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Newsletter

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Editor's Note

Marsha Murray-Lusby, Past Chair of the Estate Planning and Administrative Executive Committee, passed away unexpectedly on June 24, 2019. Marsha was a partner with Dunn Carney in Portland and led the firm's Estate Planning and Administrative Team for more than 20 years. The present Executive Committee would like to acknowledge Marsha for the joyful, generous, and wonderful person she was. She will be missed, and our hearts go out to her family, friends, and co-workers.

2020 Probate Code Updates: A Practical Overview for Practitioners

by Eric J. Wieland, Samuels Yoelin Kantor, LLP, Portland, Oregon

In 2013, the Oregon Law Commission appointed the Probate Modernization Work Group to review and recommend changes to the Oregon probate statutes. For the 2019 legislative session, the Work Group had recommendations for ORS Chapters 113, 114, 115, and 116, which resulted in the Legislative Counsel preparing HB 3006 (adopts rules for estates with no known assets), HB 3007 (amends the rules for small estate administrations), and HB 3008 (adopts rules for estates with personal injury or wrongful death claims). All three bills passed and become effective on January 1, 2020.

There are still two probate options in Oregon: a full probate and a small estate affidavit. The statute revisions make some technical changes, lessen the burden on non-asset estates, and help protect beneficiaries and creditors. Below is a summary of each bill and its impact on estate administration. For a more detailed review of the changes, please refer to "Amendments to the Oregon Probate Code Report of the Probate Modernization Work Group on HB 3006, HB 3007, and HB 3008" prepared by Professor Susan N. Gary, which can be found at the following address: https://olis.leg.state.or.us/liz/2019R1/Downloads/CommitteeMeetingDocument/186084.

HB 3006 – Administration Process for a No-Asset Estate That Requires Probate Administration. ORS Chapters Impacted: 113, 115, and 116

This bill streamlines the process for administering estates that have no assets. This can happen when a personal representative may be needed to exercise a power of appointment or respond to a lawsuit. The requirements in a traditional probate may not be necessary because there are no assets, beneficiaries, or creditors to protect. A few important changes are:

- A petition to appoint a personal representative must include the purpose for filing a petition if the estate has no assets and the personal representative wants to reduce the requirements found in a traditional probate. ORS 113.035.

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- The bond requirements of ORS 113.105 do not apply if the petition for appointment of a personal representative states that no assets are known to the petitioner. ORS 113.105(2)(d). However, if assets later become known to the personal representative, the personal representative must file a motion to set or waive bond. ORS 113.105(3).
- The personal representative is excused from publishing a notice to interested persons if the petition for appointment of personal representatives states that there are no known assets of the estate. ORS 113.155(5)(a). If assets are later found, notice is required. ORS 113.155(5)(b).
- If an estate has no known assets, the inventory filed with the court must state that no property of the estate has come into the possession or knowledge of the personal representative. ORS 113.165. If property later comes into the possession of or becomes known to the personal representative, a supplementary inventory must be filed with the court. ORS 113.175(2).
- The personal representative is excused from the duty to investigate the financial records of the decedent if the petition to appoint a personal representative states that no assets are known or are in the possession of the personal representative. ORS 115.003(6)(a). If the personal representative later comes into possession or knows of assets of the estate, the three-month period to investigate begins once a supplementary inventory is filed with the court. ORS 115.003(6)(b).
- The personal representative is excused from the duty to allow or disallow claims presented if the estate has no assets. ORS 115.135(5)(a). If the personal representative later comes into the possession or knowledge of assets of the estate, the personal representative must allow or disallow claims per ORS 115.135. ORS 115.135(5)(b).
- A new section is added to ORS 116 that simplifies the process for closing an estate with no assets. Under this new section, the personal representative may move to close an estate with no assets after four months. The personal representative shall set a time for filing objections to the motion to close the estate. Not less than 20 days before said time, the personal representative shall mail a copy of the motion to close the estate to all persons who would be entitled to receive a copy of the final accounting under ORS 116.093. If the court grants the motion, the court shall enter a general judgement closing the estate and discharging the personal representative. Within one year, the court may allow an action to be brought against the personal representative if the judgement of discharge was taken through fraud or misrepresentation.
- The accounting process in a no-asset estate is as follows. A personal representative may file a statement in lieu of the account if the estate has no assets. ORS 116.083(3)(a). The personal representative shall mail the statement to those creditors of the estate that have not been paid in full. ORS 116.083(3)(c). Within 30 days, a creditor entitled to receive the statement may require the personal representative to file an account of the administration of the estate. *Id.*

HB 3007 – Administration Process and Guidance for Small Estate Administration. ORS Chapters Impacted: 113, 114, and 116

The changes in HB 3007 address ambiguities in the small estate administration statutes. While many sections, including the valuation limitations, are retained, the sections have been reorganized for clarity, to provide guidance to the affiant, and to provide better protection for creditors, beneficiaries, and heirs. A few important changes are:

- The valuation limits remain the same, but the bill adds that valuation is determined at the date of death or, if the date of death is more than one year before the date of filing the small estate affidavit, then the value within 45 days of filing. ORS 114.505(2). The fair market value of the property is assessed without consideration of liens or debts. ORS 114.505(3).
- People convicted of a felony or disqualified from serving as a personal representative under ORS 113.095 may not be the affiant of a small estate administration. ORS 114.515(2).
- An amended small estate affidavit is required if there was a material error or omission in the original affidavit, or to include property not described in the original affidavit. ORS 114.515(6)(a).
- If the fair market value of the estate exceeds the valuation limits, the affiant's authority is terminated, except that the affiant shall deliver assets of the estate in the affiant's possession to the personal representative. The affiant shall serve a notice to the court that the estate is not subject to the small estate affidavit process. ORS 114.515(7).
- The affidavit must include a notice in 14-point bold type that anyone who owes a debt or possesses property of the estate must pay or turn over that property. ORS 114.525(1)(a).

- The affidavit must include the name and post office address of the affiant, any claims undisputed by the affiant, the mailing address for presentment of claims and whether the affiant will accept electronic mail, and the anticipated administrative expenses and attorney fees. ORS 114.525(1).
- The affidavit must also indicate whether the decedent was incarcerated in Oregon at any time within the 15 years preceding death. ORS 114.525(1)(t).
- A certified copy of the death record and, if the decedent died testate, the original will should be attached. ORS 114.525(2)–(3).
- The affiant may serve a written demand to a person who owes a debt or personal property to the estate but refuses to pay the debt or transfer the personal property. The demand must state that the affiant may file a motion to compel. If the person fails to pay the debt or transfer the personal property within 30 days after receipt of the written demand, the affiant may file a motion to compel. ORS 114.535(6)(a)-(b).
- A claim against the estate must be presented to the affiant, and filing to the court does not constitute presentation to the affiant. ORS 114.540(1)(c). Claims are presented when mailed or personally delivered to the affiant, or if the affiant authorized other means for presentment, then by those means. ORS 114.540(1)(d).
- A creditor whose claim has been presented and disallowed may file a petition for summary determination. Upon a hearing, the court shall allow or disallow the claim in whole or in part. ORS 114.550(d).
- The duties of the affiant have been expanded to include a general fiduciary duty to administer the estate in accordance with the will or according to intestate succession, and with as little sacrifice in value as necessary. ORS 114.545(1)(a).
- The affiant may not comingle property the affiant has taken possession of with the property of the affiant or any other person. ORS 115.545(1)(b).
- Affiants have the power to convey real property of the estate for adequate consideration with the consent of all of those who are successors in interest of the real property. Disposition of personal property does not require the approval of all successors in interest unless the property in question is subject to a specific devise. If a successor in interest refuses to consent, the affiant can petition the court to approve a sale. ORS 114.545(1)(g).
- If the estate suffers a loss due to mismanagement, the affiant may be liable.
- A person may file a petition for summary review to compel a distribution from the estate. The petition must be filed within 60 days after the end of the two-year period in ORS 114.550(a). ORS 114.550(1)(b). A creditor is barred from filing a petition if the creditor's claim was disallowed and the creditor did not seek a summary determination under Section 12. ORS 114.550(1)(d).
- The affiant may not distribute property to those named in the affidavit if a petition for summary review has been filed until all claims allowed in the summary review proceeding are paid. ORS 114.555(1)(b).
- Property conveyed by the affiant is subject to liens and encumbrances against the decedent. ORS 114.555(2).

HB 3008 – Administration Process and Guidance for Personal Injury and Wrongful Death Claims. ORS Chapters Impacted: 30, 113, and 116

This bill adjusts probate requirements when probate is sought for the purpose of seeking a personal injury or wrongful death claim for injuries to the decedent. Proceeds recovered from a wrongful death claim do not become assets of the estate and are distributed pursuant to ORS 30.030 while personal injury claims that do not cause the death of the decedent are assets of the estate and a full probate is required.

- The terms "beneficiary," "interested person," "personal injury claim," and "wrongful death claim" are defined.
- A personal representative is permitted to enter into settlement agreements without commencing an action. The personal representative must petition the probate court for approval of the proposed settlement.
- Probate bond requirements are waived if the only asset of the estate is the personal injury or wrongful death claim. Additionally, an annual report on the status of the claim may be submitted in lieu of the annual account under ORS 116.083.
- Any beneficiary, interested person, or person nominated as personal representative under a will may petition for appointment as personal representative for the sole purpose of pursuing a wrongful death claim. The petition must state that probate is intended for the sole purpose of pursuing a claim, among other requirements.
- The personal representative must notify all beneficiaries in a manner similar to the requirements under ORS 113.145 but modified to include information about the wrongful death claim.

- A personal representative may move to close an estate after resolution of the wrongful death claim if the estate has no assets aside from the damages recovered that are outside the probate estate. The motion must include evidence that the damages recovered from the claim have been distributed pursuant to ORS 30.030.
- Damages must be placed in the lawyer trust account for an attorney representing the personal representative in the estate or in the wrongful death claim before being distributed to beneficiaries.
- Beneficiaries, the Department of Human Health Services, and the Oregon Health Authority must be notified of the location of proceeding, name of decedent, name of the personal representative, date the personal representative was appointed, and statement of rights.
- The personal representative must also make reasonable efforts to identify all beneficiaries.
- The statutory compensation for a personal representative now includes the proceeds recovered in a wrongful death claim, and each asset shall be valued at its highest value as shown on any inventory or accounting so long as the highest value was not materially misstated on any of the documents. ORS 116.173(1)(e), (2)(b).
- Venue, in addition to where the decedent was domiciled, location of death, or location of property, is proper where a personal injury or wrongful death claim could be maintained. ORS 113.015(1)(d).

Stewardship Trusts: A new Way to Plan for the Purpose Driven Business Owner

by Steve Bell
Stoel Rives LLP

There has been a growing interest in recent years in finding solutions for the altruistically operated business that aims to advance multiple goals beyond the mere pursuit of profit. Operating philosophies, such as the triple bottom line, or legislation, such as Oregon's Benefit Companies statutes (ORS 60.750–ORS 60.770), provides tools for the business owner looking to balance profits with altruistic motives. Through House Bill 2598, practitioners will soon have an additional avenue for structuring ownership of a purpose-driven company under a trust designed to perpetuate the goals of the company and its owners.

House Bill 2598, sponsored by Representative Julie Fahey and signed into law by Governor Brown on May 28, 2019, provides for the creation of a new section of the Oregon Uniform Trust Code as enacted under Chapter 130 of the Oregon Revised Statutes. The new statute authorizes and provides the framework for a "stewardship trust," which is a particular breed of noncharitable purpose trust. In addition, House Bill 2598 also makes a few targeted changes to other sections of the Oregon Revised Statutes to integrate this new Stewardship Trust into the Oregon Uniform Trust Code.

The Oregon Uniform Trust Code currently provides for the creation of noncharitable purpose trusts by statute, under ORS 130.190, and also provides for the more specialized pet trust under ORS 130.185. A noncharitable purpose trust is set apart from other trusts in that the assets are not held for the benefit of any particular ascertainable beneficiary, nor, as the name suggests, are the assets dedicated to a charitable objective. A noncharitable purpose trust generally fails under the common law definition of the law due to its lack of an ascertainable beneficiary, and is thus a creation of statute. In lieu of an ascertainable beneficiary, a noncharitable purpose trust, as authorized by statute, allows for a defined purpose to substitute for an ascertainable beneficiary. Traditionally the use of such trusts has been fairly limited, with the most frequently seen variations being the trust for the care of one or more animals (as explicitly authorized by the pet trust statute of ORS 130.185), or a trust for the upkeep or care of a memorial or of a gravesite, which would be authorized under ORS 130.190. For a detailed and informative review of the history of the noncharitable purpose trust and of the innovative approach intended by the Oregon legislation from a fellow member of the workgroup supporting Representative Fahey, see "The Oregon Stewardship Trust: A New Type of Purpose Trust that Enables Steward-Ownership of a Business" by Professor Susan N. Gary.

The general noncharitable purpose trust statute of ORS 130.190 is not limited to keeping gravesites tidy, however, and can be utilized for a wide variety of purposes pursuant to the statutory framework. One such variation is a noncharitable purpose trust designed to hold and manage an ownership interest in an operating company in service of a defined purpose. Although the existing statutory framework under ORS 130.190 (as well as similar statutes enacted in many other states) will allow for the creation of a noncharitable trust with a business purpose, the statutory provisions are somewhat cumbersome, in particular in the application of the 90-year rule against perpetuities (ORS 130.190(1)) and in the ability of a court to determine whether or not the value of the trust property exceeds the amount required for the intended purpose (ORS 130.190(2)-(3)). While a noncharitable purpose trust created to serve a personal purpose may be appropriately limited by such provisions, a trust that is

intended to serve as a significant (if not the sole) owner of a closely held company could be stymied by such limitations. Accordingly, House Bill 2598 is designed to create a more flexible framework, not unlike the specialized provisions for a pet trust under ORS 130.185, that would more readily allow for the creation of a Stewardship Trust as a specific type of noncharitable purpose trust administered for a business purpose. The legislation eliminates some of the restrictions making a noncharitable purpose trust for a business purpose unattractive under the existing language of ORS 130.190, while incorporating a framework useful to practitioners and that may also help prevent the statute from being utilized for inconsistent purposes.

House Bill 2598 creates a new statute under Chapter 130 of the Oregon Revised Statutes to set forth the framework of a Stewardship Trust created under Oregon law. A Stewardship Trust is a noncharitable purpose trust where the purpose is business related and the trust will hold an ownership interest in the business. The "business purpose" is not defined or limited pursuant to the terms of the statute, and will thus need to be articulated in the trust agreement itself. In some, but not all, cases this ownership structure could overlap with the decision of the company to operate as a Benefit Company under Oregon law. A Stewardship Trust created pursuant to the new statute will be a directed trust. A Trust Stewardship Committee of three or more persons may act by majority vote (subject to the terms of the trust agreement) to remove and appoint other fiduciaries, to direct the trustee regarding distributions from the trust, and to take actions regarding the company ownership interest (such as exercise rights as a shareholder or member) held by the trust.

The Trust Stewardship Committee and trustee are fiduciaries charged with administering the Stewardship Trust to advance the articulated business purpose rather than in the service of any ascertainable beneficiary or class of beneficiaries. In order to provide the necessary oversight and enforcement of the Stewardship Trust's purpose, a "Trust Enforcer" is authorized under the terms of the new statute, and the Trust Enforcer is given the powers of a Qualified Beneficiary under the Oregon Uniform Trust Code. A Trust Enforcer is entitled to notices and reports under ORS 130.710, and through the Trust Enforcer's deemed rights as a Qualified Beneficiary, the Trust Enforcer has the ability to bring an action for breach of fiduciary duty as well as take all other actions belonging to a Qualified Beneficiary against the trustee or Trust Stewardship Committee to ensure that the trust is administered in furtherance of the articulated purpose under the trust agreement. The status of the Trust Enforcer as a Qualified Beneficiary also ensures participation in any key decisions, such as a trust modification. In order to prevent conflicts of interest, the new statute prohibits any person from serving simultaneously as a Trust Enforcer and as a trustee or as a member of the Trust Stewardship Committee.

House Bill 2598 also addresses some of the hurdles that existed under ORS 130.190 when contemplating a noncharitable purpose trust to be administered over many years for a business purpose. Accordingly, a Stewardship Trust could be funded with a level of assets deemed appropriate by the settlor, and the trust does not necessarily require that distributions be made, nor does it invite a court under the statutory language to second-guess the assets that may be necessary for achieving the business purpose. Furthermore, House Bill 2598 allows for a Stewardship Trust to affirmatively opt out of the 90-year rule against perpetuities under ORS 105.965. If the terms of the trust specifically provide, a Stewardship Trust may continue beyond 90 years, including in perpetuity; however, without such an affirmative choice, the default 90-year rule against perpetuities would still apply.

Although Stewardship Trusts, much like other noncharitable purpose trusts, are likely to serve only a particular niche, the ability to create a Stewardship Trust under the new and revised provisions of the Oregon Uniform Trust Code will provide a powerful option to the altruistically minded business owner looking to create an

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enforceable mechanism that enshrines the operation of the company in service of set goals beyond the owner's personal involvement in the enterprise. Practitioners will soon (after January 1, 2020) have a new tool at their disposal, which, with careful consideration of tax consequences and practical concerns, can allow for a unique way of addressing out-of-the-box thinking on business succession.

New Social Security Rules Published and Then Shelved Cause Confusion for Special Needs Attorneys

By Melanie Marmion and Christopher Ray, Attorneys at Law

Thank you to the Elder Law Section for sharing this article, which appears in the October 2019 issue of the Elder Law Newsletter

The Social Security Administration (SSA) took the special-needs community on a roller coaster this summer, by publishing new guidelines in June that seemed to suggest attorneys drafting special-needs trusts must get approval from SSA for their fees, then unexpectedly pulling those guidelines in late September.

Prior to June 2019, it was widely believed that only attorneys who represent clients specifically before the SSA in the determination of their clients' eligibility for Social Security benefits must have their fees approved. It was further assumed that attorneys who represent clients in the creation and administration of special needs trusts did not need SSA approval of their fees.[1] However, on June 25, 2019, SSA published new examples in their Practice Operations Manual (POMS)[2] which cast doubt on these assumptions.

The authoritative guidance for attorney fees is POMS GN 03920.007 which provides, in relevant part:

> Section 206 of the Social Security Act requires us to authorize a representative's fee when the representative's services *are performed "in connection with" a claim before the agency.* (emphasis added)

Nothing in POMS GN 03920.007 gave any indication that assisting clients with the creation of a special needs trust would be a service *performed "in connection with a claim" before the agency*. But specific factual examples published in June to "clarify"[3] what type of services would fall under the umbrella of "in connection with a claim before the agency" clearly included the drafting of certain special needs trusts. It did not help that the examples—and particularly the explanations for the conclusions in the examples—were poorly written and created more questions than answers.

Example 1. *Mary Smith, a woman whom we have found disabled under Title II and allowed monthly disability benefits, hires an attorney, Ms. Roberts, to establish a trust with $10,000 in assets. We not need to authorize Ms. Roberts' fee for the services provided to establish the trust.*

> *SSA explanation: An attorney may establish a trust for an individual who is already receiving benefits without the need of our authorization of the fee he or she seeks, so long as the trust was not established to protect SSI eligibility.*

In this first example, Mary Smith is collecting SSDI[4], a Title II entitlement benefit. The creation or funding of any type of trust for Mary Smith would not affect her eligibility for her SSDI, so it is no surprise that SSA concluded that no fee approval was necessary. However, the phrase *"so long as the trust was not established to protect SSI eligibility"* is what caused alarm. Special- needs attorneys understand that most first-party special needs trusts are established with the primary intent to protect the client's eligibility for SSI. The SSA explanation of Example 1 inferred that if a trust is established to protect an individual's eligibility for SSI, fee approval would be required.

Example 2. *Sometime later, Ms. Smith applies for SSI. She also asks Ms. Roberts to revise her trust because she has changed her name. The attorney can again collect a fee for the services provided on the trust due to the name change without our authorization. A month later, we notify Ms. Roberts that the trust language needs to be revised again, because as drafted it does not meet our requirements for exception to resource counting. She discusses the issue with the claims representative (CR), amends the trust, and submits the amended trust to the agency. The services related to amending the trust and communication with the agency are performed in direct connection with Ms. Smith's pending SSI claim, and fees for those services require our authorization.*

> *SSA explanation: If a representative assists a claimant or recipient to alter an established trust for reasons such as a name change or the death*

1 See, e.g., *SSA Ethical Rules- Mountains or Molehills*, a treatise by attorney Constance R. Somers presented at the University of Texas 13th Annual Changes and Trends Affecting Special Needs Trusts program on February 9, 2017.

2 The POMS is an internal SSA manual for its employees. Though not legally binding, the courts have deferred to its rules when evaluating special needs cases. See, e.g., *Draper v. Colvin*, 779 F.3d 556 (8th Cir 2015).

3 The term "clarify" is taken from the preamble statement to the newly issued language for the POMS

4 SSDI = Social Security Disability Income

of a parent, we do not need to authorize the fee because the legal service is not performed in connection with a pending claim or future claim and the parties have not submitted a fee agreement or a fee petition. However, the second transaction affects whether the assets in Ms. Smith's trust are countable resources for SSI purposes, and therefore her potential eligibility for benefits, so we must authorize the fee the representative may seek for the preparation of documents or conducting business with us.

At least Example 2 was clear and confirmed the inference suggested in Example 1. That is, any special-needs trust that is established for the purpose of obtaining or continuing eligibility for SSI needs to have SSA fee approval.

Thus far, the examples were focused on first-party special-needs trust planning. It appeared that a special-needs trust established as part of an estate plan for the benefit of a child or other individual (often called third-party special-needs trusts) would be exempt from the reach of SSA fee approval, but then came Example 3.

Example 3. *Clara Waters, a grandmother, establishes a trust for Rainbow, her granddaughter through Mr. Johnson, an attorney. Generally, we would not need to authorize Mr. Johnson's fee, so long as the trust was not established for the purpose of affecting his clients' eligibility for benefits.*

SSA Explanation: An attorney may establish a trust for a minor child for many reasons. If a trust is prepared in order to affect someone's eligibility for benefits, we must authorize the representative's fee for preparation of the trust. However, if a trust is prepared for a reason unrelated to a claim for benefits, we may not need to authorize the fee charged for preparing the trust. Depending on the information in a claims file, we may need to obtain an explanation from the representative or claimant if there is a question about the purpose of the trust, or about why it was established. If a trust is prepared not in connection with a claim, but the parents later apply for benefits and enlist the assistance of an appointed representative (the same attorney or someone else) to prepare or provide information to us, we would authorize fees for only those services provided in connection with a matter before us.

Both the facts of the example and the explanation of Example 3 were confusing in many ways. First, note that the facts moved beyond the specificity of SSI to "benefits" in general. Also, who is the client here? I would assume that the client was Clara, because Rainbow is a minor. But how would establishing a trust for Rainbow affect eligibility of the attorney's client (Clara) for benefits? The facts also did not even tell us whether the trust was funded or it was part of Clara's estate plan to be funded at her death.

Let's move on to the explanation. Again, it is unclear who in this example is attempting to claim benefits. It doesn't appear that Clara or Rainbow would be making a claim for SSI benefits. The explanation states that even if the trust was established for a reason unrelated to a claim for benefits, SSA would check its claims file and might request additional information about the purpose of the trust. Did this mean that every time a trust is established for someone on benefits, including SSDI—or someone who could claim benefits in the future—we would have to submit something to SSA to learn whether they require further explanation to determine whether a fee approval is necessry? What if there is no claim (as in the case of Rainbow)? Then what? The only part of this explanation that makes sense is the last part where clearly the attorney is representing the clients before the SSA. The lingering conclusion from this example was that there could be situations involving third-party special needs trusts that will require prior SSA approval of attorney fees.

Heeding the outcry of confusion from special needs attorneys across the country, the National Association of Elder Law Attorneys (NAELA) and other like-minded organizations began meeting with SSA administrators to address the concerns and uncertainties raised by the examples. In late September, in apparent response to this public pressure, the SSA took the highly unusual step of rescinding[5] the June 2019 examples.

Many attorneys breathed a sigh of relief at this development, but there is still concern that SSA believes there are situations in which an attorney drafting a special-needs trust will need to get SSA approval for his or her fees. In explaining the reason for "archiving" the new POMS, a highly ranked staff member at the SSA Office of Operations stated that SSA understood how the examples, as written, could have been confusing but she didn't believe they changed previous SSA policy regarding fee approval, and that SSA is now "going back to the drawing board" to rewrite the examples.[6]

Life was seemingly easy for us estate planners/special-needs attorneys prior to June 2019. Now we must all grapple with how best to interpret SSA's actions this summer, and there are currently few clear answers. Because failure to comply with attorney fee approval

5 SSA uses the word "archive" but essentially the June examples are no longer part of the POMS.

6 This information comes from Stacy Braverman Cloyd, an advocate with the National Organization of Social Security Claimants Representatives (NOSSCR). She spoke with the SSA staff member on the phone and received permission to share the SSA staff member's statements with the public.

requirements can result in a misdemeanor conviction, a $500 fine, and up to one year in jail for each occurrence, we believe the confusion caused by the fact examples and the recent statements of SSA staff may have a chilling effect on the activities of many estate planners.

We hope clear answers will be forthcoming. Stay tuned.

Events Calendar

OSB Fall Basic CLE:
Basic Estate Planning for Oregon Taxable Estates
November 15, 2019
Multnomah Athletic Club, Portland, OR

64th Annual Estate Planning Seminar
November 18-19, 2019
Washington State Convention Center
Seattle, WA

49th Annual Estate Planning Seminar
Estate Planning Council of Portland, Inc.
January 24, 2020
Oregon Convention Center, Portland, OR

The Editors want to include announcements of upcoming events that are open to the public and may be of interest to our readers. If you know of an event, please send basic information, including point of contact information to Chris Cline at *chriscline@riverviewbank.com* for inclusion in the next issue of the Newsletter.

Fall CLE Program – Basic Estate Planning for Oregon Taxable Estates

by Phil Jones, Section Chair

The Estate Planning and Administration Section sponsors two CLE programs each year: an advanced program in the spring and a basic program in the fall.

This year the fall basic program will be at the MAC Club in Portland on Friday, November 15. This year's basic program is unique: we will spend the entire day taking a comprehensive look at the basics of planning for Oregon taxable estates. This is a subject that many section members have requested, and so the program was designed to respond to those requests. The program was developed by the CLE Committee, and the Executive Committee has supported it by providing the speakers from within the Executive Committee. With the Oregon estate tax exemption remaining at $1 million, more and more estates are becoming subject to the Oregon tax, and so estate planners need to know how to advise their clients regarding the Oregon estate tax. This CLE program will be aimed at new admittees and younger lawyers who would like to build a foundation of knowledge regarding estate tax planning in Oregon. It will also be aimed at any attorney who is now planning nontaxable estates and would like to make the leap into taxable estates, or more experienced attorneys who would like a refresher on the subject of Oregon taxable estate planning. We believe that this program will be particularly valuable to the members of our section, and we hope you will attend. For details about the program, including a copy of the program brochure and information on how to register, visit the OSB CLE Department webpage: www.osbar.org/cle/.

Please join the Estate Planning Council of Portland, Inc. for our 49th Annual Seminar.
Friday, January 24, 2020
Oregon Convention Center
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Nationally recognized speakers, important topics!
For more information or to register, visit this link.