Pasternak & Fidis Reporter

FALL 2023

ESTATE PLANNING AND ADMINISTRATION

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Preserving wealth... and relationships

What Your Future Probate Paralegal Would Like You to Know

BY BETTINA RISTAU, PROBATE PARALEGAL

When someone dies, getting down to the business of administering the estate (or trust) can seem like a herculean task, especially while grieving. Below are observations made by the probate paralegal team here at Pasternak & Fidis in response to common client assumptions that we share in hopes of easing that burden for your loved ones when the time comes.

My estate documents are signed – I am all set!

Estate planning does not end when the will and trust instrument have been signed. Your estate planning attorney has created a customized plan for you and your family after considering your family structure, assets, values, and tax planning objectives. Your estate plan is, in effect, a roadmap to ensure that your wishes are carried out upon your death. In that regard, your estate planning attorney will provide you with specific instructions for titling assets, funding trusts, and completing beneficiary designation forms for life insurance policies, retirement accounts, and annuities.

Your future probate paralegal would like you to know that when you follow through with those instructions during your lifetime, you are ensuring that your wishes as set forth in your documents will be carried out. Accordingly, please be sure to let your estate planning attorney know right away of any material changes in your assets or family composition or if you encounter any obstacles completing the follow-up tasks related to your plan.

Oh, my goodness – there is so much to do!

Your future paralegal would like you to know that at your death, every asset in which you have an interest as of your death must be identified, valued, analyzed, and administered.

Your valuable jewelry has not seen the light of day since your 20th wedding anniversary. Would someone in your family enjoy any of those

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pieces now?

Uncle Fester's grandfather clock that has been in the family for generations is only collecting dust. Perhaps one of your children or friends has just the spot for it in their home.

Do you *need* to maintain separate $15,000 checking accounts at three different banks? Perhaps they can be consolidated.

You haven't used your timeshare in years (and are continuing to pay the maintenance fees). Is that something you can transfer or terminate now? Where is the deed (or contract)? (Timeshares can be, truly, among the most troublesome and time-consuming—no pun intended—assets to deal with in an administration.)

Why do you ask for so many account statements?

The information the probate paralegal requests provides the paralegal and attorney with a comprehensive view of the decedent's assets and titling information, all of which, together, allows us to provide accurate advice and counsel. For example, we utilize the account statements covering date of death to discern date of death values and asset titling. With that information, we are able to determine whether there is a required estate tax filing. Estate tax return filings are deadline-driven, and the sooner we know whether one is required to be filed, the better. The asset titling information also allows us to determine the nature of the post-death administration; specifically, whether a probate proceeding is required, and the type of proceeding to recommend.

During the course of administration, the monthly account statements provide us with information regarding deposits made, assets collected, and expenses paid. We use this information to prepare estate tax returns and formal accountings, as applicable, and to coordinate with accountants for income tax reporting. This information is also used for certain court filings.

At the end of an administration, account statements enable us to project cash needs for any remaining taxes and administration expenses, estimate a cushion for unexpected liabilities, and calculate distributions to beneficiaries.

Your future probate paralegal would like you to know that when requested information is provided promptly during the administration process, we can proceed with your matter efficiently.

What if I am the surviving spouse?

Joint assets that pass to a surviving spouse by right of survivorship vest automatically, by operation of law, in the surviving spouse at the death of the first spouse. Often, for sentimental reasons and/or because it can be burdensome, the surviving spouse may not go to the trouble of removing the deceased spouse's name from the asset (*e.g.*, real property, a bank account, an investment account, or a vehicle). Please discuss with your estate planning attorney whether it is appropriate in your situation to update the titling of any property owned jointly with your late spouse.

Your future probate paralegal would like you to know that when you remove your spouse's name from an asset and, in the process, update the Social Security Number used for that asset's tax reporting (*i.e.*, from your late spouse's to your own), the post-mortem administration process at your later death will be more straightforward because there will be no need to confirm the death of the pre-deceased spouse.

Collectively, our probate paralegals (Sharon, Marla, Karen, and Bettina) have over 55 years of probate and trust administration experience. Above all, they would like you to know that, when the time comes, Pasternak & Fidis stands ready to assist your family through the process. ■

Entities Face Looming Reporting Requirements—Preparing for the Knowns and Unknowns of the Corporate Transparency Act

BY MICAH G. SNITZER

The Corporate Transparency Act ("CTA"), which takes effect on January 1, 2024, requires certain small- and medium-sized US corporations, LPs, LLCs, and similar closely held entities to report certain company information and beneficial ownership information to the US Treasury Department's Financial Crimes Enforcement Network ("FinCEN"). The CTA is expected to apply to 32 million entities which, until now, have not been subject to any similar federal reporting requirements.

The CTA requires "reporting companies" to file a report listing:

- Reporting company's legal name, trade name, DBA, address for principal place of business, and tax identification number.
- Each beneficial owner's legal name, address, date of birth, and unique identification number from an "acceptable identification document" such as a driver's license or passport and a copy of the driver's license and passport.

Reporting companies created prior to January 1, 2024, must file the initial report by January 1, 2025. Under the CTA's text, reporting companies created on or after January 1, 2024, must file the initial report 30 days from the entity's creation and a new report within 30 days of any changes (*e.g.*, change of ownership or change of address) or corrections that need to be made. Failure to meet the reporting requirements may result in fines up to $10,000, imprisonment of up to two years, or both. FinCEN has more recently proposed a deadline extension (90 days rather than 30) for entities formed in 2024, but the details of that proposal are not yet clear.

With so much uncertainty surrounding the requirements of the CTA, it is best to prepare now for the CTA before it goes into effect. Here are some practical tips to prepare for the CTA, whether you have old, unused entities collecting dust, are thinking about creating new entities sometime soon, or are operating full steam with existing entities.

OLD – Clean house

Formally dissolve any entity that you no longer need—ideally, do this before January 1, 2024. In particular, for single member LLCs, consult with a business attorney to determine whether the benefits derived from the entity outweigh the CTA's reporting requirements. If you don't need the entity, get rid of it. This year.

NEW – Act fast

If you do need an entity—that is, if you intend to establish a ***new*** entity in the near future (and the looming CTA has not dissuaded you)—then it's also better to do this sooner rather than later. Specifically, do it this year, before January 1, 2024, so that its initial report will not be due until January 1, 2025.

EXISTING – Get organized

Analyze Your Entity. In consultation with your business attorney and CPA, determine whether the entity is a "reporting company" required to file reports with FinCEN. This requires an analysis of the entity's structure, among certain other factors. Document the reasons for the determination.

Create Procedures for Gathering Information and Filing Reports. If you have determined that the entity is a reporting company, then work with your business attorney and CPA to identify what information must be collected and calendar when reports must be filed. To the extent necessary, contact an estate and trust attorney to identify what information the reporting company may need to collect about trustees and beneficiaries of trusts that own interests in the reporting company. Reporting companies should educate their officers, directors, managers, and beneficial owners on the importance of providing timely information to the reporting company in response to information requests so that the reporting company can file accurate and timely reports with FinCEN. In addition, reporting companies need to develop a process of gathering,

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STAFF SPOTLIGHT: Karen Williams

Karen Williams loves her collection of hats. We're not talking actual hats, but the metaphorical hats she wears in her personal life and around the office here at P&F. In her almost 15 years at the firm, Karen has served as our Receptionist, our Records Manager, and for the last seven years as a Probate Paralegal. Karen also helps train new employees, makes in-person stops to the local Register of Wills when only a face-to-face conversation will do, and generally uses her MENSA-approved, math-loving brain to make suggestions to improve processes. Her talent and experience bring distinct and extraordinary perspective to the office: where else can you find in one human someone who has been in turns a skate guard, a member of an award-winning gospel choir, and an aficionado of all things sci-fi? Karen has a big heart too, advocating for her three children and instilling in them her insistence to show kindness and respect to all humans. She is also grateful and proud to be part of a firm that welcomes diversity – including neurodiversity. "I feel seen and heard on a regular basis, and I know a lot of other people (particularly folks with learning disabilities and/or mental health issues) don't feel that way about their employers." Karen takes pride in her curiosity and her willingness to learn and take on new tasks, and we are thankful to be able to harness this asset to make our team even stronger.

Entities Face Looming Reporting Requirements

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storing, processing, and real-time monitoring any changes or corrections that must be reported.

Make It Easier. If the entity is a reporting company, encourage its beneficial owners to obtain FinCEN Identifiers when available (which, unfortunately, they are not—evidently, we must wait until January 1, 2024 to apply for them); this will enable the beneficial owners to provide and update their personal information directly with FinCEN, improving privacy for the beneficial owner vis-à-vis your reporting company and simultaneously reducing the administrative burden for your reporting company to relay updates from beneficial owners to FinCEN.

Consider Amending Governing Documents. To ensure that the entity can meet its reporting obligations, governing documents (*e.g.*, shareholders agreement or operating agreement), and even employment policies and agreements, can be amended to require all owners and certain employees timely to disclose required information or face a consequence.

There are many as yet unanswered questions about the CTA; as it goes into effect, there are sure to be more. In the meantime, FinCEN has some materials, including FAQs, on its website at https://www.fincen.gov/boi-faqs and offers a Small Entity Compliance Guide (links to which are among the FAQs on the FinCEN website). ■

UPDATE: Maryland Divorce Law Reform

The Maryland Legislature has continued a process, begun several years ago, of modernizing Maryland divorce law. Amendments became effective October 1, 2023. The Code changes eliminated fault grounds of divorce, repealed limited divorce, and created another no-fault ground for absolute divorce.

Until the most recent Code revisions, a party filing for divorce could allege both fault grounds (adultery; desertion) and no-fault grounds (separation; mutual consent). One of the major changes is the elimination of fault grounds, bringing Maryland in line with the growing trend towards no-fault grounds as the exclusive basis for divorce. Parties can still allege fault as one of the factors in the determination of property division and spousal support.

With the recent Code amendments, Maryland now has three possible grounds for an absolute divorce. The newly created ground of irreconcilable differences acknowledges that the spouses can no longer find common ground and continue their relationship. This ground does not require that parties assign blame for the breakdown, only that the breakdown has occurred and that it is irreparable.

The Code has long provided for an absolute divorce on the ground of separation and required that the parties have lived separate and apart, in separate abodes, for 12 months. The 2023 amendments reduce that period to six months. Notably, couples living separate lives under the same roof can now qualify as separated. For many couples, the ability to remain under the same roof while living apart, and while they negotiate a settlement and decide what to do with the marital home, can facilitate settlement and reduce the economic burdens of divorce; it allows them to maintain one household until they are ready to establish separate homes.

Finally, parties may divorce by mutual consent. This option requires both spouses to agree to the divorce and to submit a written settlement agreement addressing property division, alimony, and child custody.

The 2023 Code amendments also eliminated the limited divorce option. An absolute divorce severs the bond of matrimony. A limited divorce allowed for parties to live apart permanently but did not entirely end the marriage, meaning neither could remarry unless they later got an absolute divorce.

These recent changes to Maryland's divorce law, along with changes made over the past several years, are a continuation of a trend to modernize Maryland divorce.

Thanks to our Summer Associate **Karaz Axam**, now a third-year student at Howard University School of Law. In addition to making significant contributions to this update, Karaz proved invaluable around the Firm, helping out with research, drafting estate planning documents, and attending client meetings. Karaz has continued her work with us through the Fall semester, and we wish her the best in her legal career.

Our volunteer team.

In November, Pasternak & Fidis once again hit the fields and greenhouses of Red Wiggler Farm in Germantown, Maryland to lend a helping hand. Staff and attorneys braved the biting November elements to harvest vegetables, winterize the fields, and prepare growing pots for next season. Red Wiggler is a sustainable Care Farm where people with and without developmental disabilities come together to work, learn, and grow healthy food. Not only did we enjoy getting to know the staff at the Farm, but we had a great time giving back to our community.

Our team harvesting and bunching dinosaur kale.

P&F NEWS

Associate **Blaise Hill** married **Natalie Zazzara** in April. Welcome to the P&F Family, Natalie, and best wishes to the happy couple.

Best Lawyers, a peer-reviewed publication, and U.S. News have named several Pasternak & Fidis attorneys as the "best" in Bethesda, Maryland for 2023. Partners **Linda Ravdin** and **Vicki Viramontes-LaFree** were both recognized in the fields of Family Law and Family Law Mediation. Partners **Anne Coventry, Stephanie Perry** and **Adam Swaim** were all recognized in the field of Trusts & Estates.

Congratulations to **Stephanie Perry** on completing her term as President of BAMC. She immediately began her term as President of Bar Foundation of Montgomery County.

Partner **Linda Ravdin**'s most recent edition *of Premarital Agreements: Drafting and Negotiation, Third Edition*, published by the American Bar Association, was released this fall. This iteration builds on her work in the first and second editions of the same title.

Partner **Linda Ravdin** spoke at the 2023 Family Law Conference of the Kentucky Bar Association-American Academy of Matrimonial Lawyers in Louisville, Kentucky on April 26. Her topic was "Ethics and Malpractice in Drafting and Negotiating Premarital and Postmarital Agreements."

Partner **Linda Ravdin** presented on the topic of Premarital Agreements and Postmarital Agreements for the Family Business Owner with fellow attorney Wendy Goffe of Seattle, as part of ALI CLE's Estate Planning for the Family Business Owner 2023.

Associates **Christina Scopin** and **Micah Snitzer** gave a presentation to the MSBA Estate and Trust Study Group titled, "Navigating Estate Plans for the Modern Blended Family."

At the Bar Association of Montgomery County's (BAMC) annual Law Day celebration, partner **Stephanie Perry** received the Andrew L. Sonner Excellence in Diversity Award. This Award is given yearly to a member of the BAMC who has made noteworthy contributions toward the principles of diversity during the past year. The Award pays homage to the dedication of those who fought for a more inclusive bar association and a more just community, including continued efforts to extend the benefits and the protection of our system and our profession to all persons of all backgrounds, races, ages, genders and places of origin.

Partners **Anne Coventry** and **Stephanie Perry** were named in the 2023 Chambers & Partners High Net Worth publication as leading attorneys in the field of Private Wealth in Washington, D.C.

From left: Bar Association of Montgomery County Immediate Past President and Circuit Court Judge Jennifer Fairfax; Sondra Douglas; Stephanie Perry.

As President of the Bar Foundation of Montgomery County, partner **Stephanie Perry** supported the Foundation's Summer Scholars program, which enriches our legal community by bringing outstanding and diverse law students into Montgomery County law firms as summer interns.

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The attorneys of Pasternak & Fidis had a wonderful time supporting the valuable work of the Bar Foundation of Montgomery County at their annual Golf Charity Classic and Pickleball Tournament. Our firm's efforts, along with those of many other attorneys, helped raised money for various programs to help underserved populations around the county.

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