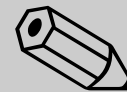


# Planning Points



The Karp Law Firm, P.A. *"Your Peace of Mind is Our Priority"* 2016 Annual Newsletter

## From Mr. Karp

Numerous legal changes took place in 2015. Not all will affect you, but some likely will. That is why I urge our clients to take advantage of the free estate plan review our law firm offers you every three years, even if your own circumstances appear unchanged.



When we meet with you, we will review your current family situation, finances and asset titling. We will determine if your plan needs fine-tuning to stay in sync with the latest legal developments and your goals. If your plan is fine just as it is, we'll tell you that, too. Either way, you will be confident that you and your family have the protections you desire. And isn't that the reason you created your plan?

Our attorneys, staff and I wish you and your loved ones a happy and healthy 2016.

All the best,

## Every Adult Needs An Estate Plan

A myth persists that estate planning is only for the old or the wealthy, and is all about death. The truth: All adults need at least a rudimentary estate plan that also addresses *life's* events. A few examples illustrate why:

Virtually all adults need a Durable Power of Attorney that empowers someone to handle their financial affairs in the event of disability—even spouses who own everything jointly. By example, if you are married and become incapacitated, your spouse would not be able to manage and access your IRA if you had not named him/her as your agent under a valid Durable Power of Attorney.

A Health Care Power of Attorney or Health Care Surrogate is also vital, so that someone you know and trust can make your health care decisions and access your privileged medical information. Who can forget the sad case of Terri Schiavo, whose failure to empower a health care agent plunged her family into a prolonged legal nightmare? The court case was not just about whether life support should be continued; it was primarily about who had the authority to make the decision.

If you are in your child-rearing years, you need a will regardless of the value of your assets, because

**K**

**THE KARP LAW FIRM, P.A.**

Elder Law·Estate Planning & Administration·Probate·Estate Litigation·Special Needs Planning·  
Medicaid & Veterans Benefits Planning

2875 PGA Blvd., Suite 100, Palm Beach Gardens, FL 33410 (561) 625-1100  
2500 Quantum Lakes Dr., Suite 203, Boynton Beach, FL 33426 (561) 752-4550  
1100 SW St. Lucie West Blvd., Suite 102, Port St. Lucie, FL 34986 (772) 343-8411  
Toll Free (800) 893-9911 Web: [www.karplaw.com](http://www.karplaw.com) Email: [klf@karplaw.com](mailto:klf@karplaw.com)

that is the *only* way to designate your preferred guardian for your child if anything happens to you. You should also establish a *Designation of a Health Care Surrogate for a Minor*, recently authorized under Florida law, to allow someone to make your child's health care decisions if you are unavailable. You will feel better knowing this document is in place.

If you die without a valid will, your assets will be distributed in accordance with Florida intestacy laws. Those distributions may not be consistent with your desires. This is the situation now unfolding in a high-profile case involving actor Morgan Freeman, whose 33-year-old granddaughter died an untimely death. To Freeman's dismay, New York's intestacy laws earmark half her assets for her dead-beat dad, who played no part in her upbringing.

Sometimes people with modest assets forget that they can become wealthy in death. A successful wrongful death lawsuit could mean a large sum flowing into your estate. State law, not you, will determine who gets the money if you pass away without a valid will or trust.

Everyone owes it to their family to create at least a basic estate plan. Call our office for assistance. □

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### **Attention Landlords!**

**O**wning rental property in your own name, or in a general partnership or living trust, can expose you to liability if someone is injured on the property and sues you. The property, your equity in it, and your personal assets could be jeopardized. Umbrella insurance can be prohibitively expensive or unavailable for various reasons.

Many clients have found a better solution to this dilemma: a Limited Liability Company (LLC). Establishing an LLC can protect your personal assets from liability arising from injuries sustained on your rental property. In fact, some clients who own multiple rental properties create an LLC for each one, shielding each property from liability arising from any other.

To explore the benefits of an LLC, call Client Coordinator Liz Lebron to request a phone conference to discuss your needs with Attorney Chad Steskal. Also, if you already have an LLC but have not revised it to be consistent with the amended law of 2014, you may not have all the protections you think you have. Mr. Steskal will be pleased to review your existing LLC, too. □

### **Caveat Emptor**

**T**he Florida Supreme Court has ruled that it is a felony for non-lawyers to provide Medicaid planning advice and/or draft personal services contracts. The ruling is in response to increasing numbers of incidents in which non-lawyers fail to warn clients about deleterious tax consequences, expose them to allegations of fraud, and/or fail to help clients achieve eligibility. Even referring someone to a non-lawyer for Medicaid planning may be considered to be aiding and abetting a crime. Moreover, so-called Medicaid planning agencies that purport to have a "relationship" with an attorney are not exempt: The client must independently retain and meet with the attorney.

Unfortunately, even a lawyer can give bad advice if lacking expertise in these matters, and many lawyers have jumped into this burgeoning field of law without the requisite experience. The Karp Law Firm has been providing expert Medicaid planning advice for two decades, and both Attorney Joseph Karp and Attorney Genny Bernstein are Florida Bar Certified Elder Law Specialists. Please call us for assistance. □

## Caregiver Wage Rules Change

New federal wage rules require Home Health Aides and Certified Nurse Assistants to be paid at least minimum wage (\$8.05/hour in Florida), plus time-and-a-half for all hours worked in excess of 40 hours each week. Even if you are paying someone privately, you may be subject to the new laws, and face unpleasant consequences if you do not comply.

In light of the new law, it is important to understand the difference between nursing registries and home health agencies. A caregiver who comes to you through a nursing registry may be considered your employee. A caregiver who comes to you through a home health agency is compensated by the home health agency and is considered to be *its* employee, not yours. Thus, some people may prefer to deal with a home health agency, leaving the agency to deal with all the details and liability of compensation.

Last, if you've concluded you do not need long-term care insurance because it would be less expensive to hire at-home caregiving help than pay for a policy, that conclusion may no longer hold true. You may want to reconsider that approach and explore long-term care insurance policies. The IRS allows a deduction for premiums on qualified long-term care policies. □

## Meet Our New Attorneys

We are pleased to announce the addition of two new lawyers to our team:

**Chad L. Steskal** focuses on estate planning, formation of corporate entities and Limited Liability Companies, business succession planning, tax planning and asset protection. He holds a law degree, and an LL.M. in taxation from the University of Miami School of Law.



**Thornton (Brad) Henry** heads up our Estate Litigation Department, and also assists clients with estate planning, tax planning, and probate and trust administration. He earned his law degree from the University of Florida and also holds a masters degree in divinity studies from Duke University. □



### Need a Referral?

We are always there for our clients! If you or a loved one have a legal issue we do not personally handle, we will be delighted to make a referral to another legal professional. Call our office and we will assist you to find the help you need.

## Your IRA Can Provide a “Pension” for Your Children

No matter how hardworking, many of our adult children are facing job instability and an uncertain economic future. Few will get a fixed pension at retirement — if they can retire at all.

If you plan to leave your IRA to your child, consider setting up an IRA Stretchout Trust with your child as beneficiary, instead of leaving your IRA directly to your child. Properly designed, the trust can supply your child with a steady income stream over his lifetime—a kind of pension—that can help him weather our modern economy's harsh realities. The trust can also be structured to ensure that any unused portion passes to your grandchildren. Call our office for more information. □

## When Heirs Collide

Fostering family harmony is our clients' first priority. It's ours, too. We work closely with clients to analyze their family dynamics and pinpoint areas of potential conflict. Our goal is to create a plan that unites your loved ones and prevents squabbles. No wonder our attorneys are known as *Counselors* at Law.

Unfortunately, human behavior being what it is, even the most finely tuned estate plan cannot always prevent family conflict following a loved one's passing. Occasionally those conflicts develop into full-scale legal battles. We often receive calls from people who want us to represent them in challenging an estate they believe is being mismanaged or whose distributions they believe are unfair. We hear too from Personal Representatives and Trustees who need legal help dealing with disgruntled heirs. (Fortunately, those calls are primarily for help with estate plans our law firm did not create!)

In response, our law firm is now offering **estate litigation services**. Attorney Brad Henry, an experienced estate litigator, heads up our litigation department, with the assistance of our current estate administration staff (helmed by Attorney Adele Harris, with support from four paralegals and a Certified Public Accountant). Mr. Henry will continue helping clients with regular estate planning matters as well.

Of course, avoiding lawsuits is always prudent. Attorney Joseph Karp, a Florida Supreme Court Certified Circuit Court Mediator, can help families settle their differences over an estate or the handling of an aging relative's issues, without contentious litigation. Call our office to inquire about mediation services. □

## Observation Status Sticker Shock

Medicare covers skilled nursing care for rehabilitation for up to 20 days (plus an additional 80 days with a deductible), provided it follows a 3-day inpatient hospital stay for *treatment* - not if you've been admitted to the hospital for *observation*. Unfortunately, most people learn that they were admitted to the hospital on observation status the hard way: When the nursing home bill arrives.



That changes in August 2016, when the Notice of Observation Treatment and Implication for Care Eligibility Act (NOTICE) requires hospitals to alert Medicare beneficiaries if they are admitted as observation patients. Unfortunately, NOTICE only *forewarns* you of the sticker shock ahead; it offers you no additional practical options. You can of course ask your physician to reclassify your stay, but even if that happens, the reclassification will not apply to days spent in the hospital prior to reclassification. Or you can appeal the case to Medicare post-discharge.

There are reports of Medicare patients just picking up and leaving the hospital when they learn they are on observation status. That's an option we don't recommend - even if you have to face the financial music down the road. □

### Clients: Keep Us Updated!

Address, phone number or email address changed? Let us know! Call or send an email to

[updatemyinfo@karplaw.com](mailto:updatemyinfo@karplaw.com)

Be sure to include your name with the message!



*When you talk, you are only repeating what you already know. But if you listen, you may learn some-*



## Community and Kudos



**Attorney Joseph Karp** was again named a Super Lawyer by Thomson-Reuters, and one of Florida's Legal Elite by *Florida Trend*. He was also a panelist at the 2015 Fearless Caregiver conferences in West Palm Beach and Port St. Lucie.

**Attorney Genny Bernstein** was again named one of Florida's Legal Elite by *Florida Trend*. She presented a program on V.A. Benefits at the Palm Beach County Bar Association's Elder Law Seminar.

**Attorney Brad Henry** spoke to bankers and professional trustees at the Professional Endowment Committee of the Rehabilitation Center for Children and Adults, and to the Planned Giving Council.

**Attorney Adele Harris** taught the National Business Institute's "Probate Boot Camp" for paralegals.

**Case Manager Deeanna Farrington** was elected vice president of the board of directors of the non-profit Alzheimer's Care Resource Center.

### THE KARP LAW FIRM:

Co-sponsored the Area Agency on Aging's 2015 Prime Time Awards Breakfast and the Alzheimer's Association's Safari Night fundraiser.

Conducted three educational workshops for our colleagues in the social work and health care community. Thanks to Harbor Place in Port St. Lucie, Allegro Senior Living in Boynton Beach, Allegro Senior Living in Jupiter, and to our guest speakers: Attorney Jacqueline Bain, Nancy Partin, Connie Heffelfinger, Kim Clawson, and Rosa Bruno.



Janet Suarez, Mr. Karp with food drive collection

Collected 407 pounds of food for WPTV's Thanksgiving food drive for needy families. Janet Suarez, Estate Administration Paralegal, coordinated our efforts.

Sponsored 10 needy children through the Palm Beach County Legal Administrators' Angel Giving Tree Project. Firm Administrator Audrey Yeager spearheaded the project.

Donated school supplies for underprivileged schoolchildren for the 2015 academic year. Attorney Genny Bernstein helmed the project.

Participated in the West Palm Beach and Jensen Beach Walks to End Alzheimer's. Client Coordinator Liz Lebron was our team captain.

Pictured at the West Palm Beach walk are L-R back: Estate Planning Assistant Wendy Rojas & son; Estate Planning Paralegal Kristina Iwasz; Attorney Rachel Zetouni; Estate Administration Paralegals Ana Stalker & Norma Cruz; Attorneys Brad Henry & Chad Steskal. L-R Front: Receptionist Sara Schena; Attorney Genny Bernstein; Firm Administrator Audrey Yeager; Estate Planning Paralegal Margaret Sajjun and sons.



## Karp Financial Services Welcomes Omar Cujar and Damon Boyar

W elcome Omar Cujar and Damon Boyar, Investment Advisor Representatives who are now assisting Karp Financial Services clients. As we welcome Omar and Damon, we bid good-bye and good luck to Steve Levine, who has left Karp Financial Services to pursue other interests, among them spending more time with his new granddaughter.



Omar Cujar

Thanks to Omar and Damon, the transition has been a smooth one for existing clients, and we expect new clients will be equally pleased with this duo's expertise and integrity. Omar is a Certified Financial Planner™, a South Florida native, and like Joe Karp, a graduate of Rutgers University. Damon, an ex-New Yorker, has been involved with securities for over a decade and is a graduate of Baruch College.



Damon Boyar

Remember, estate planning and financial planning should be coordinated. The legal plans you establish can help preserve your assets from many threats, but maximizing your assets is another issue. Receiving prudent advice is very important. If you do not currently have a financial advisor, if you want to establish a relationship with one, or even just get a second opinion, feel free to contact Damon and Omar. They are available to meet with you, listen to your concerns and help identify strategies which may achieve your financial objectives. They will listen! Contact Omar and Damon to schedule an appointment for a no-cost second opinion at 561-626-1130 or 888-742-4637. □

*Investment Advice offered through Gaines Financial Group, a registered investment advisor. Karp Financial Services is under separate ownership from the above entity.*

### Need Tax Help?

**C.P.A. Rebecca Maglio can assist with your income tax returns. You need not be a client of our law firm.**

#### EMAIL

**RMaglio@karplaw.com**

#### OR CALL:

**Direct**

**561-472-6066**

#### **Palm Beach Gardens**

**561-625-1100, Ext. 109**

#### **Port St. Lucie**

**772-343-8411, Ext. 109**

#### **Boynton Beach**

**561-752-4550, Ext. 109**

#### **Toll Free**

**800-893-9911, Ext. 109**



*Enjoy the little things, for one day you may look back and realize they were the big things.*  
-Robert Brault

## Think You're Not Eligible for Medicaid? Think Again

It is easy to understand why people are terrified of long-term care costs swallowing up their life savings and impoverishing their spouses. The current cost for a long-term nursing home stay in our area runs a staggering \$8,000 to \$10,000 per month!

Fortunately, financial survival is possible, even if you are not wealthy or don't have a long-term care policy — *if* you understand the Florida Medicaid system. Do not buy into the notion that you have “too much money to qualify for Medicaid.” With good planning, it is often possible to secure benefits before you “spend down.”

If you don't need a nursing home right now, consider planning in advance by creating a **Medicaid Asset Protection Trust**. The assets transferred to the trust are part of the five-year look-back. Also, make sure your Power of Attorney and your Trust allow your agent or successor trustee to manipulate your assets to help achieve Medicaid eligibility. This will also protect them from accusations of wrongdoing.

What if you did not plan ahead and a loved one needs nursing home care very soon? Or is already in a nursing home? Do not believe that it is too late to act. There are numerous steps you may be able to take to preserve assets, even at the eleventh hour.

For two decades, The Karp Law Firm has been helping families with these very difficult challenges. Our two Florida Bar Certified Elder Law Specialists, along with Deanna Farrington, MSW, are here to help. Call us! □

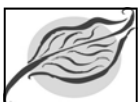
## What Everyone Should Know About The Estate Tax

The federal lifetime estate tax exemption rises to \$5,450,000 in 2016, an increase of \$20,000 from last year. An individual may pass this amount to heirs tax-free. Married couples may pass double this amount if, when the first spouse dies, an estate tax return is filed (even if no estate tax is due) and the survivor elects portability. Even if a survivor thinks it's unnecessary to preserve the deceased spouse's estate tax exemption, doing so may be prudent under certain circumstances. For example, a fairly young surviving spouse whose assets have years to grow to taxable levels should probably go ahead and elect portability, just in case.



The federal annual exclusion (the amount that you may pass each year to as many individuals as you wish without filing a gift tax return) remains \$14,000, the same as last year. Note that you can give away any amount to pay for someone's educational or medical expenses, just so long as you give the money directly to the educational institution or health care provider.

Another estate tax-related issue you should consider is whether you may ultimately decide to leave Florida and relocate to a different state. Many states still have their own *state* estate taxes, which kick in below the federal level. New Jersey, for example, taxes anything over \$675,000. The possibility of relocation should always be discussed with your attorney so it can be incorporated into your planning. □



*It's so simple to be wise. Just think of something stupid to say, then don't say it.*  
-Sam Levenson

# More Ways to Get The News

## Monthly E-Newsletter

Want the news every month? Sign up for our monthly e-newsletter at [www.karplaw.com](http://www.karplaw.com). Click on “Get Our Free Newsletter” at the top of the page.

## Ask The Lawyer

Attorney Karp answers readers’ questions every Thursday in *The Palm Beach Post*. Have a question you would like considered for publication? Submit it to: [ask@karplaw.com](mailto:ask@karplaw.com).

## On the Radio

Hear Attorney Joseph Karp on the “STARS” radio show with Anita Finley on select Saturday mornings. Check the schedule at [www.karplaw.com/page/elder-law-radio-show](http://www.karplaw.com/page/elder-law-radio-show).

## Online 24/7:

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The Karp Law Firm, P.A.  
2875 PGA Blvd.  
Suite 100  
Palm Beach Gardens, FL 33410-2910