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Planning for Those Special to You



Presented by

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John P. Hannon, III, Esq. & Cassidy Russell, Esq.



Estate Planning & Business Law Attorneys

- Estate Planning
- Probate & Estate Administration
- Business Succession Planning
- Asset Protection
- Charitable Planning
- Business Law
- Entity Formation
- Employment Law
- Mergers & Acquisitions
- Real Estate



Professional Fiduciaries

- Trustee and Successor Trustee
- Special Needs Trustee
- Probate Estate Administration
- Care Manager or Durable Powers of Attorney for Health Care
- Durable Powers of Attorney for Finances

Presenters



John Hannon, III

John Hannon, III's practice focuses on high net worth estate planning, gift tax planning, charitable planning, and the administration of taxable estates. He earned his Juris Doctor from the Colleges of Law Santa Barbara in 2016 and is in the process of earning an LL.M. in Taxation from Loyola Law School.



Lee Ann Hitchman

Lee Ann Hitchman, Founding and Senior Partner with Hitchman Fiduciaries, began her fiduciary practice in 2005 performing pro bono work through the Unbefriend Elderly program in Orange County. Life experience and diverse career opportunities have equipped Lee Ann to develop the specific skills needed to address the needs of trust administration.



Cassidy Russell

Cassidy Russell earned her Juris Doctor from Dale E. Fowler School of Law at Chapman University in 2014. She has been practicing in Estate Planning for 8 years. Her areas of specialty include Estate Planning including preparation of Special Needs Trusts, Trust Administration, Probate and Conservatorships.

A young girl with long brown hair is kissing a woman on the cheek. The woman has long brown hair and is smiling with her eyes closed. They are outdoors, with a bright, sunny background. The text "Why a Special Needs Trust" is overlaid in the center in a teal, serif font.

Why a Special Needs Trust

Needs-Based Government Benefits

Supplemental Security Income (SSI)-Federal program that provides monthly income for food and shelter to those who are disabled, blind, or aged 65+.

Medi-Cal (California's Medicaid)-Provides health coverage eligible individuals including those with disabilities.

In-Home Support Services (IHSS)-Pays for services so that an individual can remain in their own residence. Eligible individuals include those disabled (child or adult) or blind.

Needs-Based Eligibility

Countable Income (deemed income)

Countable Resources

Become an expert or hire one!

Visit ssa.gov/eligibility

Windfall/Inheritance without Planning

- Lose Benefits
- Spend Down
- First-Party Special Needs Trust
- Court Petition to Modify Trust

“I Trust Them” Planning

Susan trusts her brother, Bill, to take care of her special needs child.

She names Bill as a beneficiary of her estate intending for him to take care of her child.

What are the consequences?

“I Trust Them” Planning

Lack of Separation: Bill may commingle the money with his personal finances.

Loss of Control: Bill can dip into the money to pay for his personal money troubles.

No Protection: If Bill crashes his car and is sued, he can lose all the inheritance in the lawsuit. May be subject to divorce if commingled.

Proactive Planning

ABLE Account

Pros: Tax advantaged

Cons: Disability and age requirements, lose control, contribution limits, countable over cap, Medicaid payback in some states, qualified disability expenses

Third-Party Special Needs Trust

Proactive Planning

Third-Party Special Needs Trust

- Maintain control
- No contribution limit
- Asset protection
- No Medicaid payback
- Broad range of expenses

A young girl with long brown hair is kissing a woman on the cheek. The woman has long brown hair and is smiling with her eyes closed. They are outdoors, and the background is a soft-focus green landscape. The image has a warm, golden light. The text "Creating a Special Needs Trust" is overlaid in a teal serif font.

Creating a Special Needs Trust

Special Needs Trust Formation

Springing
Special Needs
Trusts

Created during
life, funded at
death of
creator.

Assets are for the
benefit of the special
needs beneficiary, but
not paid directly to
them.

Trustee
manages
investments and
distributions.

Governmental
benefits are not
disrupted.

What is the Difference Between a “Springing” SNT and a Stand Alone SNT

- Springing is funded upon the creator(s)’ death(s).
- Stand Alone can be funded during life of the creator(s) and others.
 - Allows for the contribution by more than just the parents.

What is the process?

- Schedule a 1 hour strategy session appointment with us for you (and your spouse).
- Fill out and turn in our worksheet in advance of the meeting.
- Discuss with us your wishes about finances, health, and the needs of your beneficiaries.
- Review the draft documents.
- Come in to sign or sign at your convenience.
- Provide documents to doctors and financial institutions.

What can you do to protect them?

- Ensure assets are earmarked for their care and benefit.
- Appoint a capable Trustee.
- Springing Special Needs Trusts do not have a payback provision for government funded care.
- What's the difference? Payments are made to the landlord not the beneficiary or for a bill instead of to the beneficiary to pay the bill. It keeps assets in their name below the threshold required by their benefits.

What could go wrong?

The Trustee makes discretionary distributions to the special needs beneficiary. The beneficiary places the money in their own bank account and pays for expenses. During their annual review/audit of the benefit spending this is discovered by the SSA and they are kicked off their benefits.

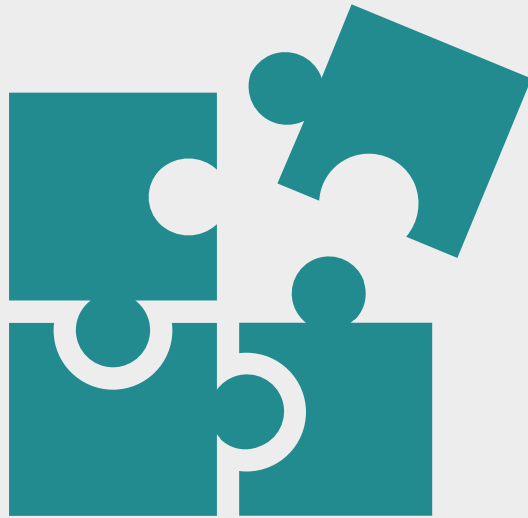
If they are kicked off their benefits, they lose income, and medical, and must reapply after spending down the assets.

What do good Trustees do?

- Have the beneficiary create a budget/spending plan if capable or create one for them.
- Allow the beneficiary as much independence as possible without disqualifying them.
- Is transparent with the beneficiary and SSA.
- Prepares accountings.

Your World

Understanding the Pieces



Finances

Assets

Liabilities

Access

Income Needs

Responsibilities

Family

Protecting our children

Preparing them for their futures

Setting up for success

Understanding preferences

A young girl with long brown hair is kissing a woman on the cheek. The woman has long brown hair and is smiling with her eyes closed. They are outdoors in a sunlit area with green foliage in the background. The image has a soft, warm glow. The word "Administration" is written in a teal serif font across the center of the image.

Administration

What happens during trust administration?

- Separate Certification of Trust is prepared.
- An EIN is applied for.
- A separate trust tax return is prepared annually.
- Trustee has discretion to make distributions to supplement governmental benefits that the beneficiary is receiving.
 - This is why you need a trustworthy and capable Trustee.



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❖ Any questions?