

2022

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

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

RECAP, REMINDERS and UPDATES

Hello 2022! It is hard to believe all of this craziness started two years ago. My, how time flies! Mary and I continue to stay healthy and very busy! Covid has definitely created more of an awareness of the need for estate planning, as well as the importance of keeping your estate plan up to date. Covid has been a game changer for many families. We tell you this as my schedule tends to be booked out 3-5 weeks at any given time. If you think you might need to come in, call NOW. We are still offering conference calls for reviews and updates, but unless you are home bound, we ask that we meet in person for any document signing.

UPDATED OFFICE RULES:

1. We no longer ask you to wait in your car before your meeting time. We still encourage you to arrive as close to your meeting time as possible to keep the traffic flow light in the office.
2. We do not accept walk ins, but we really never have. Because of our busier than ever schedule, we ask that you please call ahead to let us know if you need to stop by. If we are meeting with clients, we may not be able to accommodate you. For convenience, we have installed a locked and secure mail box at our back door for document drop off.
3. Face masks are up to each individual client. We do not require them in the office. We ask that if you feel sick you consider rescheduling. We don't want ANY illness if we can avoid it.

Where are all my retirement accounts?

Do you know where all of your retirement accounts are located? This could be a question for many clients about their retirement accounts at their current employer, as well as retirement accounts that you may have left behind with previous employers. In a recent article I read, it stated that in the past decade 25 million Americans have lost access to retirement accounts by changing jobs. If you do not know where your retirement accounts are located, or if you have not kept track of them, how much more difficult is it going to be for your successor Trustee or administrator to track them down? Now would be a good time to either make a list of each account, location and contact number. Better yet, consider consolidating those accounts now. If you have checked off everything on your New Year's Resolution list, perhaps consider adding this to the list.

Corporate successor Trustees has there been a merger, take over or a name change?

A recent unpublished opinion in the Michigan Court of Appeals has raised some questions for many individuals who have nominated a corporate successor Trustee. In this recent case, David left a Will nominating Northwestern Bank as the personal representative of his estate. After David created the wWill and before he died, Northwestern Bank

was purchased by Chemical Bank. After David died Chemical Bank sought appointment as the personal representative and the trial court denied the request holding that the document nominated Northwestern Bank and not “Northwestern bank or is successor”. The court held that Chemical Bank had no standing.

What the Court of Appeals decision basically stated is that whether or not a bank will succeed in the role as Trustee or personal representative will depend on the language in the document. Does the document anticipate the possibility of a merger or acquisition? Put another way, the court will not make an assumption without some evidence in the document that it was intended for the new bank to assume the role of the old bank in its capacity as Personal Representative or Trustee.

Many banks and many attorneys have assumed that when a new bank acquires the assets of another bank, it includes the right to serve in a fiduciary capacity. Why did we come to this conclusion, because for years that was how it worked! This case suggests we may all be wrong. How do we solve this problem for those clients who have nominated a corporate Trustee and that institution has since been bought out or merged and they are now using a new name? What my office is recommending is an amendment to your documents to provide the extra language “or its successor”.

There is not enough information from this new case to determine what the court means by “some evidence in the document that the successor was intended or approved by the now deceased client”. We are not sure if a simple statement, signed by the client (not an actual amendment) that states that you intend for “Trust Department A” or its successor shall serve” is enough without an actual amendment to satisfy the “**some evidence in the document**” as discussed in this case.

Loans and Advances to Beneficiaries

Over the past several years, the dissension amongst family members, specifically children, has gotten worse over time. The common denominator for these problems tends to involve loans and advances to one family member or beneficiary, but rarely to all beneficiaries. In many of these cases, the party giving the loan (typically a parent) has written down the loan or advancement to the beneficiary in a very informal manner (a ledger, notes around the house, notes in the checkbook, etc). When the person giving out the loans or advancements dies, it is common for the successor administrator to find these various notes and try to decipher them. The natural response of the administrator of the estate is to treat these as an advancement of that beneficiary’s portion and reduce his or her share accordingly.

What is important to know is that if the recipient of these loans or advancements has not signed a note evidencing the “loan or advancement” or if the parent has not made reference to the loan or advancement in their estate plan, the beneficiary will have grounds to object to the reduction in his or her share. If you do not wish to amend your estate plan to evidence these loans or advancements, we recommend that you obtain the beneficiary’s signature on a document identifying the amounts given and provide that these loans or advancements reduce their share when the estate is divided. Now there is no guessing game for your administrator or the other beneficiaries.

SUPPORT FOR OUR COMMUNITY

A common theme or conversation over the last two years, a bit due to Covid and being stuck at home, is the concept of purging! As we found ourselves at home on a Friday night and not at the movies, restaurant or sporting events, we had to find things to keep ourselves busy. The outcome of that free time for many meant a more organized or cleaner home. I for one found myself donating items that had been sitting in a closet or a box for way too long. I decided that if I was never going to use it, someone out there might have a need for it. Here is what I found:

Partners in Housing Transition (located in the lower level of St. Lukes Church on Lovell Street just a block before our office) accepts donations of gently used furniture and household items. In turn, they work with other non-profits who help place homeless individuals and families back into an apartment. These individuals and families typically only have the clothes on their back. Remember, the first apartment you moved into? You needed towels, dishware and simple furniture. Maybe mom and dad let you take stuff from their home to get you started or better yet, they took you to Target and bought you all new stuff.

Well, these individuals and families don't have that luxury. So Partners in Housing Transition works with these individuals to get them settled and back on their feet. If you have moved, cleaned out your house or the house of an aging or deceased family member, consider donating those items that have no monetary value and no one in the family wants or needs. These household items have a huge value to this organization. For more information on how or what to donate, contact Partners in Housing Transition at 269-385-2466 / partners@stlukeskalamazoo.org www.partnersinhousingtransition.com

For those of you that don't know this, I am an avid golfer. I am not one of those golfers that buys new clubs every season, but I do believe I could start a women's golf apparel shop with the golf clothes and golf shoes I have! Having said that, I recently learned about a local non-profit called the **First Tee**. Here's a little blurb about them:

First Tee - West Michigan is a youth development organization that provides life skills and character building through the game of golf. Through our scholarship program, we ensure that all kids are able to participate in our program regardless of income. If you or anyone you know is interested in registering a child, becoming a mentor or coach, and/or donating equipment or financially you can visit linktr.ee/ftwm for more information.

I learned that they accept your used golf clubs, golf balls and golf accessories. So if you are getting ready to move to that new set of clubs and a new bag, why not donate your old clubs. I know many golfers that have 3-4 bags of clubs in the garage that they will never play with again. I also know a lot of "golf ball snobs" that will only play with a pristine new golf ball or a certain brand of golf ball. So go through your equipment and weed out those unused items and donate them to an organization that will put them to good use.

Each year we feel it is important remind you to pull out your documents, review them and make sure they still reflect your wishes. Here are a handful of reasons why a periodic review is important, why an update or amendment to your documents may be needed or why a call to our office to update our records may be in order:

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

Here are a few specific questions to consider as well:

1. Are there any individuals named in your estate plan that no longer deserve a part of your estate?
2. Do you need to include any new beneficiaries as a result of a marriage, adoption or even step-children or step-grandchildren?
3. Are there any beneficiaries that are to receive an outright gift that may be better off having it managed by the Trustee until they are older?
4. Is your nominated Trustee capable or would you be better served by a professional Trustee?

5. Have you made any loans or advancements to a beneficiary that need to be addressed in the estate plan or documented in a promissory note?
6. Do you still own all the same assets that were identified when you set up your estate plan?
7. Did you leave a specific asset to a beneficiary that you no longer own?
8. Are any of your accounts or assets joint with a child or family member that should be titled in the name of your Trust?
9. Have any of your financial institutions merged, been bought out or absorbed by another institution? If so, have you verified that the name on the accounts or the beneficiary has not changed with this “merger”?

Thank you to everyone for your continued referrals to our office. We appreciate the confidence you have in us. Mary and I look forward to serving you for many years to come!