19th Annual Changes and Trends Affecting Special Needs Trusts
February 9-10, 2023 • DoubleTree by Hilton Hotel Austin • Austin, TX
February 9-10, 2023 • Live Webcast

Thursday Morning, Feb. 9, 2023

Presiding Officer:
Elisa Dillard Rainey, Rainey & Rainey, Attorneys at Law LP - Waco, TX

8:00 am In Austin Only	**Registration and Exhibit Hall Opens** Includes continental breakfast.
8:35 am	**Welcoming Remarks**
8:45 am 1.00 hr	**Special Needs Trusts 101: The Basics** An overview of the basics of special needs trusts and public benefits including selection of appropriate trust option, pitfalls to avoid and case examples. Molly Dear Abshire, Wright Abshire Attorneys, P.C. - Bellaire, TX
9:45 am 0.75 hr 0.25 hr ethics	**Redlining the Basics of a SNT** Dissect a basic third party SNT to highlight the various provisions and boilerplate language that make the SNT a unique animal in the special needs planning ecosystem. Benecia Flores, Petrosewicz Law Firm, P.C. - Richmond, TX John B. Henry III, Law Office of John B. Henry, III, PLLC - Bellaire, TX
10:30 am	**15-Minute Break**
10:45 am 1.00 hr 0.25 hr ethics	**Maximizing Public Benefits** Review the basics of SSI, Medicaid and other disability benefits that trustees must know and protect; and catch up on recent changes and trends affecting trust beneficiaries who depend on those benefits. H. Clyde Farrell, Farrell & Johnson PLLC - Austin, TX Christina Lesher, The Law Office of Christina Lesher, PC - Houston, TX
11:45 am 0.50 hr	**What Happens When the Public Health Emergency Ends?** An overview of what to expect when the COVID-19 public health emergency ends, from the best practices in protecting clients currently receiving benefits to the anticipated new redesign of available resources. Marilyn G. Miller, Marilyn G. Miller, Attorney at Law - Dripping Springs, TX
12:15 pm In Austin Only	**Pick Up Lunch (in Austin)** Included in registration.

Thursday Afternoon, Feb. 9, 2023

Presiding Officer:
Chris Klemme, Happy State Bank and Trust Co. - Addison, TX

LUNCHEON PRESENTATION

Thank You to Our Luncheon Sponsor
Legacy Enhancement Trust

LEGACY ENHANCEMENT TRUST

12:45 pm
0.50 hr

Building Your Professional Library—30 Resources in 30 Minutes

There are a number of resources that special needs planning attorneys can use to stay on top of recent developments, to help with business development, and for support with staffing and operating a law practice. Gain insight into resources in the legal, business development and practice management areas that may be helpful for building and growing a special needs planning practice.

Bryn A. Poland, Mayo & Poland PLLC - Baytown, TX

1:15 pm

15-Minute Break

1:30 pm
0.75 hr

Texas Guardianship (1301 & 1302) and Trial Court-Created (142) Trusts

Discuss Court Created Trust Road Map: 1301, 142, and the speed bumps along the way.

Beth Owens, American National Bank & Trust - Houston, TX

2:15 pm
0.75 hr

IRA Administration for SNTs

A vast amount of wealth in the United States resides in qualified plans and IRAs. Thanks to unique provisions for people with disabilities created by the SECURE Act, SNT trustees have an amazing opportunity to manage inherited IRAs for their beneficiaries, potentially extending the longevity of a beneficiary's trust resources and avoiding onerous tax consequences. Illustrate how attorneys can best counsel trustees administering IRAs for SNTs. IRA funding, decedent complications, IRS deadlines, tax consequences, and Required Minimum Distributions will be reviewed, including a thorough assessment of SECURE Act regulations.

Stephen W. Dale, The Dale Law Firm, PC - Pacheco, CA
Peter J. Wall, True Link Financial - Denver, CO

3:00 pm

15-Minute Break

3:15 pm 1.00 hr ethics	**Protecting Individual Trustees Who Protect Beneficiaries** Trustee service should be carefully considered in advance of accepting such a role. We live in a very contentious and litigious society, and trustee service leads to fiduciary responsibilities and corresponding liability concerns. Explore fiduciary duties and related liability concerns for trustees (both individual and corporate), as well as best (suggested) practices for individual trustees seeking to minimize risk. W. Cameron McCulloch Jr., Kean Miller LLP - Houston, TX
4:15 pm 0.75 hr	***Gallardo v. Marstiller*, the U.S. Supreme Court's New Approach to Medicaid Liens** Florida took the position that federal law permitted it to recover its past Medicaid payments from the portion of a personal injury settlement compensating for both past and future medical expenses and the U.S. Supreme Court agreed. This is a major deviation from prior precedent and practice and will result in injured Medicaid recipients being forced to pay more of their tort recoveries to Medicaid before the funding of Special Needs Trust. This decision will have a harsh impact on the catastrophically injured, especially injured children. Explore the contours of the decision and strategies for minimizing its impact. Floyd Faglie, Staunton & Faglie, PL - Monticello, FL
5:00 pm In Austin Only	**Adjourn to Reception (5:00 p.m. - 6:00 p.m. CT)** Join program faculty and attendees for drinks and hors d'oeuvres.
5:05 pm In Austin Only	**Thank You to Our Reception Sponsor** **Happy State Bank and Trust Co.**

Friday Morning, Feb. 10, 2023

Presiding Officer:
Bryn A. Poland, Mayo & Poland PLLC - Baytown, TX

8:00 am In Austin Only	**Conference Room and Exhibit Hall Opens** Includes continental breakfast.
8:30 am 0.50 hr	**Child Support Strategies for Children with Special Needs** Explore strategies for using a SNT to preserve means tested benefits for a minor child receiving child support. Elisa Dillard Rainey, Rainey & Rainey, Attorneys at Law LP - Waco, TX Materials By: Patricia F. Sitchler, The Law Office of Patricia Flora Sitchler - La Vernia, TX

9:00 am 0.50 hr	**Military Pension Assigned to SNT: Dealing with DFAS** Congress passed the Disabled Military Child Protection Act on Dec. 31, 2015, setting out provisions that allow a military parent or a legal guardian of a child with a disability to assign a military survivor pension to a d4A or d4C trust to avoid it counting as income or a resource for means-tested government benefit purposes. Procedures for accomplishing this assignment were included in the regulations to be followed by Defense Finance and Accounting Services (DFAS). Since the passage of the Act the procedures have become more specific, sometimes frustrating the beneficiaries or their guardians in implementing this process after the pension is due to be paid. Review the new requirements and steps to minimize the resistance the Trustees sometimes encounter in dealing with DFAS. Katherine N. Barr, Dentons Sirote PC - Birmingham, AL
9:30 am 0.75 hr	**Online Options for SSI & SSDI Applications and Appeals** Although great options for filing Social Security applications and appeals online exist, some things MUST be done in person or by paper. Walk through the process and hear tips on advocating for your claimant while avoiding unnecessary delays. Dustin J. Draper, The Packard Law Firm - San Antonio, TX Samuel W. Packard, The Packard Law Firm - San Antonio, TX Materials By: Alison Packard, The Packard Law Firm - San Antonio, TX
10:15 am	**15-Minute Break**
10:30 am 1.00 hr	**SSA Regional Trust Leads Presentation Regarding SSI Trusts** The SSI trust review business process requires evaluation of trusts that need a resource determination (such as new trusts or amended trusts) in all initial claim and post-eligibility events. Regional Trust Leads and Trust Reviewers evaluate trusts to determine if they meet the SSI eligibility requirements of (d)(4)(A) and (C). This session provides background information, describes the basic eligibility requirements, and provides applicable examples. In addition, hear the latest regarding recent Program Operations Manual System updates and the number of trust review cases SSA reviews. Amanda Flood, U.S. Social Security Administration - Dallas, TX Dana Marquez, U.S. Social Security Administration - Dallas, TX
11:30 am 0.50 hr	**Deductibility of Long-Term Care as Medical Expenses** Learn how clients may maximize funds available to them or their spouse by taking advantage of medical expense deductions from their income tax. Discuss the taxation of and deductions for long-term care services and insurance contracts, including safe harbor provisions; the requirements in order to take a medical deduction for home health care by non-professionals; how a chronically ill beneficiary may be able to avoid income taxation of distributions from an inherited IRA; and when care-givers can claim the disabled beneficiary as a dependent for income tax purposes. Tresi Moore Weeks, The Weeks Law Firm, PLLC - Plano, TX
12:00 pm In Austin Only	**Pick Up Lunch (in Austin)** Included in registration.

Friday Afternoon, Feb. 10, 2023

Presiding Officer:
Haley D. Greer, The Arc Of Texas - Austin, TX

LUNCHEON PRESENTATION

	Thank You to Our Luncheon Sponsor **ElderCounsel, LLC**
12:30 pm 0.75 hr	**Changing Expectations** The National Disability Institute has been building employment and economic disability inclusion products and tools for nearly two decades. Learn about cutting edge programs that have helped people on SSI and SSDI earn more than $40,000,000 dollars to date, earn work credits and extend the lives of special needs trusts. Thomas Foley, National Disability Institute - Washington, DC
1:15 pm	**Break and Vendor Announcements**
1:45 pm 0.75 hr	**Terminating First Party SNTs** An overview of the issues and concerns that might arise in the termination of a first party, (d)(4)(A) special needs trust. Discuss handling the Medicaid reimbursement claim, paying debts and taxes, what to do with real estate owned by the trust, when a final accounting or probate estate might be required, and options for terminating small and uneconomical trusts. Haley D. Greer, The Arc Of Texas - Austin, TX Bryn A. Poland, Mayo & Poland PLLC - Baytown, TX Elisa Dillard Rainey, Rainey & Rainey, Attorneys at Law LP - Waco, TX Nancy Sosa, Cadence Bank - Austin, TX Materials By: Christopher D. Jones, Sprouse Shrader Smith PLLC - Amarillo, TX Scott Stebler, Stebler & Sulak, PLLC - Austin, TX Sarah Sulak, Stebler & Sulak, PLLC - Austin, TX
2:30 pm 0.50 hr	**Gimme Shelter** Next to medical care, housing can be the greatest challenge. Hear legal and practical guidance. Terry Garrett, The Garrett Law Firm, PLLC - Austin, TX Melanie Ibarra-Herrera, The Garrett Law Firm - Austin, TX
3:00 pm 1.00 hr ethics	**Hazards of the Special Needs Trust Fairness Act – Assessing Beneficiary Capacity to Establish a SNT** The Special Needs Trust Fairness Act of 2015 paved the way for beneficiaries of d4A trusts to establish their own special needs trust. Practitioners now have a new challenge: capacity can be a moving target. Even if there has been no incapacity proceeding/determination of incapacity, it’s not always obvious that the potential trust beneficiary has sufficient capacity to sign away their right to access their money, select appropriate Trustees and make residuary designations. Can the special needs practitioner assess capacity? If so, how? If not, what happens next? Mary Alice Jackson, Boyer & Boyer P.A. - Sarasota, FL

4:00 pm 0.50 hr ethics	**Who Pays the Attorney’s Fees in Trust Litigation?** Examine both the statutory provisions and case law regarding attorney’s fees in trust litigation. Explore pleading and obtaining attorney’s fees as either the trustee or beneficiary. Christopher C. Burt, BoyarMiller - Houston, TX
4:30 pm	**Adjourn**