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Leadership is not about changing the mindset of the group, but in the cultivation of an environment that brings out the best and inspires the individuals in that group.

- Arthur F. Carmazzi

I can hardly believe that in just a short two weeks or so, my term as President of Texas ALP will be over and done. Deciding what to share in this, my last Docket President’s Message proved challenging. I have truly enjoyed my entire term in each Texas ALP office that I held. I hope that over the past year, I have been encouraging because I believe our members should be the best they can be in every aspect of their lives.

This year, one of my goals was to show every member that they are an important piece of the puzzle that makes up Texas ALP and that every member has leadership potential. I was lucky to have lots of leaders serve as this year’s officers and chairs. We served as a great, cohesive team. I believe a team is a distinguishable set of individuals who interact dynamically, interdependently and have the ability to adapt to achieve specified, shared, and valued objectives. The officers and chairs this year showed their team commitment to be a part of Texas ALP by serving in their capacities for the betterment of our association.

Next year under Samantha Tandy’s leadership, I encourage each member of the Texas ALP team to play their greatest game and commit yourself to be the best in your field. You know the benefits our tri-level association has to offer, do you share those benefits with your peers? Do you volunteer to help on committees and offer up ideas? Our tri-level association always needs ideas and our team of leaders always needs support. By being part of the Texas ALP team, you will notice that the team members not only care for one another, but we communicate and grow together. We all share the same goal of being the utmost professional—not only for our own self-esteem, but also for others. Texas ALP continues to need your support. Contact any of the officers and see how you can be a part of this awesome association—because you know you’re a leader!

Being President and certainly a member of Texas ALP continues to enrich my life as a legal professional. Thank you for affording me the privilege of serving. See you in Lubbock!
Leaders vs. Followers

When leaders make a mistake, they say, “I was wrong.”
When followers make a mistake, they say, “It wasn’t my fault.”

A leader works harder than a follower and has more time;
A follower is always “too busy” to do what is necessary.

A leader goes through a problem;
A follower goes around it and never gets past it.

A leader makes and keeps commitments;
A follower makes and forgets promises.

A leader says, “I’m good, but not as good as I ought to be;”
A follower says, “I’m not as bad as a lot of other people.”

Leaders listen
Followers just wait until it’s their turn to talk.

Leaders respect those who are superior to them and try to learn
something from them;

Followers resent those who are superior to them and try to find chinks
in their armor.

Leaders feel responsible for more than their job
Followers say, “I only work here.”

A leader says, “There ought to be a better way to do this;”
Followers say, “That’s the way it’s always been done.”
Be a Texas ALP Leader!

Keep Connected!

Changed your preferred e-mail address?
Have a new employer?
Changed your name?
Moved?
Passed a certification exam?

Notify—
Helene L. Wood, PP, PLS, TSC
communications@talp.org
Texas ALP/President-Elect's Report on the NALS Professional Development Conference in Tulsa

Howdy Texas ALP friends,

I hope that you are having a rock star week! I wanted to take this opportunity to introduce myself, to those of you who don’t know me, and give you a report of the NALS Professional Development Conference that took place in Tulsa, Oklahoma—NALS’ headquarters.

My name is Samantha Tandy and I have the distinct honor serving you as the Texas ALP President-Elect for the 2013-14 year. If we have not yet met one another, I look forward to meeting you soon!

In March, I traveled with your wonderful incoming President-Elect, Marty Olson, to Tulsa. It was an energized weekend filled with intriguing leadership education and networking with members from all over the country. Thursday night there was a kick-off reception where you could meet members of the newly elected Board of Directors and mingle with NALS' buds you hadn't seen for a while. The keynote speaker on Friday morning, Kevin Barrett, gave us the "inside scoop" of Top Ten Things Your Attorney Wished You Knew. He engaged the members in an interactive session allowing for feedback and questions along the way. After the keynote speaker, the Board of Directors shared their vision of how NALS has to enhance our membership through technology as well as emphasize our greatest asset as an association: OUR MEMBERS and the knowledge they have. At the NALS Annual Meeting, October 2-4, 2014, in Houston, a smartphone app will be revealed and available to download on both the I-Phone and Android platforms funded by the NALS Foundation. The Board of Directors were very enthusiastic about this new technology as it will allow members and non-members alike to use the app for all things legal. The Board of Directors also encouraged the members to give them feedback as to what you want to see put on the app that will be beneficial to you as you work on a daily basis. The smartphone app is in the planning stages and proves to be a great way to invite people from all walks of life to come to our association for the legal go-to answers. Be looking for status updates and watch for opportunities to submit feedback for this incredible use of the talents, wisdom and knowledge of all NALS' members. The rest of the weekend was filled with luncheons and more education on leadership (Tips and Tools; How To's for Successful Leaders; and, Coaching session with leaders from all levels of NALS) and CLE topics: Office Ethics, Litigation Technology and iPads in the Courtroom, How to Conduct an Investigation, Microsoft Office 2013 and Windows 8 to name a few.

As you look towards the upcoming year make plans now to take our association to the next level with implementing technology to share information with each other in your local chapters.

As always, I am here if you have any questions. I am excited about the upcoming year!

In friendship,

Samantha

Samantha Tandy, PLS
2013-2014 TALP President-Elect
Top 5 Ways to Minimize Interruptions

How can you get your work done if you have constant interruptions? You can’t . . . and it’s very frustrating.

You have to practice self-defense when it comes to interruptions. If you don’t take steps to minimize them, your time will be wasted and your productivity will suffer.

Studies show that the average worker is interrupted every eight minutes. The same studies reveal that 15% of the interruptions are important, while the remaining 85% are a waste of time.

Telephone calls and e-mail are major culprits, but even worse are the two-legged interrupters: your co-workers.

Here are five tips to minimize those two-legged interruptions and keep you in the productivity fast lane:

1. Stand up when someone enters your workspace . . . or when they’ve over-stayed their welcome. When you stand, you send a message that the meeting will either be brief or that it has ended. This works every time. You start moving, they start moving…end of interruption.

2. Never ask “How are you?” when someone stops by your office. This is an open invitation to chat. Do you really want to hear about their gallbladder surgery? Instead, ask “What can I do for you?” This will get you right to the point of the interruption.

3. A bit of creative workspace re-organization goes a long way. If your desk faces the door, turn it so you don’t look right into the hallway at everyone who passes. Once they make eye contact, they always stop to chat.
   Can you remove your chairs? If not, stack some files on them so the office pest (IE time waster) can’t take root for a half hour of blah blah blah. Last, NEVER have a bowl of candy on your desk. Who can resist a handful of M&M’s . . . and a little conversation to go along with them?

4. If you’re asked to answer a ‘quick” question or someone wants ‘just a minute’ of your time, beware! Your first question should be, “How much time do you need?” If you have the time available, go for it and hold them to the deadline. If you don’t have a spare fifteen minutes, schedule an appointment with them later.
   Rehearse a few lines like: “I’m sorry but I need to finish this deposition summary in the next hour. Can we talk later?” or “Attorney X is waiting for this research. I can spend some time with you at 2:00 this afternoon.” If you use lines like these, you’ve turned the tables and you’re now meeting on your own terms.

5. Urge co-workers to accumulate their questions. They should save all but urgent issues to discuss with you in one chunk of time. It’s much more productive to spend twenty minutes discussing five client matters than it is to talk about one client matter for ten minutes every hour.

BONUS TIP: Don’t interrupt yourself! Determine the time of day you are most productive (early morning? mid-afternoon?) and make yourself unavailable to the world during that time every day. Shut your door. Turn off anything that might be noisy or distracting. Stock your desk with all the supplies you need to eliminate unnecessary trips to the supply room. Practice what you preach: gather your questions and assignments and interrupt your co-workers only once.

Your challenge: Make a short list of the interruptions you will allow. For all the rest, decide which of today’s tips you can implement to minimize them. Once that decision is made, take the necessary steps to curb those interruptions and you’ll find yourself on your way to a more productive day.
254 Different Ways to e-File

By Barbara Sucsy, Lubbock County District Clerk

I hope that you are now aware that the Supreme Court adopted newly-revised Rules of Civil Procedure on December 13, 2013, with an effective date of January 1, 2014. And I know that you have read these rules and understand exactly how to handle everything contained in those rules. You don’t? Well, neither do the clerks. In fact, some members of the County & District Clerks Association of Texas refer to the revised rules as the official clerks’ retirement bill.

In fact, through listserv for clerks, it is reported the current number of clerks retiring this year is somewhere around 70.

Fortunately for us, the Judicial Committee on Information Technology was created in 1997 and has been meeting regularly to provide policies and guidelines for filers and clerks. I have several friends on this committee and I am confident that they are working through the questions and will provide answers to us as quickly as they can.

The counties were divided into groups for implementation of mandatory e-filing based on population. The largest counties went live with mandatory in January (many of those counties already had mandatory e-filing). They were able to address problems and solutions that have been passed down to the other counties not yet under the mandatory category. Many of the smaller counties are faced with implementing e-filing for the first time. Their job will be enormous, where we are fortunate to only be making modifications to what we are already doing.

Lubbock is scheduled for July 1 mandatory, and we are working many hours toward that goal. While this may not mean anything at all to you, it is important that you know that each clerk will experience problems unique to their case management systems. Lubbock County uses a vendor that has programs for data entry/case management. The data entry is based on data entry of specific 4-letter codes to designate filing types and/or documents. On January 1 of this year, we had over 4000 codes that are used by 14 different courts. Those codes are used to generate reporting required by TDCJ and the Office of Court Administration. Any change in those codes has to be reconciled with whatever report is generated. The statistical data contained in those reports determines eligibility for funding and grants that keep counties in business.

We have had daily and/or weekly meetings with the clerks, JPs and local court administration to go over each code with the ultimate goal of eliminating at least 3000 of those codes. The various reports are being modified to pull only the remaining codes. Once that portion is finished, I will have to rewrite training manuals for each clerk category type in my office, i.e., civil clerks, child support clerks, counter clerks, bookkeepers, issuance clerk, juvenile clerk . . . . I think you get the picture. Each manual contains about 200 pages.

The final result will be full integration between your filings and our case management system, with the eventual goal of going paperless.

When the rules first came out, I prepared a chart for e-filers which designates when and why we will be “returning for correction” or “rejecting.” We held two training sessions for e-filers and the chart was distributed to attendees. The project manager for statewide e-filing said it was the best chart he had seen statewide and asked for permission to post to their website. As a precaution, I sent it to the Office of Court Administration. Suggestions were made, which I didn’t necessarily agree with (other clerks agreeing with me). For example: If you e-file a petition with my office and the style of your case lists another county, my assumption would be that it is rejected. Incorrect, OCA said we would need to return for correction. My position remains that it doesn’t matter
how many times it is sent to me with corrections; it still can’t be filed in Lubbock County.

I recently learned that JCIT is working hard at establishing consistent criteria for clerks to determine whether to accept or reject, and to clarify our responsibilities. Look at Rule 21c. The burden of redaction falls on the filer. If some of the sensitive data is required by “statute, court rule, or administrative regulation,” the filer is required to designate that the document contains sensitive data. Clerks are then prohibited from posting that document on the internet. What happens if the filer fails to identify the document as containing sensitive data? The answer is: “The clerk may not refuse to file a document that contains sensitive data in violation of this rule. But the clerk may identify the error to be corrected and state a deadline for the party to resubmit a redacted, substitute document.” This would imply that the burden then falls on the clerks to actually read the entire pleading to check for sensitive data. I asked OCA about this and was told that they are working on this—it was never the intent of the Supreme Court to place the burden of review on the clerks.

Rule 21c(a)(3), identifies one portion of the definition of sensitive data as a birth date, home address, and the name of any person who was a minor when the underlying suit was filed. Does that mean the birth date, home address, and the name of the minor? Or does it mean the birth date of any party, the home address of any party, and the name of the minor………still waiting on an answer to that.

Also, let’s pretend that you are the alleged father and the filer is seeking to establish the parent-child relationship between you and the child. It’s possible interpretation that the rules provide that the child could be identified by initials only, without listing a birth date. How will you defend yourself? The only information you are given is the name of the mother.

Currently there is no official list, or even a generic list, that identifies which statutes, rules or regulations require the inclusion of any sensitive data. Clerks have been left on their own to determine “rejection for correction” of documents containing sensitive data. Some offices file everything with language at the top of the pleading that the document contains sensitive data, and get upset when the image is not available online.

Overall, I am really excited about the possibilities that e-filing represents, including the reduction in costs for copies, employee time, and accessibility to imaged documents almost instantly. We are now preparing citations, subpoenas and other types of issuance electronically and returning those documents to filers in one-third the time it took to do the paper versions. As filers, please be patient as this system works out the kinks and the clerks become educated as to policies and procedures. It’s a learning process for all of us.
1 eFile. TXCourts.gov™ Quick-Reference Guide

Topics Covered in this Document
- Registering as a User with an Existing Firm
- Logging in
- Case Search
- Filing into an Existing Case
- Filing a New Case
- Entering Party Details
- Entering Filing Details
- Review Envelope and Filing Summary
- Technical Support

Registering as a User with an Existing Firm

You can register as a user if your Firm Administrator has already registered with the site and has approved users to self-register.

Note: You must know your firm's name to set up your account. The Firm Administrator may not allow users to self-register. If this is the case, your firm's name is not available when searching, and you must contact the Firm Administrator to be registered.

Perform the following steps to register as a user in the firm:

1. Click the Register Now link on the login screen.
   The Registration Wizard opens. Note: There is no fee to register to use the site.
   Note: Registration options vary by site.
2. Select the User with an Existing Firm option.
3. Click the Next button to select your firm, or click the button to cancel the registration process.
4. Type your Firm Name, or click the Search button to view a list of all available firms.
5. Select your firm's name from the list.
6. Click the Next button to enter your account information; click the Previous button to return to the previous screen; or click the Cancel button to cancel the registration process.
   Note: An asterisk (*) indicates required information.
7. Complete the User Information form.
8. Enter a simple Security Question in the field provided. (Example: What was your high school mascot?)
9. Enter a Security Answer in the field provided.
10. Click the Register button. The site displays Your Registration is Complete message on the screen.
11. Record the login details displayed for your records.
12. Click the Finish button.
13. Go to your e-mail inbox to access your registration confirmation e-mail.
   Note: You must verify your e-mail address to complete the registration process. A verification e-mail (no-reply@eFileTexas.gov) will be sent to you. Open the e-mail and click the link to confirm your e-mail address. If you don't see the e-mail in your inbox, check your junk mail folder for the e-mail.
   Your registration is now complete. Once you have received your e-mail confirmation, return to the efile home page to log in.
Tex. App. or Tex. Civ. App.? Writ or Pet.?

- **1981**

- **September 7, 1997**
  - Before = writ
  - After = pet.

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**Reading Case Citations**

*Furman v. Georgia*, 408 U.S. 238 (1972)

- **Case Name** (italics with comma after)
- **Year of Decision**
- **Name of Reporter**
- **Vol. No.**
- **Beginning page**
Mica DeScioli was nominated because she is an important piece of the HALP puzzle. Although she has been a member for less than two years, she has become very active in her local chapter. Mica was a paralegal student at the University of Houston. As two HALP members were waiting to make a membership presentation to the paralegal class, Mica made eye contact and flashed her warm and friendly smile. She was excited to join as a student member. Mica wanted to get involved in an association that promoted her new profession and began attending HALP’s monthly education and business meetings. Mica volunteered to assist the HALP board and committee members and got involved in the 2012 Court Appreciation Night. She is a great example of a legal professional. She is smart and a good listener and does not hesitate to offer her ideas. She is interested in the networking and educational opportunities HALP has to offer its members. Mica stepped up in May 2013 and became HALP’s membership committee chair. She is a breath of fresh air and a valued member of our association.

1. What is it you like best about working in the legal field?
One of the things I like best about working in the legal field is the versatility and constantly being challenged.

2. What do you enjoy most about being a “Piece” of your local chapter?
The thing I enjoy most about being a "Piece" of my local chapter is the friendships that have developed with other members.

3. What do you enjoy most about being a “Piece” of the Texas ALP Puzzle?
The thing I enjoy most about being a "Piece" of the Texas ALP Puzzle is all the wonderful connections that are made from being part of such a wonderful organization.

4. What have you gained from being a “Piece” of the Puzzle?
I have gained so many things from being a "Piece" of the Puzzle, wonderful friendships, personal growth, and confidence, are just a few.

5. Tell us anything you would like us to know about your family/personal life so that your Texas ALP friends will know you a little better.
My husband Tom and I are excited to announce that we are in the early stages of the adoption process.
in • spire | in^{1}\text{spīr} |

1 fill (someone) with the urge or ability to do or feel something, esp. to do something creative: [trans.] His passion for justice inspired him to advance his career as a paralegal with NALS.
- create (a feeling, esp. a positive one) in a person: Their enthusiasm inspires those around them.
- (inspire someone with) animate someone with (such a feeling): She inspired her co-workers to become certified with NALS.
- give rise to: The conference was successful enough to inspire people to register for the next one.

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www.nals.org

engage
inspire
enhance
promote
Friendship Casserole

2 - lbs ground beef
1 - 48 oz jar spaghetti sauce
2 - tablespoons sugar
1 - (16 oz) pkg medium egg noodles
½ - cup margarine or butter
½ - teaspoon onion salt (or onion powder)
½ - teaspoon garlic salt (or garlic powder)
½ - cup grated Parmesan cheese
1 - 12 oz pkg shredded mozzarella cheese

Preheat oven to 350°. Brown meat and drain fat. Add spaghetti sauce and sugar to meat; simmer 20 minutes. Cook noodles as directed (ALdente); drain and toss with margarine, salts and Parmesan cheese. Spray two 9x13 pans with non-stick spray. In both pans layer half the sauce, all the noodles, rest of sauce; top with mozzarella cheese. Cover with foil; bake 45 minutes.

*You can also add some sautéed green bell peppers, onions and mushrooms to the sauce. Make sure the person you are gifting this wonderful casserole to likes the veggies. If not just leave them out.

*Note: Since this recipe makes enough for two casseroles, plan one for your family and one for a friend.

Ok, members, let’s see what you have been baking!
Have a favorite recipe that you think the other members would like, submit it, and it might just end up in the next Docket. Ready! Set! Bake! Share!
Estate Planning – Real and Digital

The End is Coming!
Statistically speaking 100% of people born will die. It’s a simple statement, but we seem to forget that as often as possible.

No one wants to talk about incapacity, death, or what we want for our family after we are gone. However, not talking about these things can be far worse than the “uncomfortableness” we feel when having those conversations.

You can’t prepare your loved ones for the emotional rollercoaster that will follow your death; no one can. You can, however, attempt to lessen the burden and pain by planning ahead; by making decisions for yourself and your estate.

What documents do you need?
There are several documents every individual should have in their arsenal for “that day:”

1. **Will**—Used to dispose of your property in a manner you decide, instead of allowing the government to make those decisions;
2. **Medical Power of Attorney**—Used to designate an individual to make medical decisions on your behalf when you become incapacitated;
3. **Directive to Physicians and Family**—Used to authorize which life-prolonging treatments are used if your medical condition becomes terminal;
4. **Out-of-Hospital DNR**—Used to let medical personnel and health care professionals know you have chosen not to undergo resuscitation measures;
5. **Durable Power of Attorney**—Used to designate an individual to make personal and financial decisions on your behalf;
6. **Declaration for Mental Health Treatment**—Used to authorize (or exclude) the varying degrees of care in the event of debilitating psychosis;
7. **Disposition of Remains**—Used to direct your family on your desires for funeral services and cremation decisions; and
8. **A Living Trust**—Used to help manage your assets during life and to distribute those assets at your death.

Over the next few months we will feature a separate blog on each of those documents.

But why is estate planning so important?
When someone dies with no estate plan, the government, or sometimes a judge, must determine how to divide that person’s property. Under Texas law, this means invoking the Texas Intestacy Scheme. For anyone without legal training this can be extremely confusing, and if I’m being honest, it’s confusing for those of us with legal training.

Distribution of assets would depend on whether a person left behind a surviving spouse, surviving children, parents, siblings, whether or not the surviving spouse was the other parent of the surviving children... See? Confusing. Plus, if someone dies leaving no family behind, their property
becomes the property of the state in which they died. Yes. You read that correctly, the government can get your stuff if you haven’t made your wishes known.

As you can see, there are so many unpredictable scenarios when it comes to death and property and you risk everything by not planning ahead. Drafting the documents listed above allows you to make decisions and control who, what, when, where, and why your property gets distributed.

When is the best time to plan?
Now. Whatever season of life you are in now is the right time. It’s only too late when you aren’t here to do it anymore. Contact your Estate Planning attorney and ask them what you need to get started and then sit down with your family and make what could be the most important decisions of your life.

Remember, however, one time may not be enough. Anytime a significant life event occurs you need to reevaluate your Estate Plan to make sure it’s still in line with what you want.

Don’t forget to watch for the rest of the Blogs in this series and start thinking about your Estate Plan today!

Estate Planning Series Continues

Welcome to entry #2 of our estate planning series—Estate Planning 101. When it comes to “getting your affairs in order,” writing a Will is the quintessential first step.

If you will recall from Estate Planning 101, a Will is “used to dispose of your property in a manner you decide, instead of allowing the government to make those decisions.

A Whole New Level of Sibling Rivalry
Remember fighting with your annoying little sister over just about everything? She was jealous of the pair of shoes you just got or the boyfriend you were dating and frankly you wanted nothing more than to rub them in her face.

Unfortunately your relationship with your sister only got worse as you got older. She lost touch with your family and you haven’t spoken in years.

Sadly, your dad just lost a tough battle with cancer and left behind a large oil business; which you have been running since your dad became sick. Over the last several months you had many a conversation with your dad where he indicated that the oil business was to be yours; but surprise...your dad didn’t leave a will. Now that annoying little sister wants what’s coming to her and without a will you are considered equal heirs under Texas law. She will get her half.

The scenario above is an extreme situation but is helpful in demonstrating the importance of having a will.
Texas Intestacy Scheme

“Dying intestate” is a fancy way of saying “dying without a will.” In Texas, when someone dies with no will, the division of their property will be determined based on the Texas Intestacy Scheme. In creating the Texas Intestacy laws, lawmakers attempted to make general divisions that an individual might make for themselves. But of course, the lawmakers don’t know you or your family and their “attempt” could be the exact opposite of your desires.

Texas law would assume all family members are still communicating and that a parent would want to split their estate equally among their beloved children. In the above situation, you can see the problems that would cause.

Unfortunately, the Texas Intestacy Scheme is like a “choose your own adventure” book where the outcome depends on how many relatives of the decedent are still living. With so many variables, it is difficult to list all of the possible outcomes here.

—See Tex. Prob. Code § 38

What can you do about it?

Make sure you have a Will. A Will is a document that puts the world on notice as to how you want your property to be divided upon your death. A Will can be as simple or complex as you want. It may be drafted by an attorney, it may be in your own handwriting, and it may even leave property to one child and leave out another. A Will is what you make it.

That’s not to say, however, that there are no legal requirements for a Will.

Formalities of a Valid Will

There are two types of Wills, the Holographic Will, and the Formal Will.

Holographic Will

A Holographic Will is probably the simplest Will that can be written because it requires no attorney, legal training, or witnesses.

The Holographic Will must be wholly in the person’s own handwriting. This means 100%. This means that you can’t print a fill-in-the-blank form because everything must be in the person’s handwriting. It must also be signed by the person making the Will.

—See Tex. Prob. Code § 60

Formal Will

A Formal Will is a document, generally drafted by an attorney, that must be signed by the person making the Will and two credible witnesses who have no interest in the Estate. A Formal Will will likely distribute property through General Bequests and Specific Bequests, create contingencies, and address the remaining interests in case a beneficiary predeceases.

—See Tex. Prob. Code § 59

A Formal Will is also marked by a very formal Will Execution ceremony. Because a Formal Will must be signed by two credible witnesses, it is customary to also execute a Self-Proving Affidavit, which allows the witnesses to state that they saw the testator sign the will, heard him say this was
his last will and testament, and that he appeared to be of sound mind. This eliminates the need for
the witnesses to appear in court when the Will is brought for probate.


Where do you start?
Start by sitting down and deciding just how you want your stuff divided when you pass. Some
people draft their Will after some major life-event, often when a relative has angered them. Don’t
write your Will when you’re angry. When you know who gets what, start planning for who else
should inherit in case your primary predeceases you.

Once you know where your stuff is going to go, schedule a meeting with your estate planning
attorney and start the process of drafting your Will. Once your Will is properly executed, it will
remain valid until it is revoked. Please remember that anytime a major life event occurs, i.e. a
marriage, birth, divorce, or death, you need to revisit your will and ensure it still meets your wishes
because a Will may be revised or revoked at any time by the maker.

Estate Planning Series Continues

Welcome to entry #3 of our estate planning series—Estate Planning 101.

If you will recall from Estate Planning 101, a Medical Power of Attorney is “used to designate an
individual to make medical decisions on your behalf when you become incapacitated.”

Do They Know What You Want?
If you were incapacitated, who would you want to make your medical decisions for you? I bet
that’s a tough one!

Do they know your religious beliefs? How about what conditions you would want the Doctor to
cease providing medical care? Have you taken the steps to ensure that this person can legally
make these decisions for you?

Pulling the Plug – Harder than you think
Many of you may have read the article recently where a young man was paralyzed after he fell from
a tree stand while hunting.

Following his accident, the doctors informed the family that he would be paralyzed from the
shoulders down, and may never breathe on his own again. A tough prognosis for such an athletic
outdoorsman. Unfortunately, this young man had not planned for a scenario such as this.

Very unsure of how to handle the situation, the family chose to bring their loved one out of
sedation and let him choose for himself. He made the decision just twenty-four hours after his
accident to forego any other life-sustaining treatment and to die in the presence of his loved ones.

Decisions concerning end-of life care and incapacity can be the most difficult decisions for anyone
to make. Most often, these types of decisions are left to loved ones; and in so many situations these
decisions tear families apart. Most people however, don’t want to discuss these topics, and don’t know where to start.

There is a solution.

**The Medical Power of Attorney**
A Medical Power of Attorney is a document signed by an individual, or “Principal,” that designates who will make almost all medical decisions concerning the end of life or life after incapacity. Once a person becomes incapacitated the power granted under the Medical Power of Attorney kicks in and the named agent is allowed to act on the Principal’s behalf.

Remember, this doesn’t just mean unresponsive or unconscious because someone can be incapacitated, or incompetent, and still be fully awake and communicating.

It is very important when deciding to designate someone as your agent under a Medical Power of Attorney to ask that person’s permission. You don’t want them to be thrust into making difficult decisions that they never agreed to make.

Further, you want to choose someone you would trust with your life—because that’s exactly what is happening. Under Texas law, any person may be named as an agent except the principal’s health care provider, residential care provider, or their employees, unless they are a relative of the principal.

— See **Tex. Health & Safety Code § 166.153**

In most instances the person named is a spouse or other family member who knows the principal best.

It is also extremely important to discuss your wishes with that person. If you name an individual in a Medical Power of Attorney and never tell them what you want, you put them in a position of great power and burden and risk them making a decision you would never want to live with.

**What Powers are Granted?**
Generally, an agent named in a Medical Power of Attorney can make any decision for the principal that the principal could make for themselves if they were not incapacitated. However, before the Medical Power of Attorney becomes effective, the principal’s attending physician must certify in writing that the principal is incompetent.

An agent must then act, to the best of their ability, in accordance with the principal’s wishes and religious beliefs. The agent may not, however, consent to certain treatments such as convulsive treatment, psychosurgery, or abortion.

Please note, however, if a principal objects to a treatment or the withholding of treatment, the principal’s wishes prevail regardless of the effectiveness of the Power of Attorney or the competence of the principal.

— See **Tex. Health & Safety Code § 166.152**
**Is there an expiration date?**
The Medical Power of Attorney is effective unless it is revoked by the principal or if the principal regains competency. Therefore, it can be revoked at any time by signing a new document or giving notice to the agent that the document has been revoked.

A Medical Power of Attorney may further be revoked by a divorce between the principal and named agent if they were married at the time of signing the document unless the Medical Power of Attorney states otherwise.

**Get Started Now!**
Statistics show that you are most likely going to become incapacitated before you actually die. Planning for your incapacitation is not difficult, nor is it even expensive, and it is something that you have to do now while you are healthy.

Give yourself some peace of mind, and give your family some peace of mind because they will have enough things to worry about when the time comes, and contact your Estate Planning Attorney to get your affairs in order.

**I’m Dead, Why Do I Care?**
Why would you worry about the disposition of your remains? What does that even mean? Are there really that many options?

When a person dies, someone must make decisions concerning their burial and funeral arrangements; they must “dispose” of the deceased’s remains.

In fact, family members have a legal duty to “inter” (bury) the deceased and to pay reasonable costs to do so.


In Texas, you have three options when determining how to make decisions concerning the disposition of your remains.

You can leave detailed written instructions for your family regarding your wishes, you may appoint an agent to control the disposition of your remains, or you may allow the issue to wait until after your death and just allow disposition of your remains according to law.

As you’ll see below, doing nothing and letting the law control the disposition of your remains can create terrible stress on your family and loved ones and lead to expensive litigation.

**Detailed Instruction to Family**
If you have strong feelings about how you want your affairs handled, you may leave detailed, written, instructions for your family; including whether you choose to be buried, cremated, have your ashes scattered in a specific manner, etc. In many instances, people know exactly what they want to happen to their body when they die.
Standard Instructions
You can instruct your family to cremate your remains, (if you’ve ever wondered what this process entails, check out this YouTube Video), scatter your remains in a specific area, keep your remains in an urn, or even bury your remains in a cemetery.

You can instruct your family on which cemetery you want to be buried in, the type of funeral service desired, the theme of the funeral service, the desired pall bearers, and give instructions as to who you would like to offer a eulogy.

Non-Standard Instructions
In 2005, journalist Hunter S. Thompson passed away leaving directions that he wished for his body to be shot out of a cannon to the tune of “Mr. Tambourine Man.” Cécile Lane left directions for her family to have her ashes placed inside an “eternal reef ball” which was to be placed in the ocean to create a new habitat for marine life. Many companies are in fact making a killing, no pun intended, creating these one-of-a-kind after death “experiences.”

— See Odd Funeral Requests (launched into space, turned into fireworks, turned into artificial reef)

The Qualified Writing
A qualified writing under the Texas Health and Safety Code could be part of your Will, part of a prepaid funeral contract, or a separate writing altogether. If the instructions are part of your Will, the law states they may be carried out without first having to go through the lengthy probate process. If your instructions are in a separate writing, the recommended way, that writing may only be revoked by a subsequent writing by you.

— See Tex. Health & Safe. Code § 711.002(g)
— See Tex. Health & Safe. Code § 711.002(h)

Appointment of Agent
Instead of having to plan your own funeral, you may also choose to appoint someone who will decide how to handle the disposition of your remains. Rather than leaving detailed instructions for your family to follow, you can simply name a person who will essentially become your agent and who will have the ability to make these decisions for you. Again, this may be a separate writing or may be included in a will.


It is important to remember that when deciding to appoint an agent in this capacity, you want to choose someone you trust and who knows you well. It would be pertinent to ensure that person is okay with being appointed, since this person would also have to agree to the appointment, and to discuss your wishes with that individual so that they have some idea of what you would prefer. This is a very common designation among spouses.

Letting the Law Control
Texas law sets out a priority list of those with the right to control the disposition of a decedent’s remains. These persons may make the decisions concerning interment, in the following order:

1. a person designated in a written instrument as detailed above;
2. the decedent’s surviving spouse;
3. any one of the decedent’s surviving adult children;
4. either one of the decedent’s surviving parents;
5. any one of the decedent’s surviving adult siblings; or
6. any adult person in the next degree of kinship in the order named by law to inherit the estate of the decedent.

—See Tex. Health & Safe. Code § 711.002(a)

What this means is, if a decedent left no writing to control the disposition or to appoint an agent, these people have priority to make the necessary decisions. Remember, this is a prioritized list so those at the top would win over those further down the list. This can get pretty tricky and can lead to expensive and messy court battles if your children want something different than your spouse (especially when your current spouse isn’t the parent of your children).

**Where do you start?**
Start by thinking about whether you want to be buried or cremated. Do you want special songs at your funeral? Do you want a big party? Do you want a memorial service on a beach? Do you want your ashes spread under the Statue of Liberty?

Then contact your estate planning attorney.

**Estate Planning Series Continues**
Welcome to entry #5 of our estate planning series—Estate Planning 101. Long time readers will remember that Trusts aren’t just for rich people.

If you will recall from Estate Planning 101, a Living Trust can to “help manage your assets during life and to distribute those assets at your death.”

**What is a Trust?**
A trust is a fiduciary instrument created by a “grantor,” managed by a “trustee,” and created to benefit the “beneficiaries.”

A grantor is the person who “grants” the trust into being; the trustee is the person appointed by the grantor to manage and care for the property within the trust; and the beneficiaries are those who benefit from the trust and will receive the property once the trust ends.

There are many different trust types, two of the most common being the testamentary trust, and the inter vivos trust. We will focus on those two in this post.

A testamentary trust is a trust created in a testamentary document, meaning a will. A testamentary trust is only created following the grantor’s death and will possibly be subjected to the lengthy probate process. An inter vivos, or “living trust,” is a trust created while the grantor is still living to protect the trust property, or res, from passing through probate.

—See Methods of Creating Trusts—Tex. Prop. Code § 112.001

**How is a Trust Created?**
As mentioned above, a testamentary trust is outlined and created through a will. A living trust however, is created by drafting a trust instrument which appoints a trustee, designates the
beneficiaries, is signed by the grantor, and notarized. Trust property is then transferred into the name of the trustee as trustee of living trust.

A trust instrument may designate whether a trust is revocable or irrevocable. An irrevocable trust, is by nature, irrevocable. Therefore, once the grantor has created and transferred property into the trust, they effectively remove all of their rights to the property.

The trust can only be modified or terminated with the consent of all of the beneficiaries. A revocable trust, however, can be changed by the grantor at any time. Note that a revocable living trust may become irrevocable upon the death of the grantor.

— See Revocation, Modification, or Amendment by Settlor—Tex. Prop. Code § 112.051

Who Can Be a Grantor?
The simple answer: Anyone. Many people hear the term trust, and assume only the rich need to worry about a trust. While there are many advantages to setting up a trust when you have a sizeable estate, there is no reason any person should not create a trust if they feel they have property to protect.

Who Should Serve as Trustee?
As mentioned above, the trustee is the person appointed to manage the property in the trust. The trustee must only have the legal capacity to take, hold, and transfer the trust property to be qualified under the Texas Probate Code.

In a testamentary trust, that person would be appointed in the will and in many cases would be the same individual appointed as executor of the estate. Most often in a living trust, the grantor appoints himself as the trustee allowing the grantor to maintain control of the property and protect it for the beneficiaries.

— See Acceptance by Trustee—Tex. Prop. Code § 112.009

A grantor may choose anyone to serve as trustee, however, you must consider the type of property to be managed and the skills of the person you are considering. If a large amount of money is involved, a bank or professional trust company may be your best option; if stocks and bonds are the crux of the property, a stock broker may be the best fit. Make sure your trustee can prudently handle the property you are trying to protect.

It is also important to ensure that you trust your trustee. The purpose of a trust is to protect property while avoiding probate. When picking a trustee, use the same judgment that you would use when Picking an Estate Executor.

What Kind of Property Goes Into a Trust?
A trust cannot be created unless there is trust property. Once created, more property may be added to the trust unless prohibited by that trust’s terms. Trusts can be created to protect almost any property: homes, cars, money, stocks, bonds, even animals (more on that in a later post).

— See Trusts for Your Pets—MHL Blog
Is a Trust for You?
A trust can be a valuable estate planning tool for any estate. The trick is determining which trust is right for you. Start by contacting your estate planning attorney to first determine if a trust fits your needs, and if so, which trust is your best option.

Then, determine who you want appointed as your trustee, whether you or someone else. Your attorney can then draft the documents and help you get started transferring the property. While you’re there, review the rest of your estate plan for accuracy and to keep it current with your needs. Which of the three options is best for you? Either way, your estate planning attorney can help you navigate the muddy waters in deciding what option best fits your and your family’s needs and desires.

Digital Planning...

I’m So Much Cooler Online
You’ve honed your online persona to perfection. There’s no one cooler in the World of Warcraft, your YouTube subscribers adore you, and your Twitter followers retweet every post.

Have you considered how you’re going to manage your cool self after you die? Yeah, your online persona will outlive you.

Virtual Reality
Over the last decade, social media has skyrocketed. Facebook, Flickr, Twitter, eHarmony, even the now outdated MySpace have taken over our children’s and, let’s be honest, our lives.

It’s easier than ever to stay connected, pay bills, gamble, shop, and work online. This doesn’t just end at death; now, when a loved one dies, there are not only houses and physical items to take care of but virtual realities as well.

This rise of virtual personas has created a need for people to include their digital assets in their estate plans. But what does this even mean?

What constitutes digital assets?
A proposed statute in Oregon defines digital assets as “text, images, multimedia information, or personal property stored in a digital format...” A person’s “digital estate” can therefore include any number of items from personal pictures, videos, blogs, online bank accounts, email, and instant messenger accounts as well as any passwords to those online accounts.

Why does it matter anyway?
When we die, we leave others behind who must handle our belongings. Since this now includes our online “belongings” we must give those left behind a way to access those accounts and permission to handle our affairs. We must consider how much of our lives are lived online, if an individual has
a different password for every account and no one else is privy to that information, things can get messy quickly and a lot of personal information and treasured items may be inaccessible or lost completely.

Further, when an individual dies, their financial information may not necessarily die with them. Personal information is left hanging in cyberspace for thieves to latch on to; credit cards may be opened, and identities stolen merely because no one had access and the ability to protect those online accounts.

— Beyer, Gerry W., Estate Planning in the Digital Age (April 21, 2013).

This does not even begin to cover all of the situations that may arise when digital assets are not properly accounted for.

What should you do?
Plan ahead. Plan ahead. Plan ahead. Contact an Estate Planning Attorney and create an estate plan that includes the disposition of your digital assets, or at the very least instructions that will aid those left behind in accessing your online treasures.

Make sure at least one person you trust knows what accounts you have and where the information is kept that will allow them to access those accounts. If necessary prepare an inventory of your online assets and include the list in your will or other estate planning documents.

—Authored by Kayla R. Wimberley, Esq.

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***As this edition of the Docket was being finalized, another entry on estate planning documents was added to this blog.
One day a very gentle lady was driving across a bridge in Austin. As she neared the top of the bridge, she noticed a young man fixin’ (‘fixin in Texas means, about to take action) to jump…. She stopped, rolled down the window and said, “Don’t jump, think of your mother and father.” He replied, “My mom and dad are both dead, and I am going to jump.” She said, “Well, think of your sweet wife and precious children.” He replied, “I am not married and don’t have any kids.” She said, “Well then just remember the Alamo.” He said, “What’s the Alamo?” She replied, “Well bless your heart…just go ahead and jump, you little Yankee Democrat B------“

A man called his wife and told her, “I was run over by a car as I left the office. Paula brought me to the hospital. They have been doing tests and taking X-rays. The blow to my head was very strong, fortunately, it did not cause an injury. However, I do have three broken ribs and a compound fracture in my left leg.” The wife replied, “Who is Paula?”
San Antonio LSA received its charter in June 1957. Wichita County LSA received its charter on July 7, 1958.
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Note from the Editor:

Have you read an article that you think other members might be interested in reading? Submit it for the Texas Docket. My email is drea.griffin75@gmail.com.

Thank you, Andrea
We are ALL pieces of the Texas ALP Puzzle!!!

The 2013-14 Membership Campaign is underway.

As of June 1, 2013, the Texas ALP Puzzle was 464 pieces strong.

Let’s strengthen our puzzle to at least 500 pieces.

Member Campaign

2 points for each new “Piece” you sponsor

15 points for every 5 new “Pieces” you sponsor

50 points to the winner of the Texas ALP “Spotlight Piece”

20 points for sponsoring the 500th “Piece”

Member Campaign Prizes

1st Place — $100 • 2nd Place — $50

Chapter Campaign Prizes

1st Place — $200 • 2nd Place — $100
Chapter Campaign

50 points
for holding a membership drive between August and October 2013

2 points
for each new “Piece” added as a result of a membership drive

50 points
for most new “Pieces” added as a result of a membership drive

20 points
for having a “Piece” of your local puzzle win the Texas ALP “Spotlight Piece”

1 point
for every “Piece” your local puzzle adds from May 1, 2013, through March 31, 2014

20 points
for securing the 500th “Piece”

CHAPTER BONUS:

100 points
for 100% retention of your “Pieces” as of May 1, 2013

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Lubbock Legal Professionals Association cordially invites you to the

59th Annual Texas Association of Legal Professionals Educational Conference

May 1-3, 2014

at the Embassy Suites Lubbock.

We look forward to hosting the conference and having you all as guests in our city.
Texas ALP 59th Annual Education Conference
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Thursday, May 1, 2014

4:00 pm – 7:00 pm  Registration
6:30 pm – 7:00 pm  Credentials Check-in
7:00 pm – 9:00 pm  Business Meeting

Friday, May 2, 2014

* Complimentary hot buffet/made-to-order breakfast each morning in the atrium.

8:00 am – 10:45 am  Registration
9:00 am – 9:30 am  Texas ALP Committee Meetings
9:45 am – 10:30 am  Open Forum/PYI Workshop
10:45 am – 11:45 am  CLE – Immigration
12:00 pm – 1:30 pm  Professional Development Luncheon
1:45 pm – 2:45 pm  CLE – Bankruptcy
3:00 pm – 4:00 pm  Strategic Planning Session
4:15 pm – 5:15 pm  CLE – Collaborative Law

* Hotel Manager’s Reception in the Atrium Lounge – Free drinks & hor d’oeuvres from 5-7 nightly

Saturday, May 3, 2014

9:00 am – 10:00 am  CLE – Contested Divorce
10:15 am – 11:15 am  CLE – Paralegal Ethics
11:30 am – 1:00 pm  Recognition Luncheon
1:15 pm – 2:15 pm  CLE – Legal Writing
2:30 pm – 3:30 pm  CLE – Human Trafficking
3:30 pm – 4:00 pm  Raffle

7:00 pm – 10:00 pm  President’s Dinner/Reception at McPherson Cellar
(Transportation will be provided for those who require it.)
# NALS 63rd Annual Education Conference & National Forum

October 2-4, 2014 • Houston, Texas • Crowne Plaza Houston Near Reliant Medical

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**Member Number**

- Nonmember

**Will this be your first NALS National Conference?**

- Yes
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## Attendee Registration

(Includes Thursday and Friday luncheons, Welcome Party, and three days of CLE)

**Early Bird** (postmarked before July 1, 2014)

- Member: $299
- Nonmember: $399
- Educator: $344

**Regular** (postmarked before August 1, 2014)

- Member: $329
- Nonmember: $429
- Educator: $374

**Late** (postmarked after August 1, 2014)

- Member: $355
- Nonmember: $455
- Educator: $400

**Other** (flat fee if received by August 1, 2014)

- Life Member: $299
- Student: $199
- Daily Registration (CLE only): $245

**Ticketed Events**

- NALS Foundation Gala: $50
- Recognition Luncheon: $50

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## Guest Registration

(Includes Thursday and Friday luncheons, and Welcome Party)

**First Name**

**Last Name**

**List name as it should appear on name badge**

- Guest: $139

**Ticketed Events**

- NALS Foundation Gala: $50
- Recognition Luncheon: $50

**See guest policy**

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**Total Amount Due**

Select Payment Type:

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Refunds will be given (less a $25 processing fee for cancellations received no later than August 1, 2014). After August 1, 2014, registration fees (less a $75 processing fee) are transferable, but not refundable.

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**Dietary or Physical Restrictions**

Please notify NALS Meetings Manager of any dietary or physical restrictions that require special arrangements.

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**Guest Policy**

In order to purchase special event tickets for your guest, they must first be registered as a conference guest.

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