2010 Changes and Trends Affecting Special Needs Trusts
February 11-12, 2010 • AT&T Conference Center • Austin, TX

Thursday Morning, Feb. 11, 2010

Presiding Officer:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC - San Antonio, TX

10:00 am	**Registration Opens** Includes light refreshments sponsored by Wells Fargo-The Private Bank
10:50 am	**Welcoming Remarks**
11:00 am 0.50 hr	**SNT Basics: The Old, the New and the Things Still to Come** This introduction to the program defines the concept of SNTs, including the different types of trusts and when the use of each is appropriate. An overview of some hot topics in SNTs - to be covered in subsequent sessions - is provided. Randy Drewett, Attorney at Law - Beaumont, TX
11:30 am 0.75 hr 0.25 hr ethics	**Protecting and Maximizing Public Benefits** Planning options - and related ethical issues - to ensure a trust's beneficiary qualifies for the most important disability benefits: Supplemental Security Income, Medicaid, Social Security Disability Insurance and Medicare; and how to manage trust distributions to avoid losing benefits while enhancing the beneficiary's quality of life. The session includes updates and new topics such as managing child support for minor or adult SSI beneficiaries and the effect of other income such as alimony. H. Clyde Farrell, Attorney at Law - Austin, TX Christina Lesher, Attorney at Law - Houston, TX
12:15 pm	**Lunch on Your Own**

Thursday Afternoon, Feb. 11, 2010

Presiding Officer:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC - San Antonio, TX

1:30 pm 0.75 hr	**Drafting, Modifying and Interpreting Special Needs Trust Distribution Clauses** A look at several issues that may arise when drafting, modifying and interpreting SNT distribution clauses including how diagnosis (i.e MH/DD/Autism Spectrum) may affect your SNT distribution clause; changing a disqualifying distribution clause without the consent of the beneficiary; and interpreting distribution clauses, including administering a discretionary HEMS trust, court-generated restrictions on SNT distributions, and Medicaid agency restrictions on distributions. Cynthia L. Barrett, Attorney at Law - Portland, OR

2:15 pm 0.75 hr	***Hobbs* and the Sole Benefit Rule** This session covers the 10th Circuit Court of Appeals (New Mexico) case *Hobbs v. Zenderman* and its impact on “sole benefit” distributions from SNTs when families provide extensive home or other care to an SNT beneficiary. Families of SNT beneficiaries span the financial range from wealthy to impoverished, from helpful to troublesome, and from well-informed to mis-informed--which creates a wide range of SNT distribution challenges for trustees. The presentation addresses whether the *Hobbs* case may change trustees’ distribution options and the negative impact of distributions that are later re-cast by agencies as not for the SNT beneficiary’s sole benefit. Pi-Yi Mayo, Attorney at Law - Baytown, TX
3:00 pm 0.75 hr	**Court-Created Trusts: Changes to Section 142 and Differing Approaches among Texas Courts Regarding Section 867 Trusts** How recent statutory changes affect court-created trusts, plus a look at the varying judicial policies with regard to the 867 trust forms in the statutory probate courts. Ronald R. Cresswell, Locke Lord Bissell & Liddell LLP - Dallas, TX Commentator: Deborah A. Green, Attorney at Law - Austin, TX Glenn M. Karisch, The Karisch Law Firm, PLLC - Austin, TX
3:45 pm	**Break**
4:00 pm 0.67 hr	**What Records Your Clients Should Keep: SSI and Medicaid Reporting Compliance** SSI and Medicaid recipients are required to report changes in their circumstances that may affect their eligibility for benefits. SSI and Medicaid reporting responsibilities related to trusts are covered, including what to report, when to report, and what records are needed. Barry Ray Browning, Texas Department of Aging and Disability Services - Austin, TX Reba Collins, Social Security Administration - Dallas, TX Gayle Sandoval, Texas Department of Aging and Disability Services - Austin, TX
4:40 pm 0.83 hr	**Agency Panel** A panel of government experts will address emerging issues arising in such programs as Supplemental Security Income and Medicaid. Moderator: Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC - San Antonio, TX Panelists: Reba Collins, Social Security Administration - Dallas, TX Panelists: Beverly Joan Luna, Texas Health and Human Services Commission - Austin, TX Panelists: Shari L. Nichols, Texas Health and Human Services Commission - Austin, TX Panelists: John Stockton, Texas Health and Human Services Commission - Austin, TX
5:30 pm	**Adjourn to Sponsored Reception** Sponsored by Comerica Bank & Trust, N.A.

Friday Morning, Feb. 12, 2010

Presiding Officer:
Renee C. Lovelace, Attorney at Law - Dripping Springs, TX

8:00 am	**Conference Room Opens** Includes continental breakfast sponsored by Wells Fargo-The Private Bank
8:30 am 0.75 hr	**Pure Liability MSAs: Start to Finish** Protecting eligibility for government benefits is the point of the SNT. An SNT can be a device to not only protect SSI and Medicaid eligibility but also protect Medicare eligibility by including a Medicare Set Aside allocation when funds arise from a personal injury recovery. The speakers begin with defining an MSA, explaining why protecting Medicare's secondary payer status is now required, how a Trust Officer will administer an MSA and the assistance available from the private sector to give all parties comfort that the MSA is properly administered. Moderator: Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, PC - San Antonio, TX Panelists: Shari M. Scholten, Wells Fargo/The Private Bank - Austin, TX Panelists: Douglas L. Shaw, Medivest Benefit Advisors, Inc. - Oviedo, FL Panelists: Scott Lee Stebler, Wells Fargo Bank - Austin, TX
9:15 am 0.75 hr ethics	**Representation Issues and Engagement Agreements** This presentation focuses on the rules of professional responsibility, the potential ethical issues that arise in representing a client and the main elements to include in an effective engagement agreement for a client who needs a special needs trust. David J. Reber, Locke Lord Bissell & Liddell, LLP - Dallas, TX
10:00 am	**Break**
10:15 am 0.50 hr	**Pooled Trusts and the Special Needs Attorney: Why Can't We All Just Get Along?** Some pooled trusts work to integrate SNT attorneys while others offer themselves as an alternative to legal counsel. The best of all worlds is when pooled trusts and SNT attorneys can integrate their services and outreach. What can be more effective than an army of attorneys with a strong understanding of the disability rights movement and are ready to be called upon at any time? This session covers the basics of pooled trusts, how to determine whether a specific pooled trust serves the needs of a specific client and the importance of educating others about the need to utilize experienced attorneys in the process. In addition, ABLE accounts are explored and their possible implications for the use of SNTs. Stephen W. Dale, The Dale Law Firm, PC - Walnut Creek, CA

10:45 am 0.75 hr	**Strategies for Working with Troublesome SNT Beneficiaries** A special needs trustee is often placed in the difficult position of answering to both the beneficiary and the main tenet of a special needs trust – the preservation of government benefits. Managing beneficiary expectations while avoiding the accidental loss of critical public benefits is often a complex task. This panel discusses the potential pitfalls of administration and the steps an administer needs to take to successfully manage the trust with a troublesome beneficiary. Moderator: Leo Govoni, The Center for Special Needs Trust Administration, Inc. - Clearwater, FL Panelists: Leah Cohen, arrangeCARE - Austin, TX Panelists: Stephen W. Dale, The Dale Law Firm, PC - Walnut Creek, CA Panelists: Christopher J. Oglesby, The Arc of Texas - Austin, TX
11:30 am 0.75 hr	**Approaches to Life Care Plans and Life Care Planning** There is no technical definition of "life care planning" but there is a recognized need to plan more carefully for future events. This session describes some of the multiple terms and approaches to life care planning that may guide future SNT distributions and impact current SNT drafting. Renee C. Lovelace, Attorney at Law - Dripping Springs, TX Wesley E. Wright, Wright Abshire Attorneys - Bellaire, TX

Friday Afternoon, Feb. 12, 2010

Presiding Officer:
Nancy Sosa, Encore Trust - Austin, TX

	LUNCHEON PRESENTATION Sponsored by The Center for Special Needs Trust Administration, Inc.
12:15 pm	**Pick up Box Lunch**
12:30 pm 0.75 hr	**Case Law Update** This presentation covers recent cases involving special needs trusts as well as other cases of note. Mary Alice Jackson, Boyer & Jackson, P.A. - Austin, TX Rebecca C. Morgan, Stetson University College of Law - Gulfport, FL
1:15 pm	**Break**
1:30 pm 0.75 hr	**Dealing with Debt: Options and Resources for the Trustee** Increasingly tough economic times cause more stress on the beneficiaries of special needs trusts and their families, leading to hard questions for the trustees. This session explores some options and resources for the trustee to use in dealing with the beneficiaries' financial problems. Marilyn G. Miller, Attorney at Law - Dripping Springs, TX Nancy Sosa, Encore Trust - Austin, TX

2:15 pm 0.75 hr	**The Battle between Special Needs Trusts, Qualified Retirement Plans and Tax Rules** It may be necessary to use qualified retirement proceeds as a source of funds to pay for the special needs beneficiary's care. This presentation reviews the applicable qualified retirement plan rules, fiduciary income tax rules that apply to special needs trusts and how they work with third party and first party special needs trusts. Bradley J. Frigon, Law Offices of Bradley J. Frigon - Englewood, CO
3:00 pm 1.00 hr ethics	**When Worlds Collide: Oh No You Didn't...What Did You Do to My Government Benefits?** Two experienced practitioners explore some common traditional estate planning techniques that may have an impact on your clients' special needs trusts and their qualification for program benefits. Deborah A. Green, Attorney at Law - Austin, TX Stephen Jody Helman, Osborne, Helman, Knebel & Deleery, LLP - Austin, TX
4:00 pm	**Adjourn**