



Trust and Estate Planning News and Updates

The Good News, Updates, and Important Information From Your Friends at **Unruh, Turner, Burke & Frees.**

utbf.com/trust-estate | paestateplanners.com | paelderlawsolutions.com

Last Chance to Win an iPad for Yourself, a Friend or to Give as a Gift!

We appreciate the time so many of you have already taken to submit a written or video testimonial (Yes, we will “videotape” you if you come in to the office – it’s quick and easy).

We will be drawing the winner of the iPad mini on October 15th. If you still want a chance to win it, there is still plenty of time to say something nice about UTBF, your attorney, or our amazing support team, and why your experience with our firm was a good one!

Everyone who submits a review is entered to win. Thanks in advance.

Here’s how to enter:

Complete the testimonial form found in this month’s insert then,

- 1) Mail it: Lisa Snyder, UTBF, PO Box 289, Phoenixville, PA 19460, or
- 2) Scan and email your testimonial to lsnyder@utbf.com, or
- 3) Call Lisa at 610-933-8069 to come in for a video testimonial.



FALL 2015

Secrets and Info Inside This Issue

Page 1 - Last Chance To Win An iPad Mini!

Page 1 - 7 Trust Errors

Page 2 - Nursing Home Planning - It’s Not Too Late!

Page 2 – Worried? Fix It.

Page 3 – Do You Want Your Ex To Inherit Your Assets?

Page 3 – The Spotlight’s On Laurel Paul!

Page 4 – “Life Hacks” And “Cheat Codes” That Work In Real Life

WARNING! The 7 Most Common Problems With Trusts (and Trusts Under Wills) That Can Undo Your Planning And Cost Your Heirs Dearly | By David M. Frees, III, J. D.



There are many types of trusts... but not all are created equal. For today’s purposes we’ll talk about two kinds of trusts. Those created during your lifetime (which can be revocable or irrevocable), and those created for a spouse, children or others under your will (which are called “testamentary trusts”).

We draft quite a few trusts each week and we review quite a few more. And while we’re doing this, we’ve noticed that there are a number of very important clauses that are often missing from living trusts AND from trusts created under wills OR are not well designed for the particular client. They were missing, “mass produced” OR the client’s circumstances or the law changed with the passage of time. In any case, we need the trust to do more and better things.

And, in our experience, a document that doesn’t address these issues (customized to your specific needs) can pose real but avoidable problems. In fact, the failure to have these provisions in a trust (or to have outdated provisions) can really undo much of what you’ve been planning. Now it’s true that even after you’re gone, many problems can be solved by a trip to the probate court. But, that costs time and money and there’s no guarantee that the problem will be resolved quickly OR in the way you’d like.

So fix those trusts and wills...Read the full article featured in this issue’s yellow insert!

Last Minute Medicaid/Nursing Home Planning- IT IS NOT TOO LATE!

| Douglas L. Kaune, JD
Are you or a loved one entering a nursing home are you shocked by the monthly cost for the upcoming care?



- Have you been told that it is “too late” to protect family home and financial assets?
- Are you afraid all of the “family wealth” will be lost?

Even if you and your family have done no proactive estate and asset protection planning, it is not too late do “Crisis Medicaid Planning.” Despite the immediate need for long term nursing care and the related expenses, you may still protect 40%-60% of the family assets with prompt action and prudent planning. [Click here](#) (or enter <http://bit.ly/1JhZa56>) to read the whole story and to discover the solutions....

The Powerful Opposite of Worry | Adapted from article by Shawn Achor

The best antidote to worry? It’s polar opposite: gratitude for the present. When you worry, you are asking yourself, “What bad things could happen?” Gratitude has you asking, “What great things are actually happening...right now?” Take a few minutes to write down at least 10 things you feel positive about – your children, your values, your faith, your character. Researchers at the University of Chicago found that when people wrote about their positive feelings for a few minutes, they significantly lowered their levels of worry and harmful cortisol levels. And, it raised their performance on tests of memory and critical skills by 10 to 15 percent!

If you take time to be mindful and notice the things that make you happy each day, you will automatically increase the amount of gratitude you feel.

Negativity is everywhere in our society. But it’s also inside our heads and emotionally hindering us. Worry also limits the quality and the quantity of life. Harvard researchers found that anxiety and fear destroy the proteins at the end of our chromosomes called telomeres, which dramatically speeds up the aging process.

By emitting positive energy and canceling out that internal noise, you can take control of your reactions and emotions and maybe extend an even happier life.

For a dose of positivity, follow Shawn Achor’s FB page: www.facebook.com/ShawnAchor



IMPORTANT DATES & TRIVIA

Sept 13 – 15 Rosh Hashanah

Sept 23 – Yom Kippur/Fall Begins

Sept 26 – UTBF Client Event

Oct 12 – Columbus Day

Oct 16 – Get to Know Your Clients Day

Oct 31 - Halloween



Nov 1 – Daylight Savings Ends

Nov 3 – Election Day

Nov 8 – National Cappuccino Day



Nov 11 – Veterans Day

Nov 26 – Thanksgiving



UTBF in the Community |

Dave travelled to San Diego in May to speak to attorneys, accountants and financial planners at a symposium on the topic of Dynasty Trusts.



In June Doug spoke about estate planning and trusts to the West Chester Exchange Club at the WC Golf and Country Club.



Doug and Dave also appeared as the cover story in the July 2015 issue of SuburbanLife Magazine. Click on picture to read the article or type:

<http://bit.ly/1LnkAEv>



Will Your Ex-Spouse Inherit Your Assets? | Whitney P. O'Reilly, JD



Maybe. So if you're worried, read on.... If you are divorced, separated, or are in the middle of a divorce it is important (if you want to control who gets what) to update your estate planning documents including your IRA, 401k, annuity and life insurance beneficiary designations. A recent Pennsylvania Superior Court ruling should be a powerful reminder to you and your attorney to make sure your estate planning includes a review and update of your beneficiary designations.

The 2015 Pennsylvania Superior Court Case: Sandra and Richard Lutz (deceased) were married May 18, 1985. On May 4, 1985 Richard obtained a life insurance policy and on July 8, 1988 he designated his wife, Sandra, as the primary beneficiary, with no contingent beneficiary. On June 2, 2012 he updated his beneficiary designation of the policy so that his wife, Sandra was the primary beneficiary and he added his sister, Sheree Nordall, as contingent beneficiary. Sandra and Richard divorced September 6, 2012. Richard died on September 26, 2012. **Who should receive Richard's life insurance policy?** His Ex-Wife, Sandra OR His Sister, Sheree

Who do you think Richard wanted to inherit his life insurance policy? Pennsylvania enacted section 6111.2 of the PEF Code to create a default result in these difficult divorce situations. This section states that if a decedent: 1) lives in Pennsylvania, 2) has a revocable beneficiary designation of life insurance, annuity, pension or profit sharing plan or other contractual arrangement providing for payments to the spouse, and 3) at the time of the decedent's death is divorced, then the ex-spouse shall be treated as if they predeceased the decedent unless there is specific evidence to the contrary.

The problem in the Lutz case was that PEF Code Section § 6111.2 was not enacted until 1992 and is not a retroactive statute. That means any beneficiary designations that occurred before 1992 would not automatically be changed by divorce. **Uh oh.** Therefore, the court had to decide: whether or not the date of the original policy controlled (which would leave the insurance policy to his ex-wife, Sandra) or whether the updated beneficiary designation in 2012 would control (which would leave the policy to the sister, Sheree).

So the final result? The court ruled that Sandra Lutz was not entitled to the insurance policy payout and Richard's sister Sheree received the payment instead. But why leave this to chance? **Please be sure your beneficiary designations are kept up to date, no matter what situation you find yourself facing.** [Click here](#) for our report (or go to: <http://bit.ly/BDReport>)

To read about this case in more detail on the PA Court website, please go to: <http://bit.ly/1Wg1y67>

STAFF SPOTLIGHT ON LAUREL PAUL | Laurel joined the UTBF crew in 2014 as a Paralegal (after completing an internship at the firm). She earned her undergrad degree at Penn State and her Paralegal Certificate from Villanova. She is pictured with her brother at his high school graduation. Here are some bits of information we managed to extract from Laurel (with some difficulty 😊)!

What are you reading? Wild: From Lost to Found on the Pacific Crest Trail

First website you check in the morning? The Huffington Post

Favorite city? Portland, Oregon

Favorite getaway? Hiking and camping in the mountains

What do you never travel without? My phone charger and my water bottle

Favorite restaurant? Chipotle **Favorite movie?** Grand Budapest Hotel

Best advice you've received? Do whatever makes you happy. **Favorite philanthropy?** American Red Cross

Hero or heroine? My parents **What is your most treasured possession?** My book collection

Current state of mind? Cautiously optimistic **What trait do you deplore in others?** Self-centeredness

When or where are you happiest? When I have the opportunity to cook and share a meal with my friends and family.

What is your greatest extravagance? Buying too many books, especially cookbooks

What is your greatest regret? I try not to regret anything because the past can't be changed.

If you can change one thing about yourself, what would it be? My indecisiveness

Where would you like to live? The Pacific Northwest **What do you value most in your friends?** Loyalty



Real World Life Hacks and “Cheat Codes” | You may not play internet or computer based games...but your kids or grandchildren probably do. And all of these games come with hidden “cheat codes” or “hacks” (as the “kids” say) that allow the person playing the game to get past a hurdle or to do something better or faster. So we started thinking that we’d bring you a list of “hacks” that help to make life easier. Some are funny. Some are really effective....and some will make you say “why didn’t I think of that?” So here are a few:

If you lose/misplace your wallet, put a HOLD on your credit cards. Do NOT cancel them. If you cancel, it can later show up on your credit report. If you believe you are going to find it later, placing a hold saves you lots of trouble and keeps your FICO score higher.

If you find yourself running late for work, pick up some donuts or muffins. Then you’re not the person who’s late, you’re “the person who brought breakfast”!

Make the guts of your sandwiches or salads for the whole week on Sunday. Sandwich your meat, mayo, mustard in between two slices of cheese, pop each one in a plastic bag and freeze. On your way out the door in the morning, grab a bag and two slices of bread and you’re good to go. Salads? Put them in mason jars.

When walking down a busy street, look slightly upwards, say 30° above level, and everyone coming towards you will get out of the way.

More Life Hacks and Cheat Codes coming in the Holiday newsletter – please share your best hacks with me at dfrees@utbf.com!

Offices of UTBF Attorneys
David M. Frees, III,
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Whitney P. O’Reilly

www.utbf.com/trust-estate
www.paestateplanners.com
www.paelderlawsolutions.com

Please call 888-605-6482 and mention you read the “UTBF NEWSLETTER”, we are happy to assist you with any questions concerning your estate planning.

Coming Soon in UTBF News & Updates

- End Of Year Warnings & Alerts
- Announcing Our iPad Mini Winner, And
- Holiday Recipes You Won’t Want To Miss

Editor-in-Chief:

Lisa K. Snyder

610-933-8069

Page 4

Quote of the Month:

**NOT ALL WHO
WANDER
ARE LOST**

So take a trip, go without firm plans, and enjoy the discovery.... Dave Frees

WARNING! The 7 Most Common Problems With Trusts (and Trusts Under Wills) That Can Undo Your Planning And Cost Your Heirs Dearly

There are many types of trusts... but not all are created equal. For today's purposes we'll talk about two kinds of trusts. Those created during your lifetime (which can be revocable or irrevocable), and those created for a spouse, children or others under your will (which are called "testamentary trusts").

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Now it's true that even after you're gone, many problems can be solved by a trip to the probate court. But, that costs time and money and there's no guarantee that the problem will be resolved quickly OR in the way you'd like. **So have your will or trust reviewed to make sure that it's not missing these essential terms:**

1. TAX ISSUES RELATED TO IRAs and 401(k)s - Most trusts we see lack the appropriate "conduit trust" or "accumulation trust" language. Without these provisions, an IRA account payable to a trust will be taxed in full and immediately rather than over the lifetime of the beneficiary. That's a bad result that can often be avoided.

2. MISSING PROVISIONS FOR BENEFICIARY SPECIAL NEEDS - Have a beneficiary with special needs? That requires very specific language and many specific provisions in your will or trust. These are missing in many mass produced trusts. But, if you have a child, grandchild or heir who is receiving benefits or disability, then these provisions are essential. Don't leave them out, get your trust or will updated.

3. MISSING OR INADEQUATE PROVISIONS FOR YOUR INCAPACITY - Does your living trust have clarity about who is to serve as trustee if you're incapacitated? Most don't. So you need to make sure that it's clear who takes care of YOU. And, you need to specify what they can do about gifting, investments and more. And, these provisions should also coordinate with provisions in a well drafted power of attorney so that there is no conflict between the people taking care of you and your assets OUTSIDE of the trust and those within the trust.

4. INSUFFICIENTLY BROAD TRUSTEE POWERS - Both during your lifetime (if you're incapacitated) and after your death (if you have trusts for a spouse or other heirs), you should give trustees all of the powers that they might need to handle your affairs. Without them, they might need to go to the probate court to try to get a transaction approved. Have real estate? Give them the power to retain, sell or refinance it. Have a business? Give them the powers to keep it, run it, borrow money for it etc.

5. LACK OF CLEAR SUCCESSOR TRUSTEE RULES - I know... picking one trustee is hard enough. Picking two or three sounds impossible. Who do you trust to do this job? Well, if you don't pick, somebody else will do it for you. So, in a perfect world you'd have two or three people (at various levels of youthfulness) who you could name in order. But, whether or not you have multiple trustees, think about provisions that let the last trustee appoint a successor or to allow a trust protector so you don't run out of trustees. That brings us to the next problem and solution.

6. FAILURE TO HAVE A PROBLEM SOLVER OR MEDIATOR - Many trusts lack a TRUST PROTECTOR provision. Trust protectors (unlike trustees) don't actually manage the trust. Instead, they can do things like remove and replace trustees, fill a gap if there is no substitute, mediate problems between trustees and heirs, and can move the location of a trust or authorize larger transactions so that there is a "check and balance." In short, be sure to talk to us about a trust protector if you don't have one. These provisions are very important where you have created trusts to protect a spouse from remarriage and or children or heirs from a marriage and divorce. Which brings us to...

7. TRUSTS THAT END TOO SOON TO PROTECT FROM DIVORCE - Many clients tell us that they want the trusts for children and grandchildren to end at a certain age (often 25 or 30). But what if that's too soon? What if the heir gets married and then divorced after the asset has been distributed to your son, daughter, or grandchild? At that point they can be taken away in a divorce. That's why, when you're leaving each heir more than a few hundred thousand dollars, you should at least consider a BCT trust that can protect your heirs' inheritance from lawsuits and divorce. These trusts can be customized to allow adult children to largely manage their own assets AND still get the benefits of divorce and lawsuit protection.

Of course, there are many more problems that we spot and many more provisions that are required to deal with changes in the law. But these are a few of the essentials.

WHAT SHOULD YOU DO? If you haven't updated your will or trust since 2012, you have two opportunities...

1) Whether you have a living trust, or trusts under your will, and whether those trusts are to protect a spouse or other heirs, if it's been more than four years since your last check up, you can have a complimentary client will or trust review. **Just call Lisa or Tammy at 610-933-8069 to schedule it.**

2) Want to get your affairs way more organized and save your heirs even more? Consider going from a will to a living trust and pour over will. To see if that's for you call Lisa or Tammy for a phone consult with one of the lawyers. **If we think you're a good candidate to save money for your heirs, we can schedule an appointment to take you from the will to a trust.**

If you've had a will or trust review within the last three years (since the big changes in the law) you're probably already OK. But we love staying in touch so if you've had an inheritance, bought more insurance, had a child or grandchild...a remarriage, marriage or divorce...and you're wondering if you should change anything...please feel free to call. That's why we're here.

Enjoy the fall. Dave Frees

Last Chance! Please Give Us Your Feedback And Testimonials - We appreciate any and all comments. **Each response is entered to win an iPad mini in our 2015 contest as our way of saying "Thank You"!**

What was important to you and how we helped: _____

To be entered to win the iPad Mini, please include your contact information.

Name: _____

Please mail your comments to Lisa Snyder at UTBF, PO Box 289, Phoenixville, PA 19460 or fax them to 610-240-9323 or scan and email them to lsnyder@utbf.com.

Phone: _____

Email: _____

Thank you for your permission to use these comments in our websites, newsletter and our communications with clients.