

Stetson 2025Breakout SessionFirst Party SNTsSettlement
Consultation
4:25pm-5:15pm
with Ethan J. Ordog, Esquire (Begley Law
Group, Moorestown, New Jersey)

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Introduction and Settlement Consultation in your Practice

- > 1st Party Trusts- misconceptions and public benefits
- > Relationships with Civil Counsel/Professionals Involved
- > Setting Expectations v. Reality
- > Importance of information gathering personal call/meeting, intake forms, clear and concise requests
- Who is the Client and understanding the process-does civil counsel have the appropriate individual- Individual, Relative, Agent under Power of Attorney, Guardian



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Communications with Personal Injury Counsel/Staff

- Process for Communication- Attorney develops it recognizing often "immediate" need for action/attention- Settlement has occurred, mediation scheduled for tomorrow, hearing before Court pending
- What has been considered/discussed with client- public benefits, income/cash needs, protection of program eligibility, other restrictions which may be in place
- ➤ Intake forms and articles on items to consider
- > Other Professionals Involved or who need to be



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Intake and Confirmation of Benefits

- > Types of public benefits being received often confused, misstated or otherwise inaccurate
- > Look at the whole picture- total financial situation, personal needs, care requirements, benefits being received or which could be received-recommendations and final plan impacted by the assessment
- Family expectations are also important to consider, more because they too have perhaps been "advised"
- Civil Counsel, Staff, Individual, Other Professionals, Members of the Family all can be of assistance

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Intake and Understanding the Big Picture

- Client capacity and protection of the individual- Trust, Guardian, Agent under Power of Attorney
- > Budget and Lifestyle
- ➤ Medical/Care Needs
- > Residential Considerations
- ➤ Realistic goals
- > Clear picture of what can be paid from the Trust
- > How does the beneficiary go about requests from

a Trust





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Intake Forms

- ➤ See Attached documents
- > Background of Individual- diagnosis/prognosis
- ➤ Benefits being received
- ➤ Financials
- > Debts and Obligations (Liens)
- ➤ Insurance
- > Capacity and scope of any former planning documents
- > Present designations on accounts or assets



- beneficiary accounts-retirement/life insurance



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Budget

- Impact the utilization of funds/manner of funding of the Trust/Settlement
- > Immediate needs- house, car, medical equipment
- Often confirms monthly income needs
- > Client has a better understanding of the scope of items that can be paid for and/or should be paid for monthly
- ➤ See Budget Intake Guide





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Allowable Distributions

- > Basic principals of explaining use/growth
- Chart/written materials to explain- keep it updated-what can and cannot be directed from a Special Needs Trust
- Breakdown in materials- develop a chart- education of client/marketing tool
- Overcoming prior communications with Counsel, Family expectations, Internet searches, "MY MONEY" position





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Who is the Client and Client Capacity

- PI Counsel engaging for consultation purposes v. coordinating the retention as special Counsel v. directing Client to retain for individual services
- Capacity Issues- is there formal protective arrangement in place- Guardian, Agent under POA, other
- Clearly defined representation scope and acknowledgement of services being rendered
- ➤ Family Involvement
- ➤ Simple v. Complex

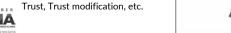




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Court Proceedings and Trust Counsel

- > Preparation of Trust(s)- assessment and communications regarding the type of Trust and scope of the planning
- > Testimony- WHY a Trust, how it impacts individual's benefits, scope of distribution/allowance, appointment of a Trustee
- Review of Pleadings/Court Order being submitted by Counsel in furtherance of a settlement
- > Preparation of pleadings- civil court matter/probate court matter
- > Petitions for allowance, accounting actions, termination of BEGLEY LAW GROUP



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Trustee Selection

- Family v. Corporate-pitfalls and costs
- > Who will remain involved-professionals
- > Trust Protectors and relationship
- ➤ Who will serve as Corporate Trustee if required
- ➤ Education of Client
- Coordination of Introduction/Meeting
- > Transfer of information and setting expectations of the relationship with the Trustee
- Ensuring Success in the relationship

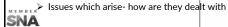




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Trustee Selection- Points of Discussion

- ➤ Mistakes in the Administration of a Trust- improper distributions, action/inaction of the Trustee- financial management, loss of benefits, etc.
- > Failure to follow the terms of the Trust or rules and regulations related to administration
- ➤ Knowledge of legal and logistical matters- income tax filings, accounting, communications with client/representative, requests for distribution, fees
- Knowledge of public benefits/programs/eligibility





Roadmap for Success

- ➤ Intake
- ➤ Estate Planning/Trust Documents
- ➤ Public Benefits- now/future
- ➤ Liens and Debts- MSA requirement
- > Trustee Selection/Involvement of Family/Friends
- ➤ Budget- Life Care Plan
- > Professionals Involved





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