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2012 CHANGES AND TRENDS AFFECTING
SPECIAL NEEDS TRUSTS

A Guide for Attorneys, Financial Advisors and Trust Officers

February 9–10, 2012

AT&T Conference Center ▪ Austin, Texas

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THURSDAY MORNING, FEB. 9, 2012

Presiding Officer:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, P.C., San Antonio, TX

10:00 a.m. Registration Opens

Includes light refreshments.

10:50 a.m. Welcoming Remarks

11:00 a.m. .50 hr including .25 hr ethics

The "Dirty Dozen" Blatant Mistakes in SNTs

At least twelve actual examples of mistakes made by other attorneys that you don't want to make when drafting SNTs for your clients.

Wesley E. Wright, Wright Abshire, Attorneys, Bellaire, TX

11:30 a.m. 1.00 hr

Drafting SNTs: A Look at the Anatomy of Special Needs Trusts and How to Get Them Right

This presentation highlights the various building blocks needed when drafting an SNT while discussing the ins and outs of the key things to keep in mind for self-settled, third-party settled, Court-created or Statutory (Section 867, 142, or 1396) Special Needs Trusts.

Deborah A. Green, Attorney at Law, Austin, TX

12:30 p.m. Lunch On Your Own

THURSDAY AFTERNOON

Presiding Officer:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, P.C., San Antonio, TX

1:45 p.m. .50 hr

Family Law SNT Challenges: Drafting for Divorce, Child Support and More

The strain of raising a special needs child frequently leads to divorce of the parents. This presentation delves into the impact of child support payments, alimony payments and other issues affecting both the administration of an SNT as well as qualification for need-based public benefits.

Ronald R. Cresswell, Locke Lord LLP, Dallas, TX

2:15 p.m. .75 hr including .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.

H. Clyde Farrell, Farrell & Pak PLLC, Austin, TX
Christina Lesher, Attorney at Law, Houston, TX

3:00 p.m. .75 hr

Distributions in Light of SSI Eligibility: To Give or Not to Give, That Is the Question!

The presentation includes written answers from the Social Security Administration Dallas Regional Office to questions posed about SSA's consideration of specific distributions from an SNT and related issues. The questions and answers are the basis of a discussion of potential funding and distribution requests in light of potential or continued SSI eligibility.

Moderator:
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, P.C., San Antonio, TX

Panelists:
H. Chuck Bauman III, Brown Bauman & Smith, Tyler, TX
Susan Wiesner, Jefferson Bank Trust, San Antonio, TX

3:45 p.m. Break

4:00 p.m. .75 hr

Medicare Set-Asides and More

A brief teleconference presentation followed by a structured question and answer session on Medicare liability set-asides–the law vs. the rumors.

Sally Stalcup, Centers for Medicare & Medicaid Services, Dallas, TX

4:45 p.m. .75 hr

The View from HHSC

Officials from the Texas Health and Human Services Commission (HHSC) discuss current issues in long-term care Medicaid eligibility.

Kathleen Anderson, Texas Health and Human Services Commission (HHSC), Austin, TX
Beverly Luna, Texas Health and Human Services Commission (HHSC), Austin, TX
John Stockton, Texas Health and Human Services Commission (HHSC), Austin, TX

5:30 p.m. Adjourn to Sponsored Reception

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FRIDAY MORNING, FEB. 10, 2012

Presiding Officer:
Renée C. Lovelace, The Lovelace Law Firm, P.C., Dripping Springs and Austin, TX

8:00 a.m. Conference Room Opens

Includes continental breakfast.

8:30 a.m. .50 hr

Trust Administration: The Good, the Bad and the Ugly

A discussion of some "more common than you think" scenarios that trustees face when administering SNTs, and a look at the language and regulations that can help guide trustees in making challenging decisions.

Shari M. Scholten, Wells Fargo–The Private Bank, Austin, TX
Nancy Sosa, Encore Trust, Austin, TX

9:00 a.m. .50 hr

Managing Expectations and Personal Responsibility

Legal concepts so basic to an attorney or trust officer can be as incomprehensible as a foreign language to a trust beneficiary and their family. The SNT attorney and trustee need to be aware of and prepare for the variety of family catastrophes, misunderstandings and unforeseen circumstances that may occur in the life of an SNT beneficiary, including a parent losing a job, a parent falling ill, the threat of foreclosure, the misunderstanding that the trust is not a debit account, and more. This session offers various case studies of family catastrophes, the impact on the beneficiary and trustee, trust administration and possible solutions.

Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, P.C., San Antonio, TX

9:30 a.m. **.75 hr including .50 hr ethics**

Staying Out of Trouble: Discretion and Trust Distributions

The panel addresses examples of beneficiary requests, factors that a trustee may consider in deciding whether or not to make a distribution, legal restrictions on trustees' discretion, and options for grantors to guide a trustee's distributions using different trust terms. The panel discusses how grantors may interview a trustee to determine if the trustee is likely to be a helpful problem solver or a blockade to distributions, the panel members' different views on when trustees should be conservative or flexible, and how beneficiaries can establish cooperative and cost-effective relationships with trustees.

Moderator:
Theresa "Terrie" M. Varnet, Spain, Spain & Varnet P.C., Chicago, IL

Panelists:
Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ
Renée C. Lovelace, The Lovelace Law Firm, P.C., Dripping Springs and Austin, TX
Patricia F. Sitchler, Schoenbaum, Curphy & Scanlan, P.C., San Antonio, TX
Rick Ybarra, MEMBERS Trust Company at University FCU and A+ FCU, Austin, TX

10:15 a.m. **Break**

10:30 a.m. **1.00 hr including .25 hr ethics**

The Role of the Trustee

Acting as trustee can be a complicated, confusing, even dangerous undertaking. Representing trustees is not much easier. This session provides both an individual and corporate perspective with pros and cons of each.

Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ

11:30 a.m. **Break to Pick Up Lunch**

Included in conference registration fee.

FRIDAY AFTERNOON

Presiding Officer:
H. Clyde Farrell, Farrell & Pak PLLC, Austin, TX

THANK YOU TO OUR LUNCHEON SPONSOR

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LUNCHEON PRESENTATION

11:45 a.m. **.75 hr**

Case Law Update

A look at recent regional and national cases involving special needs trusts, as well as other cases of note.

Robert B. Fleming, Fleming & Curti, PLC, Tucson, AZ
Rebecca C. Morgan, Stetson University College of Law, Gulfport, FL

12:30 p.m. **Break**

12:45 p.m. **.50 hr**

SNTs and Fundraisers: Complexities and Pitfalls

Tragedy, whether seen on the news or learned from friends, often prompts individuals to shower those in trouble with financial gifts. This session covers the legal requirements for both solicitation of funds and creation of trusts when the source of the funds is primarily through public donations and fundraisers.

Mary Alice Jackson, Boyer & Jackson, P.A., Sarasota, FL and Austin, TX

1:15 p.m. **.75 hr**

Starting and Administering Pooled Trusts

This presentation discusses the issues and challenges involved in starting and administering a pooled special needs trust. In addition, the presentation covers issues that the special needs trust practitioner might consider when recommending a pooled special needs trust.

Stephen W. Dale, The Dale Law Firm, PC, Pacheco, CA

2:00 p.m. **.75 hr including .25 hr ethics**

Managing "Predators": Duties of the Attorney and Trustee

Behavioral health issues, such as mental illness and/or substance use, can greatly increase the vulnerabilities of individuals with special needs. This panel addresses situations when referrals to behavioral health professionals are recommended, and other ways to protect against malfeasance. In addition, from a trustee's perspective, the panel discusses how and when to get a court, attorney, or other professional involved to deal with suspected abuse or undue influence.

Leah Cohen, arrangeCARE, Austin, TX
Scott L. Stebler, Wells Fargo Wealth Management, Austin, TX
Susan A. Stone, Susan Stone and Associates, Rosanky, TX

2:45 p.m. **.75 hr**

Futures Planning Basics: Building a Special Needs Planning Notebook

Special needs trusts are vital to protecting future options for an individual with disabilities. But trusts alone will be insufficient when transition costs are high, administration costs are high, resources are insufficient, and other opportunities are lost. This presentation addresses futures planning that builds upon key resources, timelines, people, documents, and funding when the objective is to maximize lifetime quality of choice options for the beneficiary. Organizing critical information and planning steps may present an overwhelming challenge, depending on a beneficiary's advocates and the skills of the trustee, and this presentation proposes building an organizational structure for the component parts by building a special needs planning notebook.

Renée C. Lovelace, The Lovelace Law Firm, P.C., Dripping Springs and Austin, TX

3:30 p.m. **Adjourn**

"

Great content and speakers!

I thought that this conference was amazing.

A very enjoyable, informative conference.

Excellent materials are great as a reference tool.

I liked the quality of the speakers and the selection of topics.

I really like this conference. It's great that we have such high quality like this in Texas.

Substantive, in-depth material.

As always, all topics were very relevant and well chosen. Great attendees and speakers.

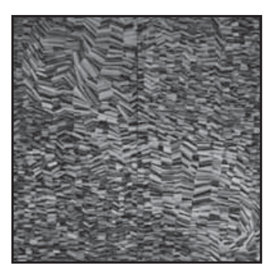
Sophisticated level of discussion.

Topics are relevant and timely. Speakers are top rate.

I love coming to this conference!

"

ABOUT THE COVER



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Austin, TX

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REBECCA C. MORGAN
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Comerica Bank & Trust, N.A.
Houston, TX

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Wells Fargo–The Private Bank
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STANDARD REGISTRATION—Includes Printed Course Binder (only), Thursday Evening Sponsored Reception and Friday Sponsored Luncheon Presentation

❑ Early Registration Fee due by Wednesday, February 1, 2012 .... $435

❑ Registration Fee after Wednesday, February 1, 2012 .... $485

GREEN REGISTRATION—Includes Electronic Materials on USB Key (only), Thursday Evening Sponsored Reception and Friday Sponsored Luncheon Presentation

❑ Early Registration Fee due by Wednesday, February 1, 2012 .... $430

❑ Registration Fee after Wednesday, February 1, 2012 .... $480

CONFERENCE PUBLICATIONS AND MEDIA

Allow 3–5 weeks from the conference date for delivery.

❑ Course Binder WITHOUT Conference Registration $225
Note: Conference Registration includes Course Binder.

❑ Audio MP3 Speeches on CD $130

❑ Audio CD Set $210

❑ eBinder on CD (PDF format) .... $225/$50
($225 purchased alone, $50 with Registration or purchase of Course Binder or Audio MP3 Speeches on CD or Audio CD Set)

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______ Add participants (includes Course Binder) for $225 each .... $ ________

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AUSTIN

February 9–10, 2012

CONFERENCE LOCATION

AT&T Conference Center – Hotel at UT
1900 University Avenue
Austin, TX 78705
512-404-3600

Special Room Rate: $159
good through January 9, 2012
(subject to availability)

Parking:
Free daily self-parking at UT garages. Separate fees apply for valet and overnight parking.

KEY DATES

February 1, 2012, 5 p.m.
last day for early registration
add $50 for registrations received after this time

February 3, 2012, 5 p.m.
last day for full refund

February 6, 2012, 5 p.m.
last day for partial refund
$50 processing fee applied

February 9, 2012, 11 a.m.
conference begins

MCLE

This course has been approved for Minimum Continuing Legal Education credit by the State Bar of Texas Committee on MCLE in the amount of 11.25 hours, of which 1.50 credit hours will apply to legal ethics/professional responsibility credit. The University of Texas School of Law is a State Bar of California approved MCLE provider (#1944), and an Oklahoma Bar Association MCLE presumptively-approved provider (#169).

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