

THE SPOTLIGHT

BROUGHT TO YOU BY ROBINS KAPLAN LLP'S
WEALTH PLANNING, ADMINISTRATION, AND DISPUTES GROUP



COMFORT, CARE, AND CHARITY

WELCOME TO THE SPOTLIGHT

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The Spotlight is the result of ongoing collaboration between our national trial practice and estate planning groups, with the goal of providing a forum to discuss the latest news and other issues impacting the trusts and estates community. Whether you are a trustee, beneficiary, trust officer, attorney, financial advisor, or other professional in this area, we hope that you will find this newsletter interesting, informative, and perhaps at times even a bit entertaining.

As leaders and teachers in the field of wealth planning and administration, our attorneys have built a reputation for excellence in meeting the needs of individuals and organizations from basic to complex testamentary planning. We counsel individuals and business owners in all aspects of estate planning and business succession, providing them with peace of mind and reassurance that their legacy is in the best of hands.

Furthermore, should a conflict arise, our wealth disputes attorneys are well positioned to resolve the matter with thoughtfulness, creativity, and compassion. Our national reputation for litigation excellence includes wins in the fiduciary arena for trustees and fiduciaries, personal representatives, beneficiaries, guardians, and conservators. Whether litigating fiduciary matters, inheritance issues, or contested charitable donations, we help clients cut through confusion to find a path to resolution.

Is there a topic affecting your practice that you would like us to discuss in an upcoming issue of the Spotlight? Let us know at TPentelovitch@RobinsKaplan.com.

- Denise S. Rahne and Steven K. Orloff

To learn more about our wealth planning, administration, and disputes attorneys and the services we provide, contact one of our experienced partners:



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THE CASE FOR CHARITABLE GIVING

MATTHEW J. FRERICHS AND SARAH J. KHOURY

Last year brought with it several unexpected challenges due to the COVID-19 pandemic, including economic, social, and financial hardships that have left many in a position of extraordinary need. The impact of the pandemic has been disparate across demographics, affecting certain groups more than others. As a result, now, perhaps more than ever, is an opportune time for those with resources to consider charitable giving as a part of their estate and financial planning. Below is a brief summary of key provisions of the CARES Act related to charitable giving as well concise overviews of a few of the most common vehicles used to do so.

CARES ACT

The increased standard deduction provided under the Tax Cuts and Jobs Act (\$12,400 for individuals and \$24,800 for married couples filing jointly in 2020) has triggered a significant drop in taxpayers electing to itemize deductions and, unfortunately, in charitable donations. In order to encourage charitable giving and provide relief to those in

need, however, congress provided tax incentives with the March 27, 2020, passage of the Coronavirus Aid, Relief and Economic Security Act (the "CARES Act").

The CARES Act provides donors an above-the-line deduction of up to \$300 for contributions made to qualified 501(c)(3) public charities. Another significant change temporarily allows donors who take itemized deductions on their income tax returns to deduct up to 100% of their adjusted gross income ("AGI") for cash contributions to qualified public charities, rather than the 60% allowed in previous years. Cash contributions in excess of 100% of a donor's AGI can also be carried forward for up to five years and deducted later. It is important to note that donor advised funds, supporting organizations, and private foundations are not considered qualified public charities.

In addition to making outright charitable gifts, donors may also consider alternative strategic approaches that allow for greater tax benefits and a more significant impact to result from their donation.

DONOR ADVISED FUND

A donor advised fund (“DAF”) is an account created and maintained within a qualified 501(c)(3) public charity and used for charitable giving. A donor’s contributions to a DAF are immediately eligible for an income tax deduction of up to 60% of the donor’s AGI for cash contributions, and 30% for other types of donations (e.g., securities, real estate, and business interests). A donor can recommend how funds should be invested and distributed, but legally surrenders all control of the contribution.

CHARITABLE REMAINDER TRUST

A charitable remainder trust (“CRT”) is an irrevocable trust designed to provide an income stream to the trust beneficiary during their lifetime, and, upon the beneficiary’s death, the remaining trust estate is distributed to the charity or charities named in the CRT. If the trust is funded during the grantor’s/settlor’s lifetime, the grantor/settlor will receive an income tax deduction (which they can carry forward for up to five years) that will vary based on the amount gifted to the CRT, the length of the CRT, and the amount distributed out of the CRT. Any assets held in a CRT are excluded from the donor’s estate for estate tax purposes, and there is no taxable capital gain associated with the transfer of the asset to the CRT.

PRIVATE FOUNDATION

A private foundation is an independent legal entity funded by an individual, family, or corporation for the purpose of supporting charitable activities through grants and other gifts. A private foundation is exclusively controlled by its donor and a board of directors. A donor’s contributions to a private foundation are immediately eligible for an income tax deduction of up to 30% of the donor’s AGI for cash contributions, and 20% for other types of donations (e.g., securities, real estate, and business interests). A donor retains control in determining how the foundation assets can be invested and spent and which charities the foundation will support.

CONCLUSION

Charitable giving provides an opportunity for individuals to significantly impact causes that are meaningful to them while simultaneously providing income and estate tax benefits. Many additional considerations and elements factor into structuring any of the charitable giving options described above. And depending upon an individual’s tax and estate objectives, even more ways exist to make suitable charitable gifts. Please consult with an experienced estate planning attorney to assist with the proper selection and implementation of the charitable giving option that is appropriate for you or your clients.



PRO BONO PUBLICO – FOR THE PUBLIC GOOD

TIM BILLION AND LINDSEY HANSON

The new year is a time to reflect on the year past. After 2020, such reflection is perhaps unlike that of prior years. Given everything going on in the world right now, particularly the isolation brought on by the COVID-19 pandemic, it is easy to feel disconnected. Going into 2021, we want to highlight a great way to build connections and involvement: volunteering and pro bono service.

Volunteering and pro bono can be great ways to connect with other people and make a huge difference for an individual and communities. Studies¹ have also found that volunteering is good for your health. Many charities and other organizations have developed plans to continue to serve their populations in safe and socially distant ways. Whether you drop off food at a food bank, donate clothing, or prepare meals for delivery to homebound neighbors, there are options for everyone to help others and to feel more connected at the same time.

For attorneys, donating our time and professional skills is also an important way to give back. The ABA's Model Rule 6.1 urges all lawyers to provide a minimum of 50 hours of pro bono services annually. Robins Kaplan's Wealth Planning, Administration, and Disputes Group regularly provides pro bono services to community members in need. Every year, Robins Kaplan attorneys participate in a two-part clinic through our partnership with the Jeremiah Program to provide wills, powers of attorney, and other basic estate planning documents to single mothers pursuing a college education and working to break the cycle of poverty. In recent months, our attorneys have also helped low-income clients with wills and special needs trusts.

We invite you to check out the pro bono opportunities for attorneys below. For non-legal volunteer opportunities, you can visit www.volunteermatch.org, which enables search by virtual or in-person openings.

NATIONAL

ABA MILITARY PRO BONO PROJECT

Help junior enlisted military members in variety of legal areas, including probate, trusts, and estates.

Service Area: Nationwide

To Volunteer, register here: www.militaryprobono.org/join/

CALIFORNIA

AIDS LEGAL REFERRAL PANEL

Help clients living with HIV/AIDS create wills and trusts.

Service Area: San Francisco Bay Area

To Volunteer, apply here: www.alrp.org/join-the-panel/about-the-panel

BET TZEDEK

Help low-income clients draft advance health care directives and wills.

Service Area: Los Angeles

To Volunteer: Contact Cristin Zeisler at czeisler@bettzedek.org or Rachel Ettinger at rettinger@bettzedek.org.

ELDER LAW & ADVOCACY

Help seniors with estate planning and wills.

Service Area: San Diego and Imperial Counties

To Volunteer: Call 858-565-1392 ext. 208.

¹https://www.nationalservice.gov/pdf/07_0506_hbr.pdf



FLORIDA

FLORIDA RURAL LEGAL SERVICES

Help seniors with probate, wills, powers of attorney, living wills, and health care surrogate forms.

Service Area: Lee County

To Volunteer, register here:

www.frsls.org/pro-bono-sign-up-form/.

LEGAL AID SERVICE OF COLLIER COUNTY

Help low-income clients draft wills and estates.

Service Area: Collier County

To Volunteer, register here:

www.collierlegalaid.org/collier-lawyers-care/.

MASSACHUSETTS

BET TZEDEK

Volunteer opportunities for attorneys to work with low-income clients in a variety of areas, including elder law and probate law.

Service Area: Greater Boston

To Volunteer, fill out the volunteer

registration form here: www.jfcsboston.org/Our-Services/Community-Services/Center-for-Basic-Needs-Assistance/Bet-Tzedek-Legal-Services.

MINNESOTA

MID-MINNESOTA LEGAL AID

Volunteer attorneys draft wills, durable power of attorney documents, and health care directives for senior clients. Attorneys interact with clients via telephone or online virtual meetings.

Service Area: Anoka and Hennepin Counties

To Volunteer: Contact Colleen Daly, Pro Bono Coordinator, at cdaly@mylegalaid.org or 612-746-3765.

SOUTHERN MINNESOTA REGIONAL LEGAL SERVICES

Help low-income clients with a will. Volunteer attorneys receive a packet of information about the client and draft a will using a provided template. Southern Minnesota Regional Legal Services (SMRLS) has the client review the will, and if the client has questions, SMRLS will schedule a meeting for the volunteer and client. SMRLS also uses volunteer attorneys to review these wills and coordinate with the client to have documents witnessed and notarized.

Service Area: Blue Earth, Brown, Carver, Cottonwood, Dakota, Dodge, Faribault, Fillmore, Freeborn, Goodhue, Houston, Jackson, Le Sueur, Martin, McLeod, Mower, Murray, Nicollet, Nobles, Olmsted, Ramsey, Redwood, Rice, Rock, Scott, Sibley, Steele, Wabasha, Waseca, Washington, Watonwan, and Winona Counties

To Volunteer: Contact Emily Bowen, Volunteer Attorney Coordinator, at emily.bowen@smrls.org or 651-222-5863.

JUSTUS HEALTH

Help low-income LGBTQ clients and clients living with HIV create wills, trusts, powers of attorney, health care directives, and other estate tools.

Service Area: Minnesota

To Volunteer: Contact Lynn Mickelson, Senior Attorney, at lynn.mickelson@justushealth.org or 612-373-2428.

NEW YORK

LEGAL SERVICES NYC

Help low-income clients draft wills and advance directives.

Service Area: All NYC: Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)

To Volunteer: Attorneys associated with a law firm or corporation should

contact Adam Heintz, Director of Pro Bono, at ahointz@lsnyc.org; attorneys not associated with a law firm or corporation can volunteer by completing the application here: www.legalservicesnyc.org/get-involved/pro-bono

VOLUNTEERS OF LEGAL SERVICE

Through the Volunteers of Legal Service, pro bono attorneys can work with elderly clients and/or veterans to provide wills, powers of attorney, and other essential life planning documents.

Service Area: All NYC: Bronx, Kings (Brooklyn), NY (Manhattan), Queens, Richmond (Staten Island)

To Volunteer: Contact Sara Effron, Director of Pro Bono and Strategic Initiatives, at seffron@volspbono.org or 347-521-5703.

NORTH DAKOTA

STATE BAR ASSOCIATION OF NORTH DAKOTA VOLUNTEER LAWYERS PROGRAM

Work with the state bar association to help low-income clients with a variety of legal issues, including life planning documents like powers of attorney, health care directives, and wills.

Service Area: North Dakota

To Volunteer: Contact Carrie Molander at carrie@sband.org or 701-255-1404.

SOUTH DAKOTA

ACCESS TO JUSTICE, INC.

Work with the state bar association to help low-income clients with a variety of legal issues, including wills, powers of attorney, and health care directives.

Service Area: South Dakota

To Volunteer: Contact Denise Langley at access.to.justice@sdbar.net or 1-855-287-3510.

Now more than ever, building connections and community are important. We hope you will join us in giving back to those around us, whether through the nonprofits above, or in different way close to you. If you want to work with Robins Kaplan's Wealth Planning and Disputes Group attorneys in any of the above services, or share an opportunity of your own, please reach out. We wish you a happy and safe new year.

MOVIES THAT HELPED US GET THROUGH 2020

ENA KOVACEVIC

Like many of you, in 2020 we turned to a range of media to soothe our moods and pass the time while in quarantine. The lawyers in our Wealth Planning, Administration, and Disputes Group went so far as to build our annual CLE around representations of the legal profession in film, books, and movies. It was a lot of fun and gave participants a chance to connect around some favorites.

As we enter 2021 and the final stretch – hopefully – of the pandemic, we wanted to share some of what we viewed for the CLE, and a few extras. To that end, here are a few of our favorite succession and wealth planning movies to help you get through.

“THE DESCENDANTS”

After a tragic accident leaves his wife in a coma, Matt King struggles with the stipulation in his wife’s will that she be allowed to die with dignity, as well as his relatives who are pressuring him to sell the family’s large land trust. The story evokes themes related to the inherent conflict created when fiduciary and beneficiary are the same person, the importance of selecting the right fiduciaries, and planning considerations related to the specific nature and value of different types of property.

“GRAND BUDAPEST HOTEL”

M. Gustave is the concierge of a high-class hotel where he befriends many wealthy guests. One such guest, who was also Gustave’s sometimes lover, dies suddenly. She leaves a valuable painting to Gustave, but her family is suspicious and goes to great lengths (including murder and ski chases) to reacquire the painting from Gustave. Present throughout the film are themes relevant to all practitioners, including: 1) how planners deal with a client – particularly with varied assets – who makes numerous estate plan changes; 2) whether Gustave was the sympathetic character portrayed, or an outsider who took advantage of the countess for financial gain, as perceived by the family; and 3) an extraordinary example of personal conflict and bad behavior in family disputes.

“KNIVES OUT”

A classic murder mystery involving family members with competing possible motives for killing the family patriarch, a famous murder mystery author. [Spoiler alert] “Knives Out” has a key plot twist when the decedent leaves all of his possessions to a non-family member. This decision leads to a salient scene in which all of the family members nervously sit around and discuss the ways one can contest a will. Central to the discussion are issues of lack of capacity and undue influence, as well as the necessity of a strong case

if a will contest is to succeed. Additionally, discussion of the slayer rule ensues as the disgruntled family speculates that the sole beneficiary’s potential involvement in the patriarch’s death may allow them to recover their stake in the family fortune.

“BLEAK HOUSE”

For those intimidated by the length of the book, the many film and TV adaptations of this classic Charles Dickens novel are a great option. The plot focuses on the case of *Jarndyce and Jarndyce*, which, as the story opens, has already gone on for generations and has “become so complicated that no man alive knows what it means.” The story explores the impact that the courts have on individuals caught in its grip; at the same time, it provides a critique of some lawyerly (or not so lawyerly) practices, as well as a view into how the promise of wealth can end in various degrees of tragedy. The Spotlight has also discovered an outstanding audio version of the book if that’s more your style.

“PRIDE AND PREJUDICE”

While no doubt considered a classic love story, the original Jane Austen novel and its various film adaptations also highlight the influence and affluence land ownership brought to families in 19th century England. Mr. Bennet, the father of protagonist Elizabeth Bennet, had a life interest in his family’s home, and as the property was entailed, he had no power to sell or gift it through his will to his wife or his five daughters. The family’s matriarch, Mrs. Bennet, is motivated to arrange good marriages for her daughters to ensure their financial security. While men could inherit land and property from their fathers to build wealth, women relied on marriage for such security. Entails, like the one at issue in the film, were abolished in 1925, but the story shows the consequence of wealth and land to a family’s well-being and the long history of gender bias in inheritance laws.

“GRAN TORINO”

Walt Kowalski is an elderly Korean War veteran living in Detroit’s inner city. He helps a teenage neighbor in need escape gang violence and, over time, becomes his mentor. At the end of the movie, there is a reading of Walt’s will, and [Spoiler Alert] he leaves the teenager a special gift and his family nothing. The film evokes a common scenario practitioners face: clients who want to include special gifts of personal property to specific persons in their wills. When such gifts are of sentimental value and are directed to non-family members, it is important to be specific about who receives such items, as disagreements may well ensue.

MEET OUR ISSUE EDITORS:



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Well-known for his extensive work in estate planning, trust and estate administration, Steve has counselled individuals and their families, trustees, personal representatives, beneficiaries, guardians, conservators, business owners, closely-held family enterprises, non-profits, and charitable organizations in all aspects of estate planning and succession planning. He is a fellow of the American College of Trust and Estate Counsel and can be reached at SBrand@RobinsKaplan.com.



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As Pro Bono Counsel, Lindsey works closely with the Pro Bono Chair and Committee to manage the firm's nationally recognized pro bono program. Prior to joining Robins Kaplan, Lindsey was a legal aid attorney and an in-house attorney at a government agency. An experienced poverty law litigator passionate about access to justice, Lindsey collaborates with legal services organizations to facilitate the firm's pro bono services and serves as a resource to firm attorneys in pro bono matters. Lindsey also maintains a pro bono practice focused on representing low-income tenants in housing matters. She can be reached at LHanson@RobinsKaplan.com.

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