



Samuel, Sayward & Baler LLC

Smart Counsel... FOR LIFE.

Partners' Letter

"Some old-fashioned things like fresh air and sunshine are hard to beat."

- Laura Ingalls Wilder,
Author

Dear Clients and Friends:

Spring – that wonderful, refreshing season of bright, warm sunshine on your face, *your whole face*, for the first time in 2 years! Spring is the season of playing outside, cool mornings and warm afternoons, blooming trees and beautiful flowers, open doors and windows and cleaning.

Cleaning? Yes, cleaning. For many, the annual ritual of spring cleaning the house, attic, garage, etc... brings us a sense of inner peace and readiness, and reassures us that our home and our being are ready for the year to come.

Spring is also a very good time to remind you that your estate plan may need some '*cleaning*' to ensure that you and your loved ones are prepared for the years to come. Life is not static, which means your estate plan can't be either. It is important to review and revise your estate plan on a regular basis to ensure that your '*house*' remains in order.

Here are a few things to consider when deciding whether

this issue ↓



it is time to do a little 'spring cleaning' on your estate plan:

1. Do you currently have an estate plan? The AARP currently estimates that 60 percent of Americans do not have any type of estate plan in place. The number one reason for this? 'I haven't gotten around to it.' While each state has laws that provide for the disposition of your assets following your death if you don't have an estate plan in place, those laws may not match up with your intentions.

2. How old is your estate plan? Regardless of whether you already have a will or trust in place, even the best-laid estate plan needs periodic updating to account for changing laws.

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Smart Counsel Is Back LIVE!

Join us on May 19th in our office for
*Demystifying Irrevocable Trusts for
Long-term Care Planning*

Please join us for the next presentation in our Smart Counsel Series on **Thursday, May 19, 2022**, from 6:00 pm to 7:30 pm in person at our office at 858 Washington Street, Suite 202, Dedham, Massachusetts OR virtually via Zoom.

Attorneys Suzanne Sayward and Frank Mulé will discuss the advantages and disadvantages of using an Irrevocable Trust to protect assets from having to be “*spent-down*” on long-term care costs. Attendees (both in person and virtual) will have an opportunity to ask questions.

For those who attend in person, we’ll have wine, cheese and other light refreshments. The program is free but space is limited if you would like to attend in person, so don’t delay!

Contact Victoria Ung at 781/461-1020 or ung@ssbllc.com to reserve a spot for you and a friend. **The program is free but registration is required.**

Partners’ Letter continued...

3. Have changes occurred in your family? Life’s big ‘family events’ – weddings, births, deaths, divorces, etc. – are often accompanied by a need to update an individual’s estate plan.

4. Are you entering a new stage of life? As you move through different stages of life, your goals change. What you needed when you were first married may differ now that you are planning to retire. You may have children and grandchildren, and may be concerned about long term care.

Please contact one of our attorneys to discuss your current goals and future plans.

We are excited to inform you that we will be hosting our Smart Counsel Series in-house on May 19th. We invite you to join us in our Dedham office for an informative presentation by Attorneys Suzanne Sayward and Frank Mulé on ***Demystifying Irrevocable Trusts for Long-term Care Planning***. We will have wine, cheese and other light refreshments prior to the presentation. We look for-

ward to seeing you in person. If you wish, you may also join us virtually via Zoom.

Be sure to check out our ***What’s New*** feature below to read about our 2 new little ones. Also, Deb kicks off spring with a delicious recipe from the sea.

We profile Attorney Frank Mulé and share pictures of his big night at the *Excellence in the Law*, Massachusetts Lawyers reception held in March.

As always, please feel free to reach out to Deb Hayes (hayes@ssbllc.com) with any questions, or ideas for future newsletter articles or topics for our Smart Counsel Series.

If you know someone who would like to receive this quarterly newsletter, please email Deb their contact information, and don’t forget to forward this to your family and friends.

Happy Spring,

Suzanne R. Sayward
Maria C. Baler

Parental Appointment of Temporary Agent

By Attorney Megan L. Bartholomew

One of the hardest aspects of estate planning for parents with young children is planning for the possibility of their deaths while their children are minors. As hard as this is to contemplate, it is vitally important for parents who have minor children to appoint someone to care for those minor children in the event of the parents' deaths.

Most people know that parents with minor children need to name a Guardian for their minor children in their Wills. However, many parents do not know that naming someone in the Will does not mean that the nominated individual is automatically and immediately the legal Guardian upon the parent's death. The appointment must be approved by the court following the parent's death. Because of the legal process required for the appointment of a Guardian and because the probate courts are terribly backed up, it can take quite some time for the court to appoint a legal Guardian.



Massachusetts has a statute (M.G.L c. 190B, 5-103) which allows parents to name one or more individuals to have immediate custody and decision-making authority over their minor children should the parents die or be unable to care for their children because of incapacity or otherwise. A Parental Appointment of Temporary Agent (PATA) is an important tool to ensure there is someone of the parent's choosing who has the immediate right to legal custody of the minor child and the authority to make decisions about their care, education, medical treatment, etc. in the time period following the parent's death until the Guardian is appointed by the court.

With the Parental Appointment of Temporary Agent, a parent may appoint an individual to have immediate authority over a minor child. Often, the agent named in the PATA is the same individual named as Guardian in the Will. The PATA grants the named individual the same authority the parent has regarding the care and custody of the minor child. The PATA is valid for 60 days following the parent's death or incapacity.

In order for the appointment to be valid, a PATA must be: 1) in writing; 2) signed by the parents; 3) attested to by two disinterested witnesses; and 4) accepted, in writing, by the temporary agent. The parental appointment does not supersede parental rights.

The PATA becomes effective upon: 1) the appointing parent's death when there is no surviving parent; 2) an adjudication that the parent is an incapacitated person; or 3) or a written determination by an examining physician that the parent is no longer able to care for the child.

If you would like to know more about creating a PATA, please contact our office to schedule an appointment with one of our attorneys.

Attorney Megan L. Bartholomew is an associate attorney with the Dedham firm of Samuel, Sayward & Baler LLC which focuses on advising its clients in the areas of estate planning, estate settlement and elder law matters. This article is not intended to provide legal advice or create or imply an attorney-client relationship. No information contained herein is a substitute for a personal consultation with an attorney. For more information visit www.ssbllc.com or call 781/461-1020.

What Are Five Duties of a Probate Estate's Personal Representative?

By Attorney Abigail Poole

Sometimes I like to think of administering a probate estate as similar to investigating and solving a mystery. The Personal Representative (formerly known as Executor) of the estate is the Detective. The Personal Representative takes steps to administer the estate by accessing and consolidating estate assets, much like a Detective discovers clues and pieces them together one at a time to solve a mystery. Simultaneously, the Personal Representative keeps in mind certain duties while performing these tasks due to his or her fiduciary position much like a Detective who follows the laws while investigating the mystery. Here are five duties the Personal Representative must obey while “solving the mystery” of probate administration and settling an estate.

1. Follow Directions

The Personal Representative's most important overall duty is to follow the directions left in the deceased's Last Will and Testament and the relevant Massachusetts laws. The Will works hand-in-hand with the laws; it must be filed with the probate court, which approves the appointment of the Personal Representative. If the deceased did not leave a Will expressing the deceased's intentions, then the intestate laws of Massachusetts govern the estate administration.

The Personal Representative is also duty-bound to administer the probate estate expeditiously and efficiently in a way that is consistent with the best interests of the estate. For example, if the deceased possessed an expensive diamond necklace at the time of her death and she stated in her Will that the necklace should be distributed to her daughter, then it is the Personal Representative's responsibility to do so. However, if the diamond necklace is the only valuable asset and the estate has significant expenses and debt, then the Personal Representative may need to

sell the diamond necklace to pay the estate expenses and debt instead of distributing the necklace.

2. Be Loyal and Prudent

The Personal Representative has a duty of loyalty. The Personal Representative's actions must be impartial toward all the parties involved (i.e., he or she cannot favor one party above another unless directed by the law or Will). The Personal Representative is also obligated to administer the estate with care and prudence by protecting the interests of the estate and administering the estate for the benefit of all the beneficiaries (the ultimate recipients of the estate distributions). Oftentimes, at the beginning of the probate process the Personal Representative may not have accurate information about all the assets owned by the deceased at the time of death. This means there may be valuable assets discovered after the Personal Representative's appointment. In the case of the diamond necklace, it would be prudent of the Personal Representative to refrain from distributing or selling the diamond necklace until all the assets are discovered and weighed against the anticipated estate expenses and debt.

3. Find the Assets

The Personal Representative must investigate, determine, collect and inventory all the estate assets after appointment. Typically, an estate bank account is opened to consolidate and retain the balances from the deceased's individual bank accounts. The Personal Representative is responsible for determining the value of the assets as of the deceased's date of death.



With respect to the diamond necklace, the Personal Representative should have it appraised to determine its value in the event it needs to be sold to pay the estate expenses and to include on the estate inventory. The inventory is a list of all the assets of the estate and their values that will be provided to the probate court or beneficiaries.

The Personal Representative is obligated to collect the income, interest and refunds due to the deceased or the estate, and dividends from stock.

4. Protect the Assets and Pay the Expenses

The Personal Representative has a duty to secure, safeguard, manage and protect the estate assets. The diamond necklace should be securely stored until a decision is made to distribute or sell it, and insurance maintained for it, as necessary. The Personal Representative is responsible for collecting payments on any outstanding loans due to the deceased's estate.

The Personal Representative must also pay estate expenses, such as funeral costs, fees to file assorted tax returns, and the fees of professionals to accomplish these goals (e.g., accountant, attorney, jewelry appraiser). If there is outstanding debt, such as a mortgage, credit card or Medicaid claim, the Personal Representative must prioritize payment of the debt according to the laws.

A crucial responsibility of the Personal Representative is to track all the income and expenditures of the estate. These records will assist the Personal Representative with making decisions regarding payment of expenses and debt during the administration and settling of the estate. It will also demonstrate to the beneficiaries and the probate court that the Personal Representative administered the estate properly via an account (report).

5. Distribute the Assets

The final obligation of the Personal Representative is to distribute the remaining probate assets to the beneficiaries as directed in the Will or by law. Luckily, the Personal Representative discovered other assets to cover the estate expenses so the diamond necklace was distributed to a grateful daughter.

Every good Detective has a partner to help solve the mystery of settling an estate. Samuel, Sayward & Baler LLC can partner with you to find, protect and distribute the probate assets in accordance with the deceased's instructions or the laws. Our attorneys are dedicated to guiding you through the probate administration process to ensure you adhere to your duties as the Personal Representative to successfully complete settling the estate.

Attorney Abigail V. Poole is a senior associate attorney with the Dedham firm of Samuel, Sayward & Baler LLC which focuses on advising its clients in the areas of estate planning, estate settlement and elder law matters. She is an active member and President-Elect of the Massachusetts Chapter of the National Academy of Elder Law Attorneys (NAELA). This article is not intended to provide legal advice or create or imply an attorney-client relationship. No information contained herein is a substitute for a personal consultation with an attorney. For more information visit www.ssbllc.com or call 781/461-1020.

April, 2022

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“ I couldn't be happier with the estate planning work done by the law firm of Samuel, Sayward & Baler. Do yours sooner rather than later. They understand, they can help, and the peace of mind you will feel afterward is priceless. As a satisfied client, I would recommend this law firm to anyone. ”

Marilynne Ryan

Terms to Know

Beneficiary

– A beneficiary of a trust is the individual or group of individuals who are entitled to receive income or principal from a trust.

Conservator

– A person appointed by the court to make financial decisions on behalf of an incapacitated or incompetent person after a court proceeding in which notice is given to the incapacitated person and proof of incapacity is offered and assessed.

Distribution

– A payment of cash or assets to a beneficiary who is entitled to receive it.

Durable Power of Attorney

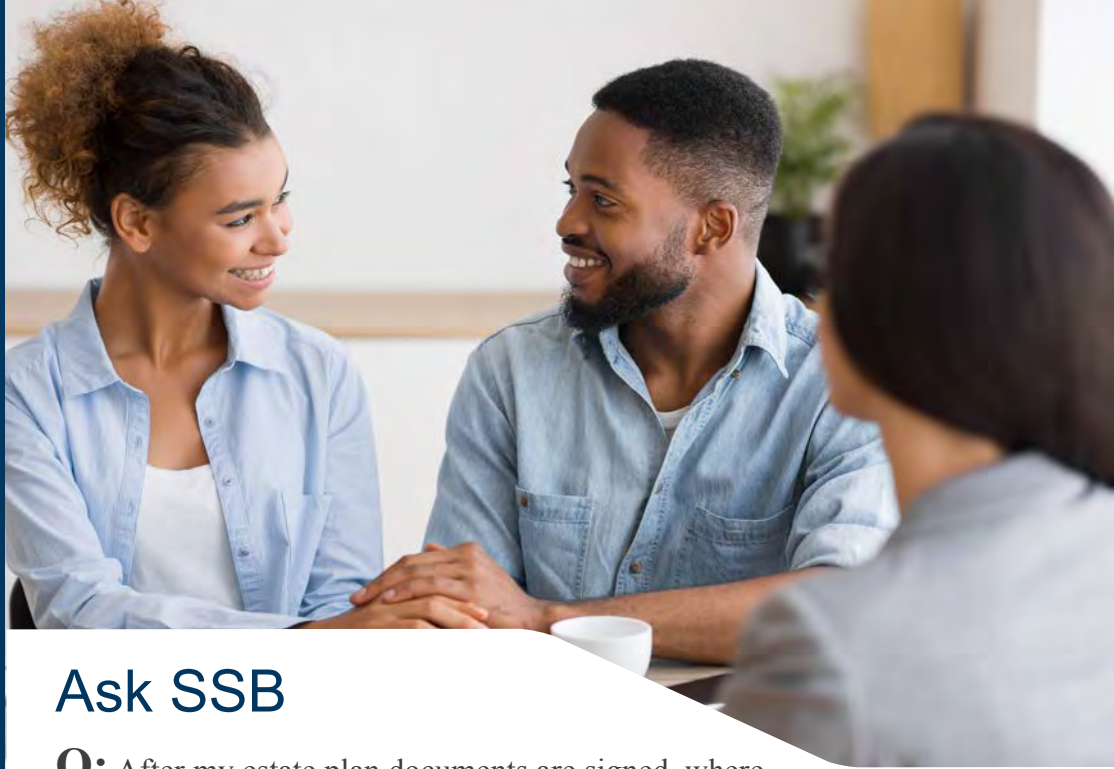
– A Durable Power of Attorney appoints one or more individuals (the “attorney(s)-in-fact” to act on your behalf with respect to legal and financial matters, and is intended to be used primarily in the event you become incapacitated.

Estate

– In general, assets left by an individual at death. The probate estate consists of assets owned by the deceased in the deceased’s name alone, without a beneficiary or joint owner. The taxable estate consists of all assets in which a deceased person owned an interest at the time of death and subject to federal and/or state estate tax as a result of the deceased’s death.

Fair Hearing

– The official name of the initial proceeding to appeal a denial or other adverse decision made by MassHealth.



Ask SSB

Q: After my estate plan documents are signed, where should the original documents be kept? Should I put them in my safe deposit box?

A: This is a question we hear on a regular basis from our clients after their documents are signed. It is our firm’s practice to hold original estate plan documents for our clients. If your attorney holds the original documents, you (and your family) will always know where they are, and there is no danger they will be lost, damaged or misplaced inadvertently, or end up inaccessible when needed.

Despite the advances in scanning technology and e-signatures, in the legal world, and especially in the Will and Trust area, original documents (with original signatures and Notary seals) are still extremely important.

- Your original Will is a very important document. It must be filed with the Court if there are assets that require a probate proceeding at your death. It takes longer and requires the Court’s permission to probate a signed copy of a Will. In specific and limited circumstances it may be possible to have an unsigned Will admitted to

probate, with significant time and effort. It is best not to have to do either of these things. If you choose to hold your original Will, make sure you keep it in a safe but accessible place where others can locate it following your death.

- Original Trust documents are also important. If the Trust owns real estate, the original Trust may need to be recorded at the Registry of Deeds if necessary documents have not been recorded prior to a Trustee’s death. If you choose to hold your original Trust, keep it in a safe and accessible place as well.

- Original Powers of Attorney may be necessary for the person you name in that document to act for you to make legal and financial decisions, although many Powers of Attorney state that a signed copy is as effective as an original. Because of the significant authority conferred by this document, we recommend that the original and all

signed copies be held by your attorney, and that you have an escrow or other agreement with your attorney about the circumstances under which the original Power of Attorney or a signed copy will be released to your attorney-in-fact. Keep in mind that a Power of Attorney is no longer effective after the person who signed the document dies, and should not be used after that time.

- Original health care documents – Health Care Proxies, Living Wills and HIPAA Authorizations - may be less important, as copies of these documents are often provided and accepted by physicians and hospitals. Nevertheless, keep these original documents in a safe place.

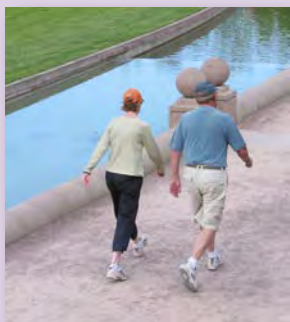
In all cases, we do not recommend you hold any original estate plan documents in a safe deposit box. If the owner of the box passes away and there is no surviving joint owner listed on the box, access to the box is impossible until the Court appoints a Personal Representative of the deceased's estate. If the original Will is in the safe deposit box, this creates a little bit of a chicken-or-the-egg situation. The Court may appoint a temporary Personal Representative for purposes of accessing a safe deposit box to search for a Will. Although this procedure exists, executing it is not so simple or time efficient, and it can take months for such a special Personal Representative to be appointed for that purpose, during which time nothing can be done in terms of settling the estate.

Attorney Maria C. Baler is a Partner with the Dedham firm of Samuel, Sayward & Baler LLC which focuses on advising its clients in the areas of estate planning, estate settlement and elder law matters. She is an active member and past president of the Massachusetts Chapter of the National Academy of Elder Law Attorneys (NAELA). This article is not intended to provide legal advice or create or imply an attorney-client relationship. No information contained herein is a substitute for a personal consultation with an attorney. For more information visit www.ssbllc.com or call 781/461-1020.

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SSB: For the Health of It - Take A Walk!



Spring cleaning isn't just for homes, it's for our bodies too! Spring is the perfect time to re-evaluate your fitness routine. With the cool mornings and warm afternoons, it is a great time to get outdoors for some much needed sunshine and fresh air. Here are some major benefits of taking a simple walk...

Walking outside helps your brain. Being in nature helps us relax and feel more refreshed, which can lead to better problem solving skills and creativity. Walking outside also provides fresh air and sunlight which can help improve moods and fight off depression. **Walking helps with your heart and lung health.** Walking is a great way to get your heart pumping which can help lower blood pressure and cholesterol levels. Walking improves your lung capacity

and stamina, and promotes improved lung capacity, which can lead to better breathing and reduce the risk of heart disease and stroke. Improved lung capacity can also help reduce the chance of respiratory diseases such as asthma, bronchitis, and emphysema. **Lower your stress levels.** Your body releases endorphins when you walk and these can help reduce pain, promote relaxation, have a positive effect on mood and behavior and even help you sleep better.

If you're not sure where to start, try walking for 10 minutes at a time at first. Once you've gotten used to that, increase the time by 5 minutes each week until you reach 30 minutes per session. As you get used to this, you can try to do this multiple times per day. **Always check with your physician before you start any exercise program.**

walkingacademy.com/

What's New at SSB



Client Services Manager, Marcy Kadlec welcomed her first grandchild, a girl, on March 5th



Law Office Administrator, Deb Hayes welcomed her second grandchild, a girl, on April 5th



We are very happy to welcome back from maternity leave paralegal, Cait Fantegrossi. WE MISSED HER!



Left to right: Maria Baler, Deb Hayes, Nick Picone, Frank Mulé and Suzanne Sayward

Celebrating Attorney Frank Mulé

***Recipient of the
2022 Massachusetts Excellence in the Law Award
given by Massachusetts Lawyers Weekly***

FROM DEB'S* KITCHEN TO YOURS

This fresh fish recipe is delicious and healthy, and one your whole family will love. You can add any of your favorite vegetables and your favorite fish, throw in some spices and in less than 15 minutes you'll have a perfectly cooked dinner, with hardly any clean up!

FISH 'N FOIL



INGREDIENTS

- 1 large fish fillet
- 2 medium potatoes cut into wedges
- 1 large carrot, sliced
- 2 small peppers, red and green, cut in strips
- 1 medium zucchini, sliced
- 1 large tomato, sliced
- vegetable oil
- 1/4 teaspoon salt
- 1/4 teaspoon ground black pepper
- juice from half a lemon
- zest from half a lemon
- 3-4 garlic cloves, sliced

You will also need:
medium or large baking sheet
aluminum foil

*Red pepper flakes optional

DIRECTIONS

Preheat oven to 475 F

Line a baking sheet with aluminum foil. Make sure you cover the surface evenly so the juice from the vegetables and fish won't spill out while cooking.

Place fish in the middle of the sheet.

Top with all vegetables and drizzle with oil.

Add salt, pepper, lemon juice, lemon zest and garlic and mix well with your hands.

Wrap foil well and bake for 15 minutes.

Remove baking sheet from the oven, open the foil to expose the fish and return to oven. Bake for an additional 5 minutes or until the fish gets a light golden crust. The fish should flake when pulled apart with a fork.

NOTE: This recipe can be doubled or tripled to make multiple, smaller fish packets. Feel free to experiment with different types of fish and/or veggies. Use red pepper flakes to give your recipe a little kick!

Pair with a medium bodied smooth or old vine Chenin Blanc (try MAN or Keermont), or your favorite Pinot Grigio or Pinot Gris.

* Not all recipes come solely from Deb's kitchen. Her family and friends like to share. If you have a delicious recipe you'd like to share with our team and clients, please email Deb at hayes@ssblc.com

FRANCIS R. MULÉ

Senior Associate, Samuel, Sayward & Baler, Dedham
Northeastern University School of Law, 2013

Francis R. Mulé concentrates his practice in estate planning, estate and trust administration and elder law, and has substantial experience in advising clients regarding long-term care planning and assisting clients through the MassHealth application process. He is heavily involved with the Massachusetts Bar Association, for which he serves as Chair-Elect of the Young Lawyers Division.

Q. What's the most satisfying case or matter you've worked on so far?

A. I have worked on a number of complex estate plans for clients with unique situations and desires, and it is always very intellectually satisfying to be able to come up with a truly customized plan that accomplishes their goals. I like to think of it as doing a puzzle in reverse: the final picture is there, but the trick is in crafting the individual pieces that make up that picture.



ize their wishes in a variety of grim scenarios ("What would you want to happen if you and all of your loved ones all die at the same time?" is not a question most people like to think about), and being able to do so consistently in a compassionate, thoughtful and effective manner can be very challenging, but is an essential part of what I do.

Q. What's the most important thing you've learned since you started practicing law?

A. It is always important to acknowledge clients' pain, anger, frustration, etc., even if there is not much you can offer in the way of a solution or you may think the client's feelings are unwarranted or misplaced.

That said, when I think about the cases that have been truly satisfying to me on a personal level, I tend to think about the cases where I've assisted family members with getting a loved one admitted to a nursing home and qualified for long-term care benefits through Medicaid. Being able to shoulder some of that burden on their behalf is incredibly rewarding.

Q. What's the toughest part of your job?

A. Estate planning is, at its core, about preparing for the eventuality of death and the possibility of debilitating illness or injury, both of which are topics most people try to avoid thinking about on a day-to-day basis. My job as an estate planner is to work with clients to determine and memorial-

Q. What makes someone a really good lawyer?

A. Being able to communicate complex issues clearly, effectively, compassionately and without condescension to clients who are likely encountering them for the first time.

Q. As a lawyer, what are you most afraid of?

A. Losing a client's confidence and/or trust. If my clients don't trust or have confidence in me and my abilities, I can't do my job effectively. **MLW**

Co-chair, Education Committee, MBA Young Lawyers Division; Member, MBA Probate Section Council, Fellow, Massachusetts Bar Foundation; Fellow, MBA Leadership Academy; Member, Massachusetts LGBTQ Bar Association

"If my clients don't trust or have confidence in me and my abilities, I can't do my job effectively."

SSB ESTATE PLANNING WORD SEARCH

W K S W S G D H B B W G Z T K D P D C J X N Y J M
I F X J M V A M A L Q U Z B Q I E H O U Y K A D W
L H Y J I Z U A B V C A U B H S R U W H O M T X R
L K P B P B E M B D X R M G G C S J O P G Z C H O
A J S K R Y X G L R Q D Z K I L O M O W X A J C P
X I I Q O C E L Z H K I H B D A N Z N T R T V R W
Q Z M F B U C K B U P A G V G I A H K F M T H E E
W P J S A K U Q Y Q Y N R B B M L V Y H H O N D L
D D O V T V T W G X O S A P K E R K U I J R E I R
W S E W E R O F D H N H N L N R E L I R B N C T E
B S P S E B R W M T D I T C F A P K R A E E C S V
A E L U T R T E H K J P O P O Y R W R U S Y R H O
U D N J T A O V Y N B T R D E C E D E N T I U E C
Z C M E Y J T F I C E R H R I Z S V V K A N M L A
V K I I F F X E A W N Y T A S B E R O Y T F M T B
J T E C N I I U P T M P L L T S N E C O E A E E L
N J J E F I C D Z L T N F E A P T T A W T C Y R E
C S E T Z E S I U Z A O Y M Q G A I B N A T L T Q
A Y T E C J I T A C R N R O I J T R L E X N D R K
P M A R S X V L R R I K N N B D I E E R A Z Q U X
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Y B Z T P C M I E B C O N S E R V A T O R S H I P

Administrator
Attorney In Fact
Beneficiary
Capacity
Conservatorship
Credit Shelter Trust
Crummey
Decedent
Disclaimer

Estate Planning
Estate Tax
Executor
Fiduciary
Grantor
Guardianship
IRA
Irrevocable Trust
Ownership

Personal Representative
Power of Attorney
Probate
Retirement
Revocable
Trust
Trustee
Will