



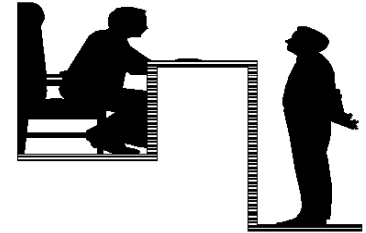
What's New:

We've had some additions and suffered some losses. Pier Corticelli is now with the Greenwich Police Department after graduating as valedictorian of his class. Jeanmarie Gonnella has been a welcome addition. Jeanmarie is the mother of two young children. She now coordinates our seminars and many of you will be talking with her in the future. Nancy Nichols retired from the practice of law and now resides in sunny Las Vegas. Watch those tables and stay away from the wheel. Diann Gravius, my previous secretary, and the person who designed this issue of the newsletter is with a Rockland County law firm. Our best to Diann. April Ragona returned to full time nursing and we will miss her assistance. We'll keep you posted in future newsletters.



Guardianships

The new Guardianship law in New York has taken the place of the old conservatorships and committees. This is a welcome addition. The Judge in Westchester who handles the guardianship proceedings, Judge Louis Palella, has all the characteristics one would want from a Judge who is so involved with personal decisions affecting some of our most vulnerable citizens. We congratulate him for his sensitivity and demeanor which makes all those in his courtroom comfortable.



Powers of Attorney Revisited

Once again, we implore our clients to consider getting full and comprehensive powers of attorney (POA). Most clients believe if they have a Durable POA that's all they need. Not so. Just about all POAs signed today are durable. That's not difficult. The problem still exists. What problem? People sign POAs because (cont'd on p.2)

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Powers of Attorney Revisited

(cont'd from p. 1) they want someone to be able to pay bills and be in a position to protect their assets if need be. That generally means that they want to protect assets if they need long term care. They know that Medicare does not pay for nursing home care. They know that there may be a waiting period if they gift assets. They hold out as long as possible. But then there comes a point when a transfer is called for. BUT, unless the POA specifically allows UNLIMITED gift giving, Medicaid may challenge gifts of a substantial nature. DON'T let this happen. Get a full blown comprehensive power of attorney from an elder law attorney.

Trusts for People With Disabilities

Since 1993, we have the clear ability to create trusts for disabled people. Say you have a child or grandchild who is disabled and who may be receiving or will be receiving government benefits. Well you may want to assist that person but you're not sure how. Here's how. You create a trust for the person in such a way that the trust assets do not count as belonging to the person and the person can still get government benefits now or in the future. The trust is

referred to as a SUPPLEMENTAL NEEDS TRUST.



When the disabled person dies, you decide who gets the trust assets. Its simple and very helpful. You can even do this in your Will. All you need is an attorney who is very familiar with how these trusts work. Take a

look at our website at www.bresslaw.com for another discussion of this and other trusts created with the disabled person's own assets. You'll be surprised by what can be protected today.

Offshore Trusts

Here's the latest on offshore trusts. These are trusts established in various islands (warm climates of course) to avoid the long arm of creditors. Many physicians used these trusts in an effort to shelter assets from malpractice suits. The fact is that many physicians are turning elsewhere these days. Why? Well it costs a lot to keep these trusts up. When you establish an off shore trust you are going to need

to pay steep fees on an annual basis. The trusts work as a legal proposition, that is, they do protect assets, but the folks who created them are learning what the true costs are and they are not happy by what they are seeing.

WHEN YOU ESTABLISH AN OFFSHORE TRUST YOU ARE GOING TO NEED TO PAY STEEP FEES ON AN ANNUAL BASIS

Many are turning to trusts created under the laws of Delaware (always a good state in which to try to protect assets) and Alaska. Why?



Well these are domestic trusts, the fees are lower and people are not afraid of the political risks because the United States is considered safe. I will have more to say about Delaware and Alaska trusts in future issues.

Is Long Term Care Insurance Smart?

Well I think so but you need to know how to look at it.

Look, contrary to what insurance salesmen will tell you, not everyone will end up in a nursing home. Indeed the vast majority of you will not. But some will. Experience tells us that with females outliving males, and with the families scattered, a wife is a much more likely nursing home candidate than a husband. So if you can only afford one policy, then consider obtaining a policy for your wife. She will generally be able to take care of her husband and keep him out of the home.

Now lets be realistic about the numbers. Insurance folks will tell you that 25% of you will end up in a nursing home for some period of time. First of all the period for those who do need nursing home care will be brief (broken hip or other rehab) and will be covered by Medicare and a Medicare Supplement Policy. Second, those of you who will need care in a nursing home for more than 2.5 years will be about 10-15%. If it were otherwise, the insurance companies would not be able to sell the policies for the relatively low premiums charged. Think about it. Why would an insurance company want to sell a long term care policy for an

annual premium of \$4,000 and pay \$84,000 to a nursing home. It would seem that less than one in twenty may need that kind of care. That does not mean people should avoid long term care insurance. People should absolutely consider the purchase. Why? Because as much as you don't think it will happen to you, it can! You buy auto insurance, you buy home owner's insurance, with the hope you will never need it. Think about buying long term care insurance and hope that you will never need it. If you do, you will retain your independence and not need government benefits. Just make sure you can afford it!

About Fees

Simply put, there are no changes in our approach. We quote fees in advance--so that both of us know what they are ahead of time. But please don't ask what a Will costs. The answer is simple. It depends on how complicated the Will is going to be. If you ask someone how much a car costs, the person will ask whether you want a price for a Cadillac or a Chevrolet? And after you decide on the make of the auto, you then must decide what features the car will contain. That is, do you want a leather interior, electric windows, power this or power that. As you can see the cost of the auto will depend on a number of factors. The same may be said for a Will.

The Gift and Estate Tax in New York

Rest easy! As of January 1, 2000, New York says goodbye to its gift tax. Not a bad present. And on February 1, 2000, the estate tax in New York will equal the credit the IRS allows for the payment of state inheritance taxes. Huh? For those of you who are wondering, here's the deal. When an estate needs to pay a federal estate tax, the IRS says that the estate is entitled to deduct dollar for dollar the amount that the estate needs to pay in state inheritance taxes up to a certain amount. That amount is called a "credit." Because states like Florida had an inheritance tax which was equal to the maximum permitted credit allowed by the IRS, many people in Florida felt that they were paying no inheritance taxes because it did not cost any more to pay Florida an inheritance tax since it all came off the federal estate tax dollar for dollar. Thus, people began to make Florida their permanent residence and NY lost residents as a result. NY answered its exodus problem by adopting the same approach as Florida and other states and will be, with respect to inheritance taxes, on an equal footing.



OUR NEXT ISSUE:



Our next issue will contain other interesting strategies including a discussion about using Revocable Living Trusts and IRA distributions so you can get the best of both worlds. We will also discuss the latest news about Family Limited Partnerships. Visit our continuously updated website at www.bresslaw.com



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