

JUNE 2020 NEWSLETTER

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ESTATE PLANNING DURING COVID-19 AND BEYOND

FIRM ANNOUNCEMENTS

1. AWARDS:

Pozzuolo Rodden, P.C. is pleased to announce that Martindale-Hubbell announced that 2020 Joseph R. Pozzuolo's Peer Review Rating for ethical standards and professional ability is excellent.

Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo, Esquire has been nominated for America's Most Honored Professionals for Pennsylvania, as a 2019 Five-Star Attorney by the American Registry.

Finally, Pozzuolo Rodden, P.C. is pleased to announce that Joseph R. Pozzuolo, Esquire has been selected by his peers as a Lawyer of Distinction member as published in the American Lawyer and the National Law Journal.

2. UPCOMING SEMINARS: (POSTPONED DUE TO PANDEMIC FURTHER INFORMATION WILL BE PROVIDED)

Joseph R. Pozzuolo, Esquire will be presenting the following continuing legal and accounting education (CLE/CPE) webinar seminars for Clear Law Institute on May 5th @ 1pm:

- a) How Middle Income Families Should Prepare For Retirement, Including Ethics

Please contact Christine Wainwright at Chrissy@Pozzuolo.com or Clear Law Institute at gqueen@clearlawinstitute.com if you would like the online details to attend this upcoming or any other past online CLE/CPE seminars.

3. BLOGS:

1. The following are a few of the business, tax, employment, estate planning and business litigation blogs posted on our main website www.pozzuolo.com during the past month:

- a. For Distribution Purposes Assets of An Estate Are Valued As of The Time of Distribution To Beneficiary;
- b. Employee In Wrongful Discharge Claim Must Demonstrate That Public Policy Trumps Employment At Will; and,
- c. Disability Of Spouse Is Not An Exception To The Additional Tax of 10% To An Under Age 59^{1/2} Distribution From An IRA.

Please visit our website www.pozzuolo.com for more information on these and other relevant business, tax, estate, business litigation and employment topics.

2. The following are a few of the family law blogs posted on our family law website www.pozzuolofamilylaw.com during the past month:

- a. Child Support- Paternity By Estoppel;
- b. Child Custody Relocation Rules & Regulations; and,
- c. Court Denies Absent Father Money From Son's Wrongful Death Case.

Please visit our website www.pozzuolofamilylaw.com for more information on these and other relevant family law topics.

ESTATE PLANNING DURING COVID-19 AND BEYOND

Although there are many life events such as marriage, birth of a child, death of a relative or sale of a business that affect one's decision to accelerate estate planning, the creation of an estate plan is especially important for persons of a certain age or health condition. With the presence of Covid-19, mortality is suddenly on everyone's mind. Individuals, who would not have immediately prepared a Will, Power of Attorney ("POA") and/or Living Will/Health Care Directive, are suddenly rushing to their attorney to have these documents drafted. Individuals whom this office is receiving calls for their immediate estate planning needs are healthcare workers and individuals who are 65 years and older, living in a nursing home or long term care facility or any age with an underlying medical condition. However, with the increase in clients, attorneys are faced with the dilemma of

arranging meetings with these clients to properly prepare and execute the documents during this COVID-19 epidemic.

Important Estate Planning Documents

We recommend, at the minimum, you have the following estate planning documents:

- Will – a legal document that directs the distribution of your assets after death and can be used to appoint the person who will carry out your wishes (your executor), distribute your assets and the guardian/trustee for minor children. If you die without a will, state law will direct how your assets and other property are distributed at your death. A will requires the testator sign and date at the end of the document. Although no witnesses are mandatory if the testator signs his or her name, witnesses are required at the time of probate to “prove” your will and a “self-proving” sworn, notarized will makes estate administration easier. Self-proving wills eliminate the need for the witnesses to come to probate court after the testator dies. If the testator signs by mark or if another individual signs on behalf of and at the direction of the testator in his or her presence, then two (2) witnesses must sign their names to the will in the testator’s presence. It is always prudent that all witnesses to a will execution be disinterested and are mandatory to be disinterested in certain states. The will does not need to be notarized. However, a “self-proving” sworn, notarized will is recommended in that it can be troublesome, if not impossible, to find the witnesses after the testator’s death.
- Health Care Power of Attorney – This permits you to pick someone to make health care decisions for you, if you are incapacitated but still alive. This document is often paired with the living will. A health care power of attorney is important during this pandemic as the risk of hospitalization is high for many individuals. The health care power of attorney requires two (2) witnesses, each of whom is 18 years or older. No notary is required.
- Living Will or Health Care Directive -This document outlines the kind of life saving medical care you want if you are terminally ill. You can explicitly provide instructions regarding end of life care and what care you do and do not want. You may also give your Health Care Power of Attorney Agent the authority to make the decisions.
- General Power of Attorney – This document allows you to grant someone the authority to handle and administer your financial and legal affairs and transactions. You can choose whether the power starts immediately or only after you become incapacitated. The General Power of Attorney requires two (2) witnesses, each of whom is 18 years or older and is not the agent designated in the general power of attorney or the notary public or other individual authorized by law to take acknowledgments before whom the power of attorney is acknowledged. Your execution or signature must be acknowledged before a notary public or other individual authorized by law to take acknowledgments.

Our Response to Covid-19

The first step in will drafting is the initial attorney- client meeting where the attorney meets with the client to discuss his/her wishes, needs and concerns. It is the responsibility of

the attorney to be sure the individual has the testamentary, mental capacity to prepare and sign a will. The attorneys in our office are able to have these meetings virtually via video conferencing.

During this virtual meeting, the attorney can gather all necessary information for not only the will but also the power of attorney and living will/health care directive documents. Once the attorney has all the necessary information and has assessed the mental capacity of the individual, the attorney can draft the documents. The will execution is usually done at our office with the witnesses and notary present. This is the hardest part during this pandemic and social distancing.

Traditionally, during your will execution we have 2 witnesses and a notary on hand to notarize the documents. However, with virtual meeting and will execution the presence of witnesses and a notary are difficult. Some states have addressed this by allowing remote notarization. However, if an individual is social distancing at home with his/her family, it is likely any potential witnesses would be beneficiaries under the will. This is not recommended in that it disqualifies the witness to be a beneficiary in certain states and although allowable in Pennsylvania, non-disinterested witnesses can create an unnecessary potential undue influence, coercion or fraud will contest. Thus, it is recommended that the witnesses be disinterested and not the spouse of a beneficiary.

If the attorney's office is open on a restricted basis to perform certain "essential functions", the attorney and client can choose to meet in person. The client should be assured that our office will be taking all the necessary precautions including the CDC recommended cleaning of the office throughout the day.

Whether you need to re-evaluate your estate planning documents or draft them for the first time, our office is working every day and available to assist you.

PUBLICATIONS

All of the following professional publications and past newsletters written by attorneys of this office are available by clicking here: http://pozzuolo.com/Pubs_Articles.shtml

Corporate/Tax Articles

Bankruptcy - How To Prevent It And How To Cope With It Should It Happen To Your Business

Deferred Compensation Rewards And Retains Key Employees

Design Buy-Sell Agreements For Maximum Utility

How An S Corporation Avoids The Double Taxation Incurred When Excessive Compensation Is Treated As A Dividend

How Mortgage Lenders Should Draft Broker Agreements To Avoid RESPA Violations

How To Look, Act And Sound Like A Professional Corporation

How to Structure a Suitable Buy-Sell Agreement

How To Use Non-Qualified Deferred Compensation Arrangements As A Business, Retirement And Tax

Planning Tool

Money Purchase Pension Plan Falls Out Of Favor

Protecting A Client's Business From Unfair Competition Using Restrictive Covenants

Structuring Loans From Qualified Plans - How To Handle The Strict Tax Rules

What Type of Qualified Corporate Retirement Plan Best Serves Your Business, Tax And Retirement Needs

Why An Employment Contract Is Mandatory

Estate Planning Articles

Adapt Estate Planning Strategies to Fit the Needs of Same-Sex Couples

College Funding Tool Offers Estate Planning Advantage

Diversify Strategies For An Effective Estate Plan

Divorce and Estate Planning

Divorce Raises The Need For Performing An Estate Planning Review

Drafting The Durable Power Of Attorney For Wealth Protection Purposes

Estate Planning For Pet Owners

Remarriage Situations Can Raise Special Estate Planning Considerations

Six Proven Estate Planning Techniques

Special Needs Trust - An Estate Planning Tool For The Disabled

The Limited Liability Company -A Sophisticated Tool For Estate Planning

Using Trusts To Maximize Family Protection And Minimize Estate Tax

Why Living Wills- Advance Directives Are An Essential Part Of Estate Planning

This newsletter is courtesy of Pozzuolo Rodden, P.C.

To subscribe, unsubscribe, or for any questions, please contact us at INFO@POZZUOLO.COM.