

2021

Danielle Streed, JD

DANIELLE STREED & ASSOCIATES, PLLC

480 W. Lovell, Kalamazoo, Michigan 49007

Phone: 269-276-0055/Toll Free: 888-573-0114

Email: Danielle@Streedlaw.com / website: www.streedlaw.com

2021

Office hours M-TH 9:00 am to 5:00 pm. **We are closed noon to one, except by appointment only.**

A 2020 RECAP, REMINDERS and UPDATES

Hello 2021! I am sure many of you are glad to see 2020 behind us. I am pleased to tell all of you that we are healthy and doing well at the law office of Danielle Streed & Associates. Although we did experience a short office shut down (one week), we were back in business with a few new rules and precautions in place. As a result of the “new norm”, we have expanded the services we offer to our clients. Although we prefer and welcome in office meetings, we can accommodate our clients with conference call reviews, email PDF documents for review and Zoom signings.

1. ***NEW OFFICE RULES UNTIL FURTHER NOTICE:*** In an effort to keep our clients from passing one another in our waiting area or on the ramp leading up to the back door, we ask that you follow a few simple rules (these will also be relayed to you by my assistant, Mary, when she calls to remind you of your appointment):
 - A. Please call when you arrive, as we are requesting that you wait in your car until your designated appointment time. This allows our previous client to leave the office without any contact and it allows us wipe down any common surfaces;
 - B. We do not accept walk ins at this time. If you need to get information to us, please call ahead and if we are not meeting with clients, we may be able to accommodate you. Additionally, we have installed a locked and secure mail box at our back door for document drop off;
 - C. At this time we do ask that you wear a face mask into the office. Should this change, we will notify you when you arrive for your appointment.

2. ***ORIGINAL DOCUMENTS:*** Our office does not retain originals of any client estate planning documents: Trusts, Wills, Medical Advocates, Financial Powers of Attorney or Deeds. When you signed your documents those originals were provided to you at signing. Our office merely retains a PDF of your documents. Should you find yourself moving out of state, out of town or if you need your file transferred, we would merely be able to transfer a PDF via email. If an original was needed it would have to come from you. **THEREFORE...NOW IS A GOOD TIME TO MAKE SURE YOU CAN LOCATE YOUR ORIGINAL DOCUMENTS!**

3. ***DOCUMENT REVIEW:*** It is not only important that you keep track of where your originals are located, it is also important that you periodically review your documents to make sure you have the right people nominated to serve and the right terms of distribution. It would also be a good idea to reach out to the individuals you have designated to serve as medical advocates or financial power of attorney and make sure they still have a copy for their records.

Here are a handful of reasons why a periodic review is important, why an update or amendment to your documents may need to be considered or why a call to our office to update our records may be needed:

Birth /Death/ Change of employment/ Inheritance/ Change in medical condition/ Change in family relationships/Marriage/Divorce/Separation/Change of address/ Recent disability of a beneficiary/ Updated address or contact information for your Trustee, power of attorney or medical advocate/ Problem Child(ren) - a child stole from me; alcoholism; incarceration; illegal activities; bankruptcy

4. ***HOW LONG AGO DID YOU SIGN YOUR DURABLE POWER OF ATTORNEY:*** In our last newsletter we referenced the renewal of your Power of Attorney. We had indicated that many banks or financial institutions will not accept a financial durable power of attorney that is dated more than three to five years ago. We encourage you to do two things, go to our website via the link below and it will take you to our forms section. In that form sections there is a page with “reconfirmation statements” that allow you to reconfirm your Power of Attorney as often as necessary. The second item to consider is to call your advisor, banks or credit unions and see what their policy is regarding powers of attorney. Do they need it to be reconfirmed and, if so, how often? You can print off the reconfirmation form, attach it to your durable power of attorney and update as needed. <https://streedlaw.com/Portals/0/Notebook%20Forms%202.pdf>
5. ***REFINANCING PROPERTY:*** If you have recently refinanced your property, there is a good chance the title company or the lender required that the property be deeded out of the Trust and back to you individually to complete the refinance process. If that is the case, did you get the property deeded back into your Trust? If not, you should contact our office to get this done.
6. ***RETIREMENT ACCOUNTS AND MINIMUM DISTRIBUTIONS(RMD):*** In our last newsletter we advised everyone to contact their “advisor” to discuss the new distribution rules of inherited IRAs or retirement accounts. On that same note, we ask that you review your Trust documents, specifically Article Three, to determine if provisions were drafted to distribute RMDs to your children after your death. Now that there are no RMDs on inherited IRAs, we may want to revisit the distribution schedule in your Trust.
7. ***THERE IS MORE TO ESTATE PLANNING THAN JUST THE LEGAL DOCUMENTS:*** What I mean by that is simple. The Wills, Trust, Medical and Financial Powers of Attorney provide authority and guidance to those you have named to serve. But do those individuals know where you bank, who holds your mortgage, the name of your advisor(s), the name of your doctor(s), what pharmacy you use, what medications you take, whether you want to be buried or cremated, who gets your pet? If these questions sound important, they are. We have made it easy for you to answer these questions with forms I have created and posted on my website. You can find these forms by going to this link: <https://streedlaw.com/Portals/0/Notebook%20Forms%202.pdf>
8. ***HOW DO WE GET RID OF OUR TIME SHARE:*** We have received many calls and had many conversations over the years about exiting a timeshare. A recent article I read provided some very good advice that I would like to share with you. Here were their recommendations:

Your first step is to check with the resort itself and ask specifically for the person who handles “deed-back’s” or “surrenders”. You may need to be prepared to pay some fees and you may also need to explain your reason for the surrender. In order to “deed back” or surrender your timeshare, you want to make sure you are not behind on your dues and that you do not have a loan balance with a financial institution for the purchase of that timeshare.

Some clients have asked - can I just stop paying the resort fee? In many instances that has worked as a way to force the company to allow you to surrender it as it may cost the company less than pursuing foreclosure proceedings against you. Usually, the amount of money involved does not justify the resort bringing a lawsuit.

If that doesn't work, another option is to resell it. Be prepared to get little or no money unless you are in a high end chain like Disney, Marriott or Hilton. If you do find a buyer, make sure you get all the necessary information from the timeshare company to make sure your interest is properly deeded to the new buyer.

The final thought on "exiting" timeshares is to be forewarned about exit companies. An article in the Better Business Bureau in 2019 reported many complaints about timeshare exit companies. The biggest red flag is that the timeshare companies require you pay up front fees. In the article I read they said they would never ever suggest the use of an exit company.

9. ***WHAT DOCUMENTS DO I NEED WHEN???*** We periodically get calls and/or emails from clients asking us which document they need to use in certain situations. I thought now would be a good time to do a brief review for all of our clients to remind you of the importance and use of each document.

Let's start with the **medical power of attorney, also called a Designation of Patient Advocate**. This lifetime document allows you to nominate an advocate to make decisions for you when a doctor or medical staff has determined you are no longer capable of making your own medical decisions. In addition to that authority, this document addresses your wishes with regard to life-support or life-sustaining treatment, should that situation arise. Finally, this document addresses your advocate's access to medical records or information. HIPAA powers are federal laws that are designed to protect our privacy, but in reality these laws make it difficult for our family to get information from medical facilities. When your advocate needs to request medical records or request information from your medical personnel, they will need that HIPAA power in the document. **If your patient advocate is dated before 2005, there is a good chance your document does not address HIPAA and may need to be updated.**

Our next "lifetime document" is the financial power of attorney, also called a Durable Power of Attorney. This document allows the "attorney in fact" (hereinafter called your agent) to act on your behalf, as needed. The agent's use of this document may be at your request due to a physical limitation (reduced eyesight, mobility issues or even issues related to COVID) or it may be needed based on your agent's observation that you are not attentive to your financial matters (paying bills, filing tax returns or taking distributions from your IRA). Durable means that the document is valid and can be used whether you are competent or not. In fact, it is valid and effective the day you signed it. Presentation of a copy of the document to a 3rd party is all your agent needs to act on your behalf. **If you signed a Durable Power of Attorney in 2012 or later, there is an Acceptance Page at the end of the document that *must* be signed by your named agent(s). If your agent presents this document to a financial institution and they have not signed that acceptance, the institution can reject the document.**

The Last Will and Testament is a document that your Personal Representative (formerly called an Executor) will rely on at the time of your death. The Will identifies for the probate court who you have nominated to serve as your Personal Representative and it also identifies how you would like any remaining assets to be divided. Keep in mind that a Last Will and Testament only directs the division of assets that are in your individual name, not assets that are jointly owned or that have a designated beneficiary.

A Trust is a document set up well before you have died and it in essence replaces the Last Will and Testament. The Trust is a document that allows you, while you are living, to set things up so your assets do not have to go through probate. The Trust allows you to continue to manage your assets during your lifetime, therefore Trust assets are reported under your social security number (not a separate EIN or Tax ID). However, at your death, a successor administrator, called a successor Trustee, is automatically authorized to step in and serve without going to probate court. In fact, the probate court does not supervise Trust administration.

The Certificate of Trust is proof that you have a Trust, but it keeps the terms of your Trust private. During your lifetime, should a third party need proof that you have a Trust or should your successor Trustee need proof that they have been nominated to serve, the Certificate of Trust is all that they need to present.

Thank you to everyone that we met with in 2020 that patiently adhered to the “new norm” and the new rules at the office. Mary and I look forward to serving you for many years to come!