

# WHAT'S GOING ON AT NASH NASH BEAN & FORD

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*Some very important and special client events are being planned this August & September 2014.*

**STAY TUNED!**

*We are working on new estate planning issues that are being created by the Supreme Court ruling in the article that follows:*

## Supreme Court Rules on Bankruptcy of Inherited IRA's

The federal government and each state have a list of assets that are protected under the bankruptcy code. Every state protects personal residences. (Some states offer virtually unlimited protection and other states offer only protect a modest amount of equity in the home.) The amount of protection for qualified retirement plans governed by ERISA (Employee Retirement Income Security Act) and contributory IRAs is also defined by both federal bankruptcy law as well as state laws. An area of controversy has been how much, if any, bankruptcy protection should be afforded to inherited IRAs. An inherited IRA is an IRA received as the result of being a beneficiary of a decedent's IRA (spouses can elect either to rollover the IRA into his or her own name or take the IRA as an inherited IRA).

Courts across the country have been divided on whether an inherited IRA should receive the same kind of protections as a contributory IRA. Until recently, the vast majority of the courts have ruled that inherited IRAs are not protected. In recent years there has been a shift in favor of debtors with inherited IRAs. The United States Supreme Court, in *Clark, et ux. v. Rameker*, 573 U.S. \_\_\_ (June 12, 2014), was asked to resolve the conflict in decisions from the Seventh Circuit Court of Appeals in *In re Clark*, 466 B.R. 135 (2012) (holding the inherited IRA was not protected in bankruptcy

proceedings) and the Fifth Circuit Court of Appeals in *In re Chilton*, 674 F.3d 486 (2012) (holding an inherited IRA was protected).

In its decision, the Supreme Court stated that the ordinary meaning of "retirement funds" is properly understood to be sums of money set aside for the day an individual stops working. The court found the following characteristics of inherited IRAs show they are not retirement funds: (1) the holder of an inherited IRA may never invest additional money in the account, (2) holders of inherited IRAs are required to withdraw annual distributions even if he or she is continuing to work and is years away from actual retirement, and (3) the holder on an inherited IRA may withdraw the entire balance of the account anytime – and use it for any purpose – without penalty (although income taxes would need to be paid).

The Supreme Court reasoned that debtors should be able to protect funds in contributory IRAs (traditional and ROTH) because it assures he or she will be able to meet his or her basic needs during retirement years. The characteristics of an inherited IRA do not prevent or discourage the debtor from accessing the entire balance immediately after bankruptcy for purposes of current consumption. The court rejected the claim that funds in an inherited IRA are retirement funds because they were originally set aside for retirement by the original owner, who is now deceased.

Members of the American Academy of Estate Planning Attorneys have long promoted estate planning strategies using trusts to protect inherited IRA assets and allow distributions from the inherited IRA to be postponed for the longest time allowed under the Treasury Regulations. With the ruling in *Clark*, it is now clear that inherited IRAs not protected by a trust are not protected in the event of the bankruptcy of the debtor/beneficiary. If a parent or grandparent desires to protect an inherited IRA from the creditors of children and grandchildren, as well as the trustee in the bankruptcy court, he or she must create a special trust under Section 401(a)(9) of the Internal Revenue Code that is known as a qualified beneficiary trust. The qualified beneficiary trust can be created for a child,

grandchild, or any other beneficiary of the inherited IRA. The retirement plan trusts can be drafted to offer varying levels of asset protection and flexibility, including complete protection from almost all creditors. Depending on the desires of the client, an estate planning attorney may draft these trusts as part of the revocable living trust of the client or as separate trusts for one or more beneficiaries.

Our office focuses on many areas of estate planning, including the complexity of planning for tax deferral and asset protection of an inherited IRA. We work with clients of all age, income, and wealth levels. As a member of the American Academy of Estate Planning Attorneys, our firm is kept up-to-date with information about recent developments, such as this Supreme Court case. You can get more information about scheduling a complimentary estate planning appointment and our planning and administration services by calling our office.

### **Having Trouble Trying to Reach Us By Phone?**

You are not alone. There have been ongoing problems with long distance or wireless calling to “rural” areas. It has been reported to us that after you dial, you hear nothing or “dead air” and if you stay on the line the call seems to drop or you eventually hear a busy signal. Or after you dial, you hear as many as 10-20 rings even though you are sure someone should be at our office to answer or our answering machine should be picking up.

#### **What seems to be the cause of these problems?**

The problem appears to be occurring in rural areas where long distance or wireless carriers normally pay higher-than-average charges to the local telephone company to complete calls. That is, in order for a long distance or wireless carrier to complete one of its subscriber’s calls to a resident of a rural area, the carrier must get the call to the exchange serving that resident (the local phone company), and then pay a charge to that local carrier to access its exchange. These charges are part of the decades-old system of “access charges” that help pay for the costs of rural networks. To minimize these charges, some long-distance and wireless carriers contract with third-party “least-cost routing”

service providers to connect calls to their destination at the lowest costs possible.

#### **What is being done about these problems?**

It seems the FCC is addressing call completion and call quality problems effecting long distance, wireless and VoIP calls to rural customers by adopting new rules that strengthen its ability to ensure a reasonable and non-discriminatory level of service to rural areas. These rules are designated to improve the ability to monitor the provider’s delivery of long-distance calls to rural areas and to aid in the prosecution of violations of the Communications Act.

If you are experiencing any of these problems, please let us know and be assured, we do want to speak with you.

## **Legacy Planning**

“The best things in life aren’t things.” Such a simple statement, but it holds so much meaning and intent. We know there is value in our financial assets, but more importantly, there is even greater value in our family treasures like family history, morals, beliefs and heirlooms. These treasured assets are the ones that are most often overlooked in traditional estate planning. Legacy planning takes estate planning one step further and aims to incorporate these assets into your plan.

#### **What Is Legacy Planning?**

You have undoubtedly worked hard all of your life to build an estate that you can pass down to future generations; however, the most important things you pass down may not be tangible, or even intangible, assets. Instead, the most important gift you may make to your children and grandchildren is sharing your beliefs, values, and philosophies with them. Legacy planning, however, can do more than just share those values, beliefs, and philosophies. A well thought out legacy plan can actually encourage beneficiaries to incorporate those beliefs and values into their lives, thereby continuing your legacy.

#### **How Does Legacy Planning Work?**

Each legacy plan is as unique as the individual creating the plan; however, there are some common strategies and tools that can be used to encourage future generations

to internalize your overall philosophies. For example, if education is something that you value you might create a trust that only allows beneficiaries to use the trust assets to further their education. Likewise, if religion plays an important role in your life you may choose to promote your beliefs by leaving a charitable contribution to, or setting up a trust for, your church. The opportunities to further your legacy through legacy planning are virtually endless.

The **legacy planning attorneys at Nash, Nash, Bean & Ford, LLP** are dedicated to helping you preserve and pass down your beliefs, values, and philosophies to future generations through your legacy plan. Contact us today by calling **309-944-2188** to find out how we can help ensure that your most important assets are protected.

## Referrals

We hope that after having completed your estate planning, you also feel it was a valuable process. If you know family or friends that you feel could also benefit from that process, we encourage you to refer them to our firm. Don't worry, we won't bother them. We would simply like to send them a personal invitation to one of our free estate planning seminars in their area. You may find that they may have some of the same reasons to complete their estate planning as you did!

If you would like to refer a family member or friend, simply fill out the enclosed referral form and return it to our office. You may also email their name and contact information to [info@nashbeanford.com](mailto:info@nashbeanford.com).

## Nash Nash Bean & Ford Happenings

### Hellos & Goodbyes

This year we welcome associate attorney Benjamin T. Young to our team. Ben will practice primarily in the areas of estate planning and related areas of the law and will work out of the firm's Moline and Geneseo offices.

He received his Juris Doctor from Valparaiso University School of Law and has been admitted to practice in both Illinois and Iowa.

We welcomed Tammi Odell to our team in September 2013 as Closing Paralegal and Assistant to Jim Nash. Tammi is from Andover where she resides with her son Tate. She enjoys watching her son play baseball and they are huge St Louis Cardinals fans!

We welcomed Tonya Adams to our team in June 2014 as our Marketing Coordinator. Tonya comes from a background in Marketing and Fulfillment services. She lives in Colona, IL with her husband Mitch and 2 dogs. This newsletter is her first one!

Many of you probably remember Mary, assistant to Curt Ford. After 19 years Mary retired in April 2014. We wish her the all the best! We keep her phone number handy for any tips she can help new staff with.

Nicole Fletcher is now Curt Ford's Assistant and Real Estate Paralegal. Nicole is a Geneseo graduate that has come back to live in her hometown.

We said goodbye to Joni Conrad, Marketing Coordinator. Joni's new adventure takes her to the east coast to Pennsylvania where her husband accepted a job. After 3 years with the firm we wish Joni the best of luck in the future!

**Blue Jeans for Charity** If you've been in our offices over the past year, you may have noticed that we've been going casual for a cause. We designate the fourth Friday of every month for "Blue Jeans for Charity" day, in which staff and attorneys can pay \$5 to wear jeans to benefit a charity suggested by the staff. The firm matches funds raised by the blue-jean wearing staff. Since our last issue, we have supported Backpack Blessings, Jump Rope for Heart, March of Dimes, Geneseo Food Pantry, Geneseo Community Chest, Geneseo Humane Society, Braveheart Children's Advocacy Center, GPAC, Epilepsy Foundation & American Cancer Society. Thank you to our staff and firm for supporting these great charities.

**USA vs. Belgium** We supported our USA soccer team on Tuesday July 1, 2014 with decorating the office and holding a drawing with team players that scored a goal for a prize. We also showed our sportsmanship by

eating Belgian waffles that day. Even though USA didn't win, we had a fun time in the office.

### **Trust Administration Department Move**

The trust administration received a makeover and moved to the north side of the building where Wisdom Financial was once located. With a lot more room and a fresh view the ladies are excited for their workspace. Wisdom Financial has outgrown the suite in our office and moved to a much larger space in the Hillcrest Center on Oakwood Avenue.

### **Congratulations to the Following Graduates:**

Andrea Beck, daughter of legal assistant Joni Beck, who graduated from Geneseo High School. She will be attending Drake University in the fall.

JohnPatrick Brown, son of attorney Mary Ann Brown, who graduated from Iowa and will be attending University of Iowa Law School in August.

Scott Anderson, son of Trust Administrator Veta Anderson, graduated this past May from Trinity Christian College with degrees in Theology and Ministry. He has been accepted into the 'Masters of Divinity with Pastoral Study Emphasis Program' at Moody Theological Seminary

### **Continuing Legal Education Efforts of Our Attorneys**

As part of their membership in the American Academy of Estate Planning Attorneys, all of our attorneys are required to complete 36 hours of continuing legal education:

**Jim Nash & Curt Ford** attended the American Academy Spring Summit in May 2014 that was held in Houston, TX. At the summit they attended session on Life Cycle of Trust Administration, Helping Clients Plan Effectively, Ethics Including Adding Financial Services, Planning For, Reporting, and Defending Gift Tax Issues, Cautionary Tales of Risk Management: How to Cover Your Assets and The Balkanization of Estate Planning.

**Bob Nash & John Bean** attended the 57<sup>th</sup> Annual Estate Planning Short Course provided

by Illinois Institute for Continuing Legal Education in Chicago, IL. They both participated in Use of LLCs in Asset Protection and Estate Planning provided by the National Business Institute. They both also attended Fiduciary Income Tax Planning with Higher Rates held at Central Bank.

**Bob Nash** also participated in Estate Planning for Experienced Practitioners provided by Illinois Continuing Legal Education.

**John Bean** participated in Hot Topics in Agricultural Law in Bloomington, IL and participated in 2014 Tax Update for Estate Planners.

**Mary Ann Brown** participated in Estate Planning & Elder Law, The LLC Operating Agreement, Estate Tax Planning for Experienced Practitioners and Transfer On Death Instrument Update all provided by Illinois Institute for Continuing Legal Education and the Use of LLCs in Asset Protection and Estate Planning provided by the National Business Institute.

**Ben Young** attended the Basic Estate Planning Bootcamp that was provided by the Illinois State Bar Association, Ben also attended the 57<sup>th</sup> Annual Estate Planning Short Course provided by Illinois Institute for Continuing Legal Education in Chicago, IL., he also participated in in Estate Planning & Elder Law, Basic Skills for the Practice of Law, Transfer On Death Instrument all provided by Illinois Institute for Continuing Legal Education, Use of LLCs in Asset Protection and Estate Planning provided by the National Business Institute, 2014 Tax Update for Estate Planners and completed Business Entities, Civil Procedure, Ethics Law for New Iowa Lawyers, Family Law Guardianships, Iowa Contracts, Probate and Estate Administration and Real Estate Law thru the Iowa State Bar Association.

### **Recipe**

#### **Apricot Nectar Dessert**

This is a favorite recipe of receptionist Shirley Gradert. It is one that was submitted to a church cookbook by Jenny Anderson many years ago.

1 (46 oz) can of apricot nectar

7 rounding tablespoons cornstarch

1 cup sugar  
1 small angel food cake  
Cool Whip  
Chopped nuts

Cook first 3 ingredients until thick. In a 9x13 pan, pour over 1 small angel food cake, torn into pieces. Spread with Cool Whip and sprinkle with chopped nuts.

## Speaker's Connection

Does your organization need a program? We regularly work with professionals, churches, non-profit organizations, clubs and other groups to help educate their clients and members on the principles of Estate, Tax and Business Planning along with both immediate and long-term Charitable Giving options. We also speak to elder organizations, such as Alzheimer's Associations, assisted living facilities and senior citizen organizations on Medicaid planning, care giving and retirement planning topics.

If you would like us to speak at your next meeting, contact our office at 309-944-2188, 309-762-9368 or 1-800-644-5345 and ask for Tonya.

## For up-to-the-Minute News

### We are happy to offer you:

- *eNewsletters* filled with timely and informative articles about estate planning and related topics.
- *Blog posts* covering a variety of estate planning, farm planning, business planning and elder law topics.
- *Facebook* and *Google+* filled with community and nonprofit events, health tips, farm and family information and general news about the Nash Nash Bean & Ford family.

It's easy to join any of these options by simply visiting our website, [www.nashbeanford.com](http://www.nashbeanford.com), and following the links in the right hand column. It's that simple! Please tell your friends!

## Have you gotten rid of your home phone and use a cell phone only now?

Please contact our office at (309) 944-2188 or (800) 644-5345 so we can update your information in your file.