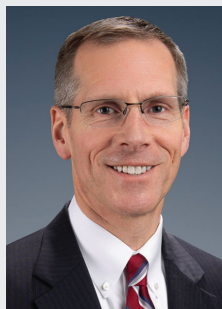
There are all sorts of situations where a directed trust might be useful. For example,

- Your clients may want their kids to be able to make investment decisions over the assets put in trust for them but would rather someone else have decisions over distributions.
- Or they might want to work with a trust company that is well-suited to exercise oversight over financial assets but is unable to get involved in real estate property management.
- A directed trust can also be useful if they would like someone other than the named trustee to be able to direct the named trustee to undertake certain actions that might otherwise result in a conflict of interest.

The main takeaway is that a directed trust is an arrangement that affords a lot of flexibility in how trust assets are managed. And now we are pleased that Connecticut will recognize them here.

(continued on back)

### We've Expanded! Longtime probate judge and retired Probate Court Administrator joins our litigation team.



We are pleased to announce our expansion into the dispute resolution practice area. With a specific focus on probate and elder law dispute resolution, our firm now provides mediation and arbitration services. Paul Knierim, the recently retired Connecticut Probate Court Administrator, has joined the firm to lead this initiative.

During his eleven years as head of the probate court system, Paul was responsible for policy leadership and operation of all 54 of the state's probate courts. He has been recognized for launching numerous initiatives which include the enactment of stronger judicial ethics code, expanding continuing education for judges and court staff, establishing better support and oversight for conservators, and the complete overhaul of the rules of procedure that govern probate cases.

Who could have more conflict resolution savvy than a long-time probate judge and administrator? We are honored to have someone of Paul's stature to offer his extensive experience to those who would benefit from mediation or arbitration. His impressive ability to build consensus and to forge compromise is sure to provide Connecticut judges and residents and their attorneys, with expeditious resolutions to their disputes in lieu of protracted litigation.

Prior to his position as Probate Court Administrator, Paul served as Simsbury Probate Court judge for ten years, practiced law in the areas of estate planning, probate and family business at two Greater Hartford firms, and served three terms as State Representative in the General Assembly. He is a graduate of Williams College and Yale Law School. ■

## Overhaul in Connecticut Trust Law

(continued from front)

### Asset Protection Trusts ("Connecticut Qualified Dispositions in Trust Act")

As a general rule of thumb in the area of asset protection, the greater access they have to an asset, the more your creditors can reach that asset. Or to put it another way, if they want to better protect their assets from creditors, they generally have to give up access to those assets. But for states that allow them, an asset protection trust ("APT") is a very helpful exception to that rule of thumb. With an APT, they can create an irrevocable trust which is well protected from their creditors yet they can still benefit personally from that trust. In the portion of the Act termed the "Connecticut Qualified Dispositions in Trust Act," Connecticut will now, for the first time, allow APTs in the state. The Connecticut APT is a new tool we think will be attractive to many of our clients, especially those who are wealthy or engage in high risk professions (think neurosurgeons) or high-risk businesses (think environmentally sensitive enterprises).

There will be a number of rules that need to be followed in order for a trust to qualify as a Connecticut APT. One main rule concerns the identity of the trustee. The person creating the Connecticut APT cannot serve as trustee. And the trustee must be a "qualified trustee" which means either a Connecticut resident or a bank with a place of business in Connecticut authorized to engage in trust business. And furthermore, the qualified trustee must maintain some or all of the APT property in Connecticut.

### Law Against Perpetuities

The law against perpetuities is an old, common law that puts a time limit on the maximum time a trust can be in existence. The rule itself is somewhat complicated to

explain and almost all states have amended the traditional rules to some extent to allow longer time limits than the original rule would allow. Prior to this Act, a trust in Connecticut could last a maximum period of time such that any beneficiary's interest vests within 90 years or 21 years after the death of an individual alive at the time the interest was created. Now, the Act extends the Connecticut's 90 years all the way out to 800 years!

Why might you be interested in setting up a trust that lasts centuries or at least more than 90 years? Some of the greatest erosion of wealth over time are inheritance related taxes, divorce, and imprudence. Maybe you cannot control the latter two, but with a trust that lasts for centuries, you have eliminated transfer taxes for every generation that this trust exists. This change in the law is yet another indication that Connecticut has finally taken a major step in modernizing its Trust Code. ■

## Upcoming Event – Join Us

### Dispute Resolution: When and why to advise your clients to consider it

Join us for breakfast and listen to Paul Knierim talk about dispute resolution and the benefits of using the process. He'll explain how mediation works, the types of cases that are suitable for mediation and when you should advise clients to consider dispute resolution. He will also talk about arbitration as an alternative to mediation.

**Date:** December 4, 2019

**Time:** 8:00 – 9:00 AM

**Location:** Casa Mia at the Hawthorne, Berlin



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