

Pasternak & Fidis Reporter

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ESTATE PLANNING AND ADMINISTRATION

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P&F's Newest Partner Micah Snitzer



Micah Snitzer became a partner in the firm's Estate Planning and Administration Group in early 2024, having joined the firm as an associate in 2014. He handles a wide range of estate planning matters, working with individuals and families to prepare wills, trusts, healthcare directives, and powers of attorney. He particularly likes the advisory role, working closely with clients to understand and achieve their estate planning objectives.

Micah grew up in a suburb of Minneapolis and earned his undergraduate degree from Colorado College, where he enjoyed the nurturing academic environment during the week and snowboarding on the weekends. He returned to Minneapolis to work as a legal assistant following graduation to gain insight into the legal profession, discovering that he truly enjoyed the work. Micah spent the summer before law school in Jerusalem, studying and spending time with his grandparents, where he observed the importance of having quality caregivers and supporting family members as you age.

Micah attended law school at Hofstra University, followed by a clerkship with a bankruptcy court judge in Baltimore. After his clerkship, he joined a law firm in Baltimore, focusing on bankruptcy and creditor issues, initially interested in helping businesses to reorganize successfully. One significant experience led Micah to work on a project assessing whether the assets of various trusts were protected from creditors' claims. Learning how certain types of trusts provide creditor protection sparked Micah's interest in estate planning, and he obtained an LL.M. in Taxation with a certificate in estate planning from Georgetown University Law School. This experience helped him realize the importance of collaborating with families to solve problems and protect their assets through effective estate planning. Micah believes that being a good listener and understanding his clients' goals and values are key to success in this field.

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Linda Ravdin Takes a Bow

Linda Ravdin is retiring from the practice of law at the end of 2024 after a 50-year career. She hung out a shingle (not literally; she worked from the lawyers' lounge at D.C. Superior Court) as soon as she passed the bar and began taking court-appointed criminal defense work. Later she switched to family law. After 22 years with Pasternak & Fidis in our Domestic and Family Law Group, countless accolades from local magazines, and a major treatise under her belt, Linda will hang up her law license but retain her honorific as the Grande Dame of Prenups. Linda was an early adopter of alternative dispute resolution in domestic cases: she encouraged clients into the collaborative process or mediation where possible, and she acted as a mediator and facilitator to assist parties in reaching settlements. For those curious about her next steps, Linda will increase her theatre intake

from 30-40 shows a year to 60-70 shows a year and will continue her enthusiastic support for Round House Theatre as a patron and Chair of the Emeritus Trustees Council. And, of course, Linda will continue regular visits to her adorable (yet far-flung) grandchildren. We will miss you, Linda—good thing you won't be far away! ■

Election's Impact on Estate, Gift, and GST Taxes

The federal estate/gift tax exemption amount and the generation-skipping transfer (GST) tax exemption amount are both \$13.61 million for 2024 (a \$5 million base exemption, doubled in 2017 to \$10 million and indexed for inflation). Under current law, this figure will become \$13,990,000 on January 1, 2025, but it is scheduled to drop significantly on January 1, 2026, when the 2017 law that doubled the base exemption sunsets.

Now, however, we know the election results, and they portend a shift of power in both houses of Congress and the White House. Gridlock in Congress would have meant that the sunset would happen by default, but now extension of the higher exemption levels beyond the January 1, 2026 sunset date appears more likely. This may alleviate urgency among those who had been feeling pressure

to create and fund irrevocable trust structures before the scheduled sunset to consume their gift tax exemptions (though those in DC and MD, and other states with a state-level estate tax, will still consider gifting in appropriate circumstances to reduce exposure to state estate tax).

Fiscal scoring on lost revenue from extending the higher estate/gift and GST tax exemptions may mean that Congress opts to extend them only a few years (or ten), rather than permanently, or it may mean a tradeoff somewhere else in the tax code. It's early days now, and we may see several competing proposals, or nothing at all until the issue becomes ripe for lawmakers' attention at the eleventh hour, when the sunset is upon us (or when those first estate tax returns for decedents dying January 1, 2026 are due to be filed). Watch this space. ■

Maryland Trust Decanting Act: Another Way to Turn Back the Trust Hands of Time

BY CHRISTINA K. SCOPIN

Many states provide tools for changing an “irrevocable” trust, and with the enactment of the Maryland Trust Decanting Act, Maryland lawmakers have provided another tool to improve irrevocable trusts in Maryland, but not without limitations.

I. What does it mean to “decant”?

Just as one might filter out impurities in wine via decanting, a trustee may correct errors or omit problematic trust terms by decanting (or distributing) assets of an existing trust (the “first trust”) to one or more new trusts with different, more favorable terms (the “second trust”). Trust decanting may be expressly authorized in the trust instrument or by state statute.

After the second trust, having the preferred terms, has been established by agreement or declaration, the trustee will direct that the assets be decanted from the first trust and distributed to the second trust. Thereafter, the decanted trust assets will be governed by the terms of the second trust only.

The grantor/settlor/creator of the first trust does not participate in the act of decanting. Neither do the beneficiaries. Only the trustee (or other authorized fiduciary) can decant a trust.

II. When might a trustee want to decant a trust?

Depending on the scope of the trust language or state statute, trust decanting can serve as a very useful tool to address trust problems or administrative inflexibilities, such as:

- Correcting drafting errors or ambiguities;
- Changing the situs of a trust;
- Changing the succession of trustees;
- Changing the investment standard for trust assets;

- Changing the standard of distribution and/or removing mandatory distributions or beneficiary withdrawal rights;
- Adding language to permit a trust to hold S corporation stock; and
- Changing a trust to a third-party special needs trust.

III. Alternative Ways to Change the Terms of an Irrevocable Trust

The Maryland Trust Decanting Act provides one additional tool to address select trust problems; however, the statutory decanting power may not always be the best tool available.

Express Trust Terms. Many trusts contain language allowing the trustee to change the situs of a trust, divide a trust into one or more shares, or grant a trust beneficiary the power to change the ultimate disposition of the assets of a trust (i.e., a general testamentary power of appointment). In addition, trusts may contain an express decanting power; indeed, when expressly included in a trust instrument, the trust decanting power typically is not limited by the same restrictions found in the Maryland Trust Decanting Act, thereby potentially allowing for broader application of the power.

Court Modification. Maryland law provides that a noncharitable irrevocable trust can be modified upon the consent of the trustee and all beneficiaries of the trust if a court concludes that the modification is not inconsistent with a material

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P&F NEWS

Systems Administrator **Sergio Arispe** and his wife welcomed a baby girl this summer. Welcome to the P&F Family, little one!

Partner **Stephanie Perry** has been elected to serve on the Board of Directors for the American College of Trust and Estate Counsel ("ACTEC") Foundation, a nonprofit focused on providing trust, estate, and tax learning for professionals, families, and law students. Learn more about the ACTEC Foundation at actecfoundation.org.

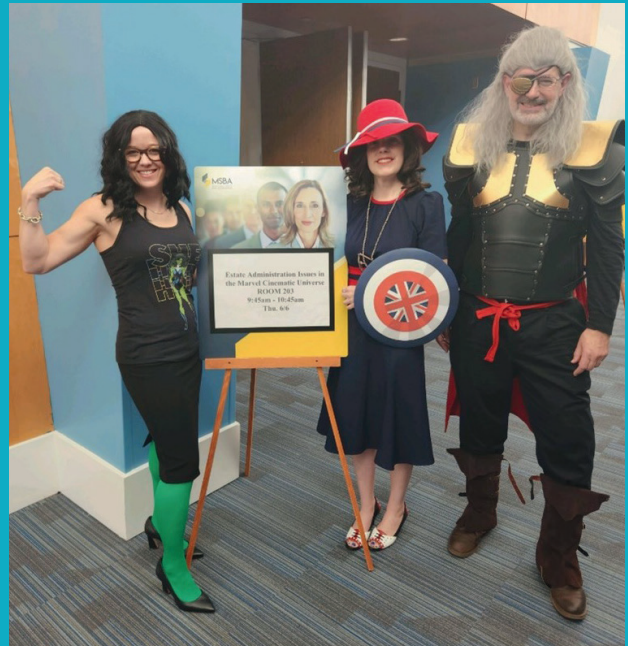
Partner **Anne Coventry** was elected to be one of the Maryland State Bar Association's Delegates to the American Bar Association's House of Delegates for the 2024-2026 term.

Congratulations to Partner **Stephanie Perry** for making The Daily Record's 2024 Power List in the field of Estate and Trust law.

Best Lawyers, a peer-reviewed publication, and U.S. News have named several Pasternak & Fidis attorneys as the "best" in Bethesda, Maryland for 2024. 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.

Partners **Anne Coventry** and **Stephanie Perry** were named in the 2024 Chambers & Partners High Net Worth publication as leading attorneys in the field of Private Wealth in Washington, D.C.

Congratulations to **Anne Coventry** and **Stephanie Perry** on being named to Bethesda Magazine's 2024 list of Top Financial Professionals.



Partners **Vicki Viramontes-LaFree**, **Linda Ravdin**, **Stephanie Perry**, and **Anne Coventry** have made the *Best Lawyers* list of the top attorneys in Maryland: Stephanie and Anne in Trusts & Estates, and Linda and Vicki both in Family Law and Family Law Mediation.

Partner Stephanie Perry was invited this summer to visit the Maryland Attorney Grievance Commission and Office of Bar Counsel to present to the office on best practices in estates and trusts.

Partner **Anne Coventry** presented (in costume as Agent Carter) to a packed house at the MSBA's Legal Summit in Ocean City in June, along with other Maryland ACTEC Fellows **Jonathan Lasley** (in costume as Odin) and **Kelly Preteroti** (in costume as She-Hulk), on "Estate Administration Issues in the Marvel Cinematic Universe."

Partners **Vicki Viramontes-LaFree** and **Linda Ravdin** were named by their peers in *Washingtonian's* recent list of Top Divorce Lawyers.



Associates **Andryse Leukeu**, **Blaise Hill**, and **Christina Scopin**, along with partner and current president of the Bar Foundation of Montgomery County (BFMC) **Stephanie Perry**, had a great time supporting the BFMC at its annual silent

auction and golf/pickleball event. The P&F team felt confident on the pickleball courts and enjoyed raising money for the Foundation.

Congratulations to former employee (and son of partner **Anne Coventry**), **Jack Walter**, on his recent wedding. Bright blessings of joy to the happy couple!

Congratulations to partners **Anne Coventry**, **Stephanie Perry**, and **Linda Ravdin** for making *Washingtonian Magazine* list of 2024's Top Lawyers.



WELCOME: Andryse Leukeu

Welcome to our newest attorney, **Andryse Leukeu**. A graduate of the University of Maryland Francis King Carey School of Law, Andryse worked previously at a Prince George's County law firm in estate planning and also clerked for the Orphans' Court for Baltimore City. She loves to travel, try new cooking recipes, and spend quality time with family and friends.

P&F's Newest Partner Micah Snitzer

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Reflecting on his upbringing, Micah credits his early experiences as instrumental in his decision to become a lawyer. He was inspired by watching his mother's lawyers help her navigate complex issues related to a family business. Additionally, he observed how his grandfather's estate planning lawyers helped create a trust that contributed to his college education. These experiences fueled his motivation to pursue a legal career. An early job as a plumber's assistant further shaped his work ethic; although he came home every day covered in dirt, he loved the camaraderie of his entertaining and welcoming co-workers, the joy of learning new skills, and of course the value of hard work.

As a homeowner, he now appreciates the practical knowledge of plumbing.

Micah met his wife, Rachel, at an event in Baltimore for young Jewish adults, and they instantly connected. They have two young children, a boy and a girl, and Micah treasures the moments when their faces light up upon seeing him. Outside of practicing law, he enjoys snowboarding, watching the Vikings and the Timberwolves play, cooking, barbequing, and spending time with family and friends. While he hasn't lived in Minnesota since before law school, anyone can tell upon meeting him that he has retained that affable Midwestern mentality and the distinctive Minnesotan accent. ■

Using Trusts to Negotiate Marital Agreements

BY LINDA J. RAVDIN

Marital agreements – premarital, postmarital, and marital separation agreements – generally provide for the rights of a surviving spouse and, in many cases, for the rights of a surviving former spouse. Parties negotiating such an agreement may find it useful to incorporate provisions for a trust to hold assets for the benefit of a surviving spouse or former spouse. Parties in a blended family may want to balance the economic needs of a spouse, whether the marriage ends at death or dissolution, with the wish to pass wealth to their children. A wealthy party may want to ensure that property he/she inherited from parents or grandparents stays in his/her bloodline and may not want it to end up in the hands of a surviving spouse's new spouse or other family members. Sometimes a key concern is to protect a party's exclusive rights to a family vacation home that has been shared by his/her extended family for several generations. For many couples, one or more trusts will be the most appropriate means to achieve these goals.

It is generally appropriate for a marital agreement to give parties the option to create a trust but not to mandate a trust. A wealthy party may therefore elect to leave some or all assets outright to a surviving spouse or may do the estate planning required to implement a contract term permitting him/her to leave assets in trust. A party who has the right to create a trust will need to take the steps necessary to do so. A trust can create tax savings, protect the assets from the elective share claim of a spouse's subsequent spouse, and preserve the decedent's right to control the ultimate disposition of his or her assets. Parties may wish to consider one or more of the following:

Irrevocable Life Insurance Trust (ILIT). If properly drafted and administered, an ILIT removes the death benefit under a life insurance policy from both spouses' estates for federal and state estate tax purposes, is not subject to the claims of

creditors, and provides a reliable source of income for the survivor. A party may create a trust and then the trustee acquires the life insurance policy. Parties negotiating for such a term in a marital agreement will need to determine whether the party to be insured can get a policy at a cost that is acceptable, whether to get term insurance (and the duration of the required term) or another type, such as whole life. They will need to agree on the amount of the required death benefit. The person who is to benefit from the ILIT may want to negotiate for the right to be sole trustee or a co-trustee. The marital agreement should specify the beneficiary's rights to income and whether he/she will be able to receive distributions of principal. The person entitled to be beneficiary will want the right to verify the status of the policy.

Qualified Terminable Interest Property

(QTIP) Trust. A QTIP trust can serve the objectives of both parties. It allows a wealthy spouse to do some estate tax planning using the unlimited marital deduction, control the management of assets and their ultimate disposition, and protect the assets from the claims of creditors as well as an elective share claim of a subsequent spouse of the beneficiary. At the same time, it provides for the lifetime economic needs of the surviving spouse. The agreement should specify the obligation to conform to federal and state tax law requirements, specifically:

- The surviving spouse must be entitled to all the income from the trust;
- The income must be payable at least annually;
- The surviving spouse must have the right to require that trust assets be made income-producing;
- No one other than the spouse can have an interest in the trust property during the surviving spouse's life.

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Maryland Trust Decanting Act

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purpose of the trust. Judicial modification may be the best route when the trustee or one of the beneficiaries wishes to obtain the court's approval with regard to a modification. A court may also modify irrevocable trusts for other reasons (whether or not the trustee and all beneficiaries consent), including (i) to further the intended purposes of a trust by addressing circumstances unanticipated by the grantor of the trust, (ii) to avoid continued impracticable or wasteful administration of a trust, and (iii) to achieve the tax objectives of the grantor.

Nonjudicial Settlement Agreement. Maryland law also allows interested persons to enter into

a binding nonjudicial settlement agreement with respect to matters involving a trust, to the extent that the settlement does not violate a material purpose of the trust and includes terms and conditions that could be properly approved by a court. "Interested persons" are defined as those whose consent would be required in order to achieve a binding settlement if it were to be approved by a court.

Whatever the tool used to adapt an irrevocable trust, it is important to discuss its intended use with estate planning counsel, and to employ it with an eye to precision rather than renovation. ■

Using Trusts to Negotiate Marital Agreements

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The settlor of the trust can reserve the right to select the trustee. Counsel for the weaker party may wish to negotiate for a requirement that the trustee be an independent person, and not a member of the wealthy party's family, or a financial institution, or both, or that the spouse be a co-trustee. It will often not be in the survivor's interest for the trustee to be an adult stepchild. The agreement can give the spouse certain rights, such as the right to request the trustee to make distributions of principal for his or her health, education, maintenance, and support. It could restrict his/her right to invade principal if he or she remarries. It can also require the trustee to consider other resources available to the beneficiary before invading principal.

Qualified Domestic Trust (QDOT), a trust for a

non-citizen spouse. Federal estate tax laws do not permit the estate of a decedent to utilize the unlimited marital deduction for a bequest to a surviving spouse who is not a U.S. citizen unless the property is placed in a QDOT. Therefore, when the spouse for whom a wealthy party agrees to make provisions at death is not a U.S. citizen, a QDOT may be the appropriate option to receive property the parties intend to meet the needs of the widow or widower.

In the absence of a contract, a surviving spouse has certain default rights to a share of the assets of a decedent, and to receive these assets outright and not in trust. Therefore, parties who wish to be able to utilize a trust to provide for a surviving spouse must negotiate for the right to do so in the marital agreement. ■

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Corporate Transparency Act Update for LLCs, Partnerships, and Corporations

The Corporate Transparency Act (“CTA”) took effect on January 1, 2024, requiring 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”).

On December 3, 2024, a federal district court in Texas issued a preliminary injunction to prevent enforcement of the CTA nation-wide; the DOJ filed a notice of appeal on December 5. FinCEN has issued an alert temporarily suspending reporting requirements while the federal order remains in force.

The CTA requires “reporting companies” to file a report listing:

- Legal name, trade name, DBA, address for principal place of business, and tax ID 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 that driver’s license or passport).

But for the injunction, reporting companies created prior to January 1, 2024 had been facing a January 1, 2025 initial report filing due date (and reporting companies created on or after January 1, 2024 were required to file initial reports within 90 days of formation).

There are both civil and criminal penalties for non-compliance under the CTA.

Pasternak & Fidis is not undertaking the preparation and filing of reports. Read more and get links to additional resources:

