Stetson 2025- Breakout Session- First Party SNTs- Settlement Consultation 4:25pm-5:15pm

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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 Trust, Trust modification, etc.

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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
- Issues which arise- how are they dealt with

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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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