Financial Planning for Children with Autism

Paul Nidich, Attorney-at-Law

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Financial Planning for Children with Special Needs

Moderator: Nancy Bernotaitis
Guest Speaker: Paul Nidich, Attorney-at-Law

Hello everyone and welcome to momsfightingautism. I'm your moderator Nancy Bernotaitis and this is our 43rd webinar. Woohoo. Before I introduce our presenter tonight and our topic I did want to let you know that if you're listening in via the internet, if you want to view the slides you go to the blue box and click slides. And you can synchronize the slides with either your phone or the webcast audio depending on how your listening by clicking the button at the bottom of the slideshow. And if you're listening by phone be sure to mute your computer so you don't get feedback.

Nancy: Tonight's webinar is entitled, let me go to the right page here, financial planning for children with autism. It's presented tonight by Paul Nidich who is an attorney at law. Paul let me get down to your bio Paul, and I will tell people a little bit about you. Paul has been an attorney in Cincinnati, Ohio since 1974. He received his law degree from the University of Cincinnati, College of Law and his Master of laws in taxation from Capitol University Law School. Since 2002 Paul's law practices focused primarily in 3 areas of the law - Taxation, Estate planning and probate and Elder law. In the area of taxation Paul prepares tax returns. He tries cases before the United States tax court and he represents tax payers and tax controversy matters such as leans, levies, offers and compromise sales tax and employment tax issues. In the area of estate planning and probate Paul drafts simple and complex wills, living trusts, special needs trusts, irrevocable grantor trusts and other wealth preservation documents. Paul also handles probate matters from simple estate administration to probate modification. In the area of elder law Paul advices seniors about Medicaid trust, wealth transfer devices and end of life matters. Paul is married and he is a father of 2 children. One of them Alex is 27 yrs. old and has autism, cerebral palsy and significant developmental delays. His daughter Rachelle is married and has 2 children. Welcome tonight Paul.

Atty. Paul Nidich: Thank you Nancy, Hello everybody. My name is Paul Nidich and I'm going to talk with you about financial planning for children with special needs. I'd like to let you know in advance that sometimes I have some problems with my voice and I think its just starting now which is not good. So you may have a little bit of trouble it maybe it may sound sometimes like I'm talking to you thru water but were going to go ahead and I hope you find this is evening interesting and that you learn something that will be useful to you. I was going to begin by telling you a little bit about myself with, but Nancy's already done a lot of that. I'll just have filling in some other things. In addition to being a sole practitioner for most of my legal career, I have also been controller of a machine shop in house council for the state mental health hospital in Cincinnati and a member of the faculty of the department of psychiatry at the University of Cincinnati Medical School. I have also been an adjunct at the Department of Economics at the University of Cincinnati, and I have taught online courses for Shepard Broad Law Center at Nova South Eastern University in Fort Lauderdale, Florida. As Nancy told you, I'm married, been married for 33 yrs. I have 2 children Rachelle & her family living in Cleveland and Alex who has autism cerebral palsy and significant developmental delays, lives here in Cincinnati in a condo by himself with 24/7 care givers. And this is Alex. Alex was born 5 weeks pre-mature and from the start my wife who has a masters degree in child's studies from Tufts knew there was something very wrong with Alex's development. He was diagnosed with autism and significant developmental delays at age two and a half. He's had a complicated and hard life. He had one surgery to repair a subluxation at C1 and C2 in his neck that was about not when he was 9. And he had another surgery to fix a broken thigh 'cause when he fell out of his wheel chair. Despite his autism, the delays, the surgery, he's probably the happiest person I know. He loves to go to the zoo to see the animals and especially to ride the train. He loves books, videos and music. He delights in having, being able to sit next to me and have me go on the computer and mostly show him YouTube videos of zoo trains, of fireworks, animals and other things that he really loves. He loves to go to the synagogue every week and specially loves to hear the prayers and the torrance chant in Hebrew. And even when Alex was very young, he, despite his cognitive delays has a an exceptional memory. And one time the rabbi made a mistake in pointing to a particular page and Alex at about 8 yrs. old corrected the rabbi, told him what page that we should be on. Alex is why I practice in this area of law.

Nancy: Hey Paul I can't see Alex from the slideshow didn't it advance for you?

Atty. Paul Nidich: Do you see it?

Nancy: No, not yet. Can you go ahead one more slide to maybe back up?

Atty. Paul Nidich: Do you see programs for this evening?

Nancy: It's still on the financial planning for children with autism. Let me refresh my page and see if that changes it. Hmp, it's not advancing.

Atty. Paul Nidich: Um...

Nancy: We'll see. Can you close your spatial box and click the link again? I'm sorry folks hang-on just a second we'll get the slides advancing for you.

Atty. Paul Nidich: Yeah.

Nancy: Our usual listeners realize that there's always a glitch somewhere along the road.

Atty. Paul Nidich: Okay.

Nancy: Want to make sure that we've got the visual on you.

Atty. Paul Nidich: I've hit a wrong button and went out of, uh, of my internet program altogether.

Nancy: Okay. Just going to take a moment and, uh, pop that back-up. In the mean time I'll let folks know that Paul's the one that helped me draft the special needs trust for my own son and uh... It's very, very helpful with that.

Atty. Paul Nidich: Hmm. Now I can't even get my internet to work.

Nancy: Hmm. Okay. I can advance the slides for you but you won't be able to see and unless your logged in to momsfightingautism.

Atty. Paul Nidich: How, let's see...

Nancy: There's always a glitch isn't there. [laughter]

Atty. Paul Nidich: Yeah there's always a glitch.

Nancy: I'm just going to talk while you fiddle with your computer. I know that in our case we weren't sure how we would fund the special needs trust because we really didn't have two dives to run the draft together. But as it turns out we were able to buy life insurance that will fund the trust when we pass on. And you know I thought you had to be pretty much independently wealthy to have a special needs trust but that’s not the case at all. You're actually able to fund it upon your death with your life insurance policy so that, that really put our minds at ease to know that when we're gone and we can no longer care for Sam, he will be financially taken care of. I don't know people would understand that you don't have to be independently wealthy or have money set aside already to start a special needs trust. Need to rebuild your system Paul?

Atty. Paul Nidich: I think I do.

Nancy: Okay so go ahead and do that. And I will while your rebuilding I will ask you some other questions that have been submitted, then we can go into your slideshow.

Atty. Paul Nidich: Okay.

Nancy: Can you talk and rebuild it at the same time?

Atty. Paul Nidich: Yes.

Nancy: Okay. A couple of people have asked about custody situations and how you would setup a trust for a special needs child. It would only be accessible by those that you put in charge of the funds right?

Atty. Paul Nidich: That's correct.

Nancy: So it can't be accessed by a non-custodial parent or someone that you don't want to have access to the money.

Atty. Paul Nidich: When you create the trust part of the creating a trust is deciding who will be in charge of the money that is who will be the trustee. There can be one trustee there can be several trustees. The trustee can be an individual it could be a bank or a trust company so there are different ways of setting up who has control of the special needs trust.

Nancy: Um-hm. Now when we drew up Sam's trust, our older two children were not yet adults but we were able to appoint them as trustees assuming that they would be of age, and they are now to be able to make those decisions on his behalf.

Atty. Paul Nidich: That's right. A lot of them a lot of what you do in the planning is making choices that that may not be realistic at this point but you pick you can pick members of the family and they wont become the trustee should something happen if they're not adults and able to control the money. What would happen in that circumstance would be someone on behalf of the trust would apply to the county probate court for the appointment of the trustee.

Nancy: Um-hm.

Atty. Paul Nidich: And the court would then do that. Anyways, that's the answer here in Ohio.

Nancy: Right.

Atty. Paul Nidich: As everybody knows these issues are primarily state issues and the answer might be different in different states.

Nancy: And different countries right?

Atty. Paul Nidich: And, certainly, and the answer is likely to be different in different countries. But the biggest difference maybe what the probate court is called more than an entirely different process. For example I believe the probate court in New York state is called surrogates court. So, for those of you from New York when we talk about probate court think surrogate court because that's that's the name of the probate court in New York.

Nancy: So it's different everywhere you just need to be aware about what your court is called that handles that but finding a special needs attorney is your first step right?

Atty. Paul Nidich: That's right, that's right.

Nancy: Okay. Someone who actually knows the special needs laws.

Atty. Paul Nidich: I'm not having any luck getting internet access and I can't figure out why.

Nancy: Okay well what we've done before in the past when the slideshow wasn't working or wouldn't advance is I would be able to tell you what the slides says as I advance so that you can talk about it from memory?

Atty. Paul Nidich: Okay.

Nancy: Do that?

Atty. Paul Nidich: Good that will work fine.

Nancy: Okay I will try to do that. Let's see. I take control of the slides and I will advance them okay.

Atty. Paul Nidich: Go to program for this evening.

Nancy: There's tonight's speaker. There's your son Alex and program for this evening discuss special needs trust concentrate your mind and review the attorney in questions. Excuse me I have had a cold.

Atty. Paul Nidich: Okay. In this webinar I'm going to discuss special needs trust what they are and how to use them for the benefit of the child with autism or any other disability. And it will likely interfere with his or her ability to learn a living as an adult. I'm also going to address concentrating your mind and you'll find out what I mean by that later. Next I will talk a little bit about interviewing an attorney. And if time permits, I might be able to address some tax issues as well. Finally, as is difficult Nancy will ask me questions and I hope that I'm able to give good answers to them. So let's start. What is special needs trust? Next slide.

Nancy: A-huh. You're right.

Atty. Paul Nidich: Trusts were first used hundred of years ago. Trusts were and still are used to control how future generations used the riches of the current generation. For example a father might create a trust for his children specifying that his sons would only get their share of the income of the trust until they marry and had a child. The same trust will allow his daughters to receive only income from the trust and their shares would remain in the trust until it could be distributed to a male heir thru the daughter's lineage. How obviously these kinds of issues have led to a lot of litigation, something that can unfortunately split families and cost a lot of money. Special needs trusts were first created in recent times to take advantage of government benefits available to the disabled while not spending all of the family's assets on that child. Next slide.

Nancy: Alrighty. There you go.

Atty. Paul Nidich: In developing the special needs plan the parents and the attorney need to examine many factors what are the assets of the parents. What are the assets of the parents? What are the assets, if any, of the grandparents and other interested relatives? Are there other children? Will the child with autism be able to earn of living on his own? If a decision is made do the special needs estate plan is appropriate, I typically recommend the following plan in developing the special needs estate plan. Next slide.

Nancy: Ah-huh.

Atty. Paul Nidich: I usually suggest the parents create a living trust which serves as the repository of the family's assets. Life insurance proceeds would be made payable to the trust. The living trust is created so that it becomes an irrevocable sprinkle trust, so it can sprinkle money into the special needs trust that you can see on the right hand side of the screen, as needed and can sprinkle money to the trust of other children if they're under a certain age or if the children or to the children if they are older. One of the reasons that I do this, and that I suggest that the estate plan have this family trust and special needs trust is that each child that has autism is a entirely different person than the next child with autism. Your child might love to go on vacations. Alex would not want to go on a vacation if his life depended on it. You might need money for furnishings for the living space or you might not. So the amount of money that any particular special needs trust needs to have in it can vary greatly from one child from the next. Next slide. As you saw in the previous slide there are primarily 3 kinds of trust, I used in this kind of estate plan - the living trust, the special needs trust and the sibling trust. As you can see there are 3 kinds of special needs trusts that I might use. The first party payback trust the third party special needs trust and the pooled trusts. Next slide.

Nancy: Okay.

Atty. Paul Nidich: A living trust typically is used primarily as a means to minimize the involvement of probate, and you've all seen advertisements for living trusts probably. Trusts are not just for people trying to avoid estate taxes or avoid probate. All most people don't need to do estate tax planning. Living trust can play an important role in financial planning for children with autism. Next slide. A living trust is often used as an intermediate step 'cause she holds unnecessary money from flowing into the special needs trust. What is unnecessary money? Excuse me. Suppose you have a $300 thousand dollar life insurance policy it may not make sense to dump all of that 300 thousand into the special needs trust upon the death of the insured. As I just briefly mentioned your child may love to take vacations, mine doesn't so why fund a special needs trust with money that is not going to be needed? This plan of using the living trust as an intermediate step is designed to meet your goals. Next slide.

Nancy: Okay.

Atty. Paul Nidich: It keeps too much money from going into the special needs trust at one time. And two, if the special needs trust laws or regulations change it minimizes the amount of money at risk that may have to be paid back to the government. The way the federal law is currently written the government has chosen to allow special needs trusts not to be counted as a resource of the disabled individual. When this individual turns 18 and applies for government benefits, the federal government will check the amount of resources the individual has to decide eligibility for supplemental security income, known as SSI. And the state government will check the amount of countable resources to decide eligibility for Medicaid. Most states at the level to qualify for Medicaid have the same level social security uses to determine eligibility for SSI. There are however many states that set a higher threshold for Medicaid eligibility than the federal government sets for SSI. In this state of death crisis mentality I would not be surprised if some states or the federal government may eventually change the eligibility criteria and may even decide to count special needs trusts as an available resource. So, one of the purposes that the living trust serves is to create a step above the special needs trust. So if the special needs trust start being counted as an asset of the individual most of the money the special needs child needs for supplemental services is not held in the special needs trust. It's held in the living trust. This may provide some protection from the reach of government hungry to decimate spending for the poor and the disabled and the general population hunger for smaller government and decreased government spending. Next page, next slide. The first part, the payback trust is one of the trusts provided for under federal law. If the person with special needs has too much money in his or her own name to qualify for SSI or Medicaid, it is possible to draft the payback trust into which to deposit those assets. This kind of trust requires a provision first to payback Medicaid for medical assistance out of the remainder of the trust. So this type of trust is used to show the assets owned by the individual applying for or receiving government benefits. Perhaps the individual inherits some money while he or she is already receiving benefits. That inheritance could cost that individual his or her eligibility for the benefits being received. So what we can do is draft a payback trust. The government is willing to refrain from stopping the benefits until the person spends down the asset back to the original eligibility amount. But it wants to get paid back for the Medicaid money it has spent in the meantime. So the payback trust requires a provision in the trust that the trust did pay Medicaid back out of the remainder of the trust when the trust is no longer in use, that is, whatever money is left in that payback trust, when it is to be dissolved the first party payback trust is often referred to as a D4A trust because its sub section D4A of the part of the social security law that provides for these kinds of trust. Next slide please. A third party trust is used when the assets of the trust are deposited by anyone other than the special needs individual. The assets may come from parents, relatives or other trusts, as long as the assets do not come from the first party, the individual, who is to whom the benefit of all these are intended. The remainder of the third party trust is not required to be used to pay Medicaid back. The third party trust is the most typical of the special needs trust. It is usually created by a child's parents, or another relative. The basic requirements of this trust are: it may not contain any assets of the person for whom the trust was established. It must have one or more trustees. It must give the trustee complete discretion about how to spend the money in the trust. It must not provide any standard to guide the trustee's discretion. A typical standard that you might see in a husband and wife trust, where there is no special needs trust, is the wording comfort, maintenance and support. Now that's not much of a standard. It's hard to quantify that. But it is a standard. And so a special needs trust cannot have that kind of language in it. The special needs trust cannot say the trustee shall provide money for the beneficiary to have a comfortable life. The trustee must have complete discretion. Finally the trust must designate remainder beneficiaries of the trust, after it is no longer in use. And it should contain what is known as a poison pill. The poison pill is a provision in the trust that requires the trust to terminate if it is ever deemed to be accountable resource for determining eligibility for government benefits. Most third party trust contains other provisions, such as who will be the individual's guardian, if one is needed, and the parents are not competent, or no longer alive. Special needs trust must closely follow the law's requirements. And while the federal government sets up the primary requirement, states might have different requirements in each state. And this is one reason why not just any attorney or even any estate planning attorney can draft special needs trust. They may not be aware of the particular rules and designs, of special needs trust. Next slide please. Another type of special needs trust is called a pooled trust. These are non-profit organizations that literally pools the money of clients, in order to minimize cost, and maximize income. Pooled trusts are not the best choice for every kind of special needs trust. But they play an important role for some kinds of special needs trust. Pooled trusts are sometimes referred to as d4C trusts. If a family does not have a reasonable choice for a trustee, a pooled trust provides trust services for a relative with a nominal cost. Not all pooled trusts are the same. Nor are they required to be the same. Some states only have one pooled trust organization in the state, while others may have two, three or more pooled trusts that operate in that state. In Ohio, I know of three pooled trusts, and I believe there may even be a fourth. The best use of a pooled trust in my view is when a payback trust must be used, and there is little time to have one drafted. If you are interested in a pooled trust, your attorney should be able to help you decide which one is the best choice for you. Not some financial adviser or some employee of one of the pooled trusts itself. Next slide please. In the diagram, that we looked at, a little bit ago, there was a sibling trust or others. The remainder beneficiaries. A sibling trust is designed to provide maximum flexibility than moving money to family members who don't have disabilities. It also serves cancer as the remainder beneficiary, of the special needs trust. A sibling trust is simply mining for other trusts created for minor children in the family. A great majority of parents want the remainder from the special needs trust to stay in the family. If the individual with autism has brothers and sisters who are under 18, a trust should be drafted for each one in case a need arises to terminate a special needs trust prior to the time that all siblings turn at least 18. Now, this again becomes an issue that needs to be considered especially today given the emphasis on the country's debt, and the problems that state governments have, in getting enough funds to provide services themselves. So if a special needs trust becomes a countable resource, in order knock as many people as possible, off of SSI, off of Medicaid. Those trusts that have a poison pill are going to have to terminate. And the remainder beneficiaries will either be sibling trusts, or siblings themselves. So, we want to if you're just starting out, or even thinking about modifying what you currently have, this is an issue that needs to be discussed. Of course while the attorney is drafting the sibling trust, many parents like to spread out the distribution over a number of years. Typically, the final distribution may not occur until the child turns 30 or 35. So, and this is especially true if the sibling is not very good at handling money, and the parent already knows that. Okay, next slide please. This is back to the diagram that we put up a few slides previously. We talked about this possible option. the husband and the wife would each have wills. Their wills would leave their assets ultimately to the family living trust. When the husband and the wife are both deceased, the family living trust becomes an irrevocable sprinkle trust. And the trustee of that trust has the ability to sprinkle principal or income or both among the special needs trust and the sibling. Now, it's entirely possible that a particular family might have two special needs trusts for their child with autism. There might be a first party payback trust and a third party special needs trust. And you don't want money going into the first party payback trust and you want to use those assets first because you want to avoid having to pay money back to the government. So, sometimes, there will be two perhaps even a third pooled trust might be in play, if you will. Note, now you see the arrow going from the special needs trust to the sibling trust slash others. And above that is a word remainder. One of those requirements of the special needs trust is it, where the remainder beneficiary be identified. Sometimes, or usually, the remainder beneficiary will be other children or other family members. The remainder beneficiaries however could include charities, other people in the family, other important people for whatever reason. However, the parent chooses to set up the plan. In Ohio, where I practice, there is another kind of special needs trust. In Ohio, legislature has created a statutory supplemental needs trust. And in order to create one of these, it's created through the will of an individual, and the individual then leaves money to this statutory trust and this has to be drafted specifically according to the state statutes. So there are at least four different kinds of special needs trusts.

Most people don't use the statutory trust other states might have statutory trust many states probably don't. But it is something that, that in doing an estate plan, we need to give some consideration to. The next slide please. Government benefits. When we talk about government benefits, we're talking about means tested benefit. That is the eligibility criteria is based upon two things. Whether the individual is disabled according to social security criteria, and usually, a child with autism is deemed to meet the social security disability criteria. And two, whether the individual has countable assets under a certain figure. Typically $1500, perhaps $2000. Other government benefits like social security disability income, or Medicare, are not means tested benefits. So, if for example, you are the parent of a 55 year old child with autism, who is not able to support himself. When you qualify for social security, either because he is disabled, and you yourself qualify for social security disability income, or you reached 62 or 65, or 66, and start drawing your social security, your 50+ year old adult child then qualifies for social security disability income, irrespective of how much money he or she has control over himself. But SSI, Medicaid, Food stamps and Housing are all means tested benefits. And the individual has to meet those two eligibility requirements of being disabled, and having countable assets under a certain figure. Next slide please. Concentrate your mind. I hope the section on special needs trust was clear enough to give you some background to be able to discuss the topic with an attorney, or some other professional that you choose to work with. Now I'd like to talk about concentrating your mind. And you'll see why. Next slide. When a man knows he is to be hanged in a fortnight, he'd concentrate his mind wonderfully. Yes, knowing that you're going to be hanged in 14 days certainly would make one sit up and pay attention to what he needs to do in the remaining 14 days of his life, to put his affairs in order. Next slide. In order to prepare for an estate plan, whether solely for yourself, or your family, or to provide for a child with autism or other special need, you must be able to concentrate your mind to make sure that all the necessary parts of the plan come together. But it also means that in order for you to be ready to consult with an attorney, about drafting an estate plan, you need to be ready to concentrate. Because there are any number of decisions that you will need to make. Next slide. So, the primary question for me is what will it take to concentrate your mind? That is, what will it take to get you started immediately to put a special needs estate plan in place? Next slide. Why is this so important? Why should you do this now and not in a few months, or a few years? Next slide. A person who knows she will die in two months still has some time to put her affairs in order. Next slide. But a person who might die tomorrow from a heart attack or a work accident or be hit by a bus, does not have time to spare. If you have a son or daughter with autism, or some other disability, that will likely affect him or her ability to earn a living, you don't have time to spare. Most people aren't suicidal, and don't know when they're going to die. But people even young people in the prime of their lives may lose the ability to create an estate plan. Whether because they die unexpectedly or they become incompetent to make financial decisions, or to make a will or a trust. Many people who are alive obviously don't have the mental capacity to make a will, to create a trust, to create a power of attorney. And that can happen because of age, it can happen because of disease, it could happen because of some kind of accident. Next slide. So I ask each of you participating in this webinar. Do you have an estate plan in place? If not, why not? If not, do you even know why you don't? Has this been a conscious decision not to do so? Or an unconscious decision, simply because you haven't gotten around to it? Next slide. Are you someone who likes the ostrich, sticks her head in the sand hoping everything will take care of itself? It won't take care of itself, I promise. Next slide. Or are you like the vast majority of parents with a child with autism who thinks you can't face the issue of creating an estate plan? Creating an estate plan with a special needs trust and a child with autism can be a very haunting experience. Nonetheless, you must face it. You must make the decisions necessary for your attorney to draft the plan. Next slide. Or, do you think you don't have the money to do this now? If so, just think how much it will cost to unravel your life, if you die without an estate plan. If you die without a will, the state makes the decision, about how your assets will be distributed. And your spouse and children may be negatively affected by the laws in your state. Each state has a default provision called a statute of dissent and distribution that designates how your assets are to be divided if you die without a will. Many states have these statutes that will require your child with autism to inherit some of your assets. If states do not formally require that all of one's spouse's assets go to the other spouse. Many states typically, where there is a spouse and minor children, give the spouse 1/3 of the spouse's estate and the surviving children 2/3 to be divided amongst the children. So here's the possibility that if you don't create an estate plan, and a special needs trust, and if you die without a will, your state may require a payback trust to be created, and you're going to spend the money or your spouse will spend the money, even though you don't think that you are able to afford to create a special needs estate plan. Next slide. If your mind isn't concentrated enough yet to take action, let me tell you some more things that might help. Next slide. What is the primary concern of parents of a special needs child? Why have those of you participated tonight, who has a child with autism, or some other disability, decide to spend this time at this webinar? I'm sure you have lots of other things that you could be doing with this time. But you've chosen to spend this time learning about financial planning for children with autism. You're concerned about the special needs child, and what will happen. Next slide. What will happen to my child when we are not here to take care of her? Every parent worries about this question whether they have an estate plan or not. It is something you cannot completely control. But an estate plan takes things about it in as far as able to take them. Without a plan, only a court will decide what happens to your child. And that's something that none of us want to see happen. I worry about what's going to happen to Halix when my wife and I are gone. I'm worried about what impact that's going to have on our daughter who lives in Cleveland and who has children of her own. Whether you have an estate plan or not, it is something that we all think about all the time. So at least make sure that those things that you can control are taken care of. And what you can control is putting an estate plan in place. Next slide please. These are some of the things that you're thinking about. Who will care for her when we're gone? Will she have enough money to meet her needs? Where will she live? Next slide. What kind of life will she be able to lead? What can I expect of my other children? And is this fair to them? And I think we can add another issue is what happens if the government starts counting special needs trust as a countable resource? And my child loses his or her government benefits. Next slide please. Now, have I concentrated your mind enough yet? Will you take that important next step and start working on your estate plan now? No? Let's go farther.

Nancy: No. But I want to.

Atty. Paul Nidich: Yeah. Next slide. What are some other questions that parents may need help answering? Next slide. What if you're faced with this situation? My parents want to put Sarah in their will. What effect might that have on their eligibility to receive SSI or Medicaid? You should already know the answer to this if you've been able to retain some of the things that I've gone over as much too quickly. If your parents have the financial means to do something for your child with autism, there is a right way and a wrong way to use that advantage. Putting your child into their will is clearly the wrong way. Instead, they can gift money, or leave money in their wills to his or her special needs trust, but only if you've set one up. If your parents can afford to do so, they might pay the premiums on a new life insurance policy to help answer the question of whether your child will have enough money to meet his needs. Some insurance companies sell a particular type of policy called a second to die policy. Some insurance companies have a similar but different policy. Other insurance companies don't offer a second to die policy at all. A Second to Die policy is my preference. And what it means is that it pays the insurance benefits only when the second person who is insured under the policy dies. As a result of that, because of the actuarial tables and how insurance companies calculate their premiums, a second to die policy buys more insurance or costs you less money. Your financial advisor, not your attorney, though, may have other advice that fits your situation better. This is my preference, it's one that I have, and it has served us well. And I would recommend that you discuss this with your financial adviser. Next slide please. Every parent wants to be fair to all their children. But Emily will probably need more money than the others. How do I work this out and still feel good about it? That's a hard question. But one answer is that equal isn't necessarily fair. There are ways to work around the idea and arrive at a solution that you're comfortable with. If Emily needs more money, is there a way to do that that still allows you in your will or trust set-up to forge things in a particular way that will provide sufficient if not equal money to your other children while still providing your child with autism a sufficient amount of money for his supplemental services? That's why you need to get started, to find professionals that will help you wrestle with these concepts, if you haven't done so yet. And if you have done so, you may want to revisit the ideas that you have, the steps that you've taken so far with your professionals. And see, maybe, if you want to change some of your estate plans. Next slide please. One way to start answering these and other questions is to find a qualified attorney to lead the way to find the appropriate mix of people you need on your team. You will need a team and you have to start somewhere. As an attorney, I prefer that you start with an attorney. But you may already have a financial adviser who can help you find a qualified attorney, or other members of your team. So you don't have to start with an attorney, even if you don't have that financial adviser. You may choose to start with a financial adviser, and think about some of the funding issues, and the financial issues that you're going to need to address at some point any way. But, as I said, I prefer suggesting that you start with an attorney. Next slide. The attorney's job will be to draft your estate plan, help you find a financial adviser, if you don't now have one, and help you find other members of your team if you need other members. And if you live in the Dayton area, you'd probably do well to give Nancy a call, and she can probably do just as much for you in pointing you in the right direction as any other person that I know. Next slide please.

Nancy: It's a call Paul.

Atty. Paul Nidich: The attorney will also need to advise you for any changes in the law, to ensure your estate plan provides the legal protections that your child needs. Every special needs trust should contain provisions that your trustee should consult with a qualified attorney, at the expense of the trust, to make sure that the trustee's actions are in compliance with the law, or that other steps may need to be taken because of a change in the law. Only an attorney can advise you about the law. All too frequently, I find that when others try to advise people about what the law requires, they miss some new ones that a qualified special needs attorney would not miss. That's aside from the fact that giving advice about what the law requires is practicing law, and if you're not an attorney, and you're giving advice, legal advice, that's not a good position to be in. Next slide. It is important to get started because the process can be time-consuming. You will need to find... Next slide. An executor for your will, one or more trustees to ensure your trusts are handled properly. Perhaps a guardian for your child, no matter what the stage. Not only will you need to find these individuals but you probably will need to find successors or substitutes. What happens if you will appoint an executor in your will, and that executor dies, and you haven't changed your will to replace that person. So, your will, your trust ought to provide for some way of having successor executors, successor trustees, and perhaps, successor guardians. And there are various ways of doing this, that is that include naming several people, some people that I have drafted wills and trusts, or named three people: a primary trustee, the first successor trustee, and the second successor trustee. As a matter of my practice, I typically had a provision in all of my clients' wills and trusts or in trust, particularly, to give the last name, the successor trustee, the right to appoint in the future, his or her successor. Because that person might be the trustee for 20 years after you're gone. And you couldn't have begun to be in a position to think about who in 40 years is going to become the trustee. Excuse me. So I've put into place in my trusts' procedures, in the trust to ensure that trustees can always appoint future trustees. So that is your child with autism lives to the ripe old age of a hundred, and outlives several trustees, there's still going to be a way to get a new trustee appointed that knows your child, to have some interest in your child, that will care about your child. The alternative, is going to probate court, or surrogate court, whatever it's called, and they any judge to appoint a trustee. And all that's likely to get you is the appointment of some CPA or some friend of the judges that doesn't know your child, has no idea what is going on in your child's life, may not even understand the whole issue of autism, or Down's Syndrome, or Prader-Willi Syndrome, or any of the other varieties of disabilities that I see in my practice. So, this is a way that you can be fairly sure that you're going to continue to have a trustee that's going to know what's best for your child. And as I say that, it reminds me of some things that I have not discussed previously. And that unfortunately I left out of this presentation. And that is something that most of you probably have heard about and it's called a Letter of Intent. A Letter of Intent is not a legal document like a will or a trust, but is a document nonetheless. Usually, it will have a, it will come and there are lots of them around, you could probably see them, find them on the Internet if you're not aware of what I'm talking about. What the letter of intent does is it leads you through your child's life in various steps, so that you can tell somebody who comes behind you is the guardian, or the trustee. What your child wants to eat, where your child likes to go for vacations, if he wants to go on vacation. What kind of medication is he taking? Who his doctors are, and on and on. It's a document, and I've seen five or six different kinds of letters of intent. And they all do pretty much the same thing. And that is, put down in one place critical information about your child that the casual observer or even your brothers or sisters may not know, but that are important for that health and welfare of your child. And your attorney and your financial adviser should have access to letters of intent, and should provide you with a letter of intent so that you can fill it out and hopefully review it annually, and make changes where appropriate as your child grows and matures. So the most current information can be available. And don't think that I'm not aware that Nancy is the moderator of this. And I may well be telling you to do things that I didn't tell her to do when I make a mistake.

Nancy: Now I'll make a note, don't you worry.

Atty. Paul Nidich: Yeah, okay. Alright, well good. Good. Because while I have been drafting special needs trusts since 1993, I learned new things all the time about strategies, and language, to improve my special needs trust plan package. And there's lots of boiler plates, if you will. Typical language that goes into trusts, one after another, after another, that's general, that's created to fulfill some legal requirement. And where we get looked at from one year to the next, by attorneys that draft trusts and wills and do estate planning. And I will admit that I don't always look at every one carefully. But I do it frequently enough that I can guarantee you that the trust that I'm writing today is going to be somehow different than the trust that I wrote last month. Because there may have been changes in the law, there have been changes in the way I think about things. I've had questions from parents that no previous parent has ever asked me before. And all of these things get molded and folded in to my new plan. And I keep updating them. So Nancy you're welcome to shoot me back your plan, I'll take a look at it.

Nancy: Um, it's already in the works.

Atty. Paul Nidich: Yeah, okay. Alright. Next slide.

Nancy: Okay.

Atty. Paul Nidich: Interview the prospective attorney. I don't know how many of you have even thought about the possibility that you can make an appointment with an attorney to discuss some legal issue, a special needs estate plan, and you go in and talk to the attorney, and you are free to walk away from that person, and choose another attorney. There's nothing that requires you to use any doctor, any financial adviser, any attorney, just because you've made an appointment. Interview the lawyer. Next slide. Most attorneys even those who regularly draft estate plans don't know the basics of special needs planning. Meet with the attorney and interview him or her. Any attorney worth hiring will not be offended. Any attorney worth hiring will not be offended at being interviewed by her prospective client. If you want a second opinion, and the attorney tries to present stumbling blocks to keep you from doing that, you've probably chosen the wrong person to talk to in the first place. Next slide. Find out for example how long the attorney has been involved in special needs trust planning. Ask the attorney, ask why the attorney does special needs planning. To me they seem to be reasonable matters to be discussed. But just because the attorney hasn't been writing special needs estate plans for a long time, doesn't mean he or she is not qualified to do so. You need to dig deeper. Next slide. Ask the attorney to explain the difference between different kinds of special needs trusts. I have given you some basics about the different types of special needs trusts. With that knowledge, and you can go back at some other time, to go back through the presentation, through the slides, to bolster what we've talked about. You can tell if the attorney knows what he or she is talking about. Even if the attorney came highly recommended, and even if the attorney belongs to all kinds of professional organizations, if he or she can't tell you that there are payback trusts, and third party trusts, you need to go elsewhere. If the attorney cannot even give you the basics of what a pooled trust is, go somewhere else. Next slide. If you don't get satisfactory answers, if the chemistry isn't right, or if the attorney only uses one type of trust in every situation, don't hire that attorney. Even if he may ultimately choose the trust that attorney always uses. There's a difference between the three types of trusts or four even that we've talked about. No one type of trust fits all situations. And any attorney that tries to fit every situation into one type of trust is not somebody that you should be hiring. Next slide. Here again I brought you back to a typical trust. You might decide not to use a living trust. You might decide to use a pooled trust, or leave the entire remainder with that pooled trust to benefit other people with autism.

You are the client. You are paying for the attorney's services. You get to decide what's best for you and your family. And the attorney that you hire should draft the trust and your wills the way you want, or you and the attorney should not be working together. Now it's possible that what you want is not possible to be done under the law. And the attorney ought to tell you that. And if the attorney you believes that, then he or she should not prepare your plan. They may be wrong, what you are wanting might actually be perfectly legal. But if the attorney doesn't understand it, you don't want them to do your work. But if you want something other than what the attorney suggests, if you want something other than what might typical trust plan is, I'm happy to do that for you, as should any attorney. So there's a few minutes left before we were into questions. And I would like to take just a little time to discuss some tax issues that may be relevant to you and your family. I have gotten a lot of questions about whether ABA therapy or Applied Behavioral Analysis therapy can be deducted as a medical expense on schedule A of your tax return. The answer to that is probably. In order to deduct something as a medical expense, you should have a doctor's prescription or letter or something in writing signed by the doctor that advises ABA therapy as a treatment that will help alleviate some of the symptoms of your child's autism. The second requirement is that it is something that makes your child's life better or does alleviate some of the symptoms. And so, my understanding of ABA and it's my understanding is fairly superficial. But my understanding of ABA is that if you get a doctor to advise it, you can take the cost of it off of your taxes, on schedule A as a medical expense if you meet all the other requirements. And this goes for a lot of other things that you might need to do. I had a client whose daughter was in a wheelchair. And her bedroom was on the second floor. She couldn't get up to the 2nd floor without an elevator. The family put an elevator her into their house for their daughter. They did it in such a way though, they put her through a shaft between a small half bath, on the first floor, and a closet on the second floor. And the test when you make modifications to your home is that if the modification does not increase the market value of your home, and if it is, to help someone who has a disability, you can deduct the cost of putting the elevator in as a medical expense, because that's exactly what it is. If the elevator costs $10, $10,000 I'm sorry. But it increases the fair market value of your home by $5,000, you can write off the other $5,000. So there are lots of things that we do in our everyday life that are particularly expensive, and that we would like to be able to write off on our taxes if we can, that we really can. Another thing is that you can deduct mileage for doctor's appointments and therapy appointments, and other medical travel. So, if you are in a situation where you're always taking your child with autism to a therapist, to the doctor, to the hospital, for tests here, there, and if you keep track of that by putting down your starting mileage and your ending mileage, and the date, and you keep track of all of that, that can also be applied on your schedule A as a medical expense. And all of these things might add up to the point where you'll actually be able to get a deduction for your medical expenses if you itemize your deductions. Okay, Nancy I think that we can start those questions?

Nancy: Oh, I've got a ton. But I'm going to let our callers know that if you'd like to ask a question, please press "*" "2" on your telephone and that will alert me that you have a question, and you can ask Paul your question live. In the meantime, I have sent you some questions Paul. Were any of those, something you wanted to address before I go to questions that have come in while you've been talking?

Atty. Paul Nidich: Yeah. There was one question. In the case of a difficult divorce situation, how can you ensure that the funds in the trust will be used solely for the needs of the child, and not for an ex-spouse who may try to access the funds for his or her own purpose? Well there are a couple of ways to do that. One way is to have co-trustees. If you and your ex-spouse are co-trustees and the account requires two signatures, then no money can be spent out of that account without both people agreeing. Another way might be to have co-trustees that aren't either of the two spouses, ex-spouses. But two other people, one from each family, or something of that sort. Or maybe two people that say, each can agree on, are responsible and won't collude to divert the money. You can always choose an institutional trustee like a bank or an investment company. And they will make sure that something like that doesn't happen. But another issue about divorce that I have talked about, in other places, is that if you have a child with autism and you're involved in a divorce, that is unfortunately but a good situation where you have some leverage to force your soon to be ex-spouse to cooperate and have a special needs estate plan drafted that will address the needs of your child with autism. You can push it, not completely, and you know, but you can push that pretty far probably, in order to make sure that your child is well taken care of. Because after the divorce is done, you have nowhere to go to have both spouses involved in financing the special needs trust.

Nancy: Um-hm. Interesting. Complicated and interesting. We have a guest on the phone who would like to ask you a question.

Atty. Paul Nidich: Okay. Hello?

Nancy: Hi. You had a question?

Guest 1: Oh yes, I did. Is that me?

Nancy: You're on.

Guest 1: Okay, great. I've enjoyed your presentation. It's been very, very informative.

Atty. Paul Nidich: Thank you.

Guest 1: This was about the annual rebate you suggested about. I currently don't have one. But I it has ignited me to do that, but when you review them annually, is there a fee for that if you update it? You know, each year, is it part of an annual review that you can set up? What are the fees involved in counseling over that?

Atty. Paul Nidich: Well, I think that's an issue that you would need to address with your own particular attorney.

Guest 1: Okay.

Atty. Paul Nidich: While I might charge a certain fee that might fit with my practice and my overhead, and so forth, that may not be what somebody else would charge. But I will tell you a story. Somebody asked me about guardianship, about one of the earlier questions, asked me about guardianship. I had a call from a woman who asked me about guardianship, and what she needed to do and how much I charged. And she lived in Butler county, which is the county immediately north of Cincinnati, of Hamilton County, where I live. I spent 15 minutes on the phone with the woman, and walked her through the paperwork that I would have otherwise prepared, and told her that in Butler county, as in most counties in Ohio, and I don't know the situation in other states, you don't need an attorney to do a guardianship. You can do it yourself, and the people in the probate court are happy to try to help as much as they can without practicing the law. She said "Oh. That's great. How much do I owe you?". And I said nothing. And she said oh, I just talked to another attorney and he wanted $1500. So, back to your question, I would charge a relatively nominal amount and I think that's reasonable. If somebody wants $1500 to do it, that's a way out of the ballpark.

Guest 1: Okay. Thank you for that. One additional on that pinpoint is, do you revise the trust? Or do you add something that wasn't in it, legally? And we need to add it, like that's somebody's going to review that and make an update?

Atty. Paul Nidich: Sometimes you can just do an amendment to the trust that's just precisely for changing articles or to read and do articles or, sometimes you have to redo the whole thing. But most of the time, you can make changes by simply amending the will or the trust.

Guest 1: Okay. Thank you very much for taking my call.

Atty. Paul Nidich: You're welcome.

Nancy: Thank you. If there's anyone else that would like to ask a question, just press "*" "2" and I'll get you connected. In the meantime...

Atty. Paul Nidich: I have a...Yeah, go ahead.

Nancy: I'm sorry?

Atty: Paul Nidich: Yeah, go ahead.

Nancy: Well I was going to ask Paul, what typically happens if you don't have a will or a trust?

Atty. Paul Nidich: If you don't have a will, each state has a law of dissent and distribution that mandates how your estate is to be divided up. Some states transfer the money to the surviving spouse, other states give the surviving spouse half, if there's one child, and the other child half. If there's more than one child, the surviving spouse gets a third, and the children get two-thirds.

Nancy: Um-hm. And what will happen then with the individual with the disability, do you think? Typically?

Atty. Paul Nidich: What will happen is that person would then all of a sudden have some assets that would require either the preparation of a payback trust, or if the person isn't thinking and doesn't realize it, it's going to knock the child off of getting a benefits until that money is paid back down to the $1500, $2000 range, that's generally applicable in the various states.

Nancy: Would they become a ward of the state no matter what their age? Or...

Atty. Paul Nidich: No.

Nancy: No. Okay.

Atty. Paul Nidich: No, as long as there's a surviving spouse. The surviving spouse would continue to either be the natural guardian if they were under 18, or if the surviving spouse had been appointed a guardian, they would continue as a guardian.

Nancy: Um-hm. What if they're the only surviving spouse or the only surviving parent? A family member?

Atty. Paul Nidich: If there are no surviving spouse, someone would have to apply to the probate court to be appointed guardian.

Nancy: Um-hm.

Atty. Paul Nidich: And that person typically would be a family member. But, you know, if you live in an area and you don't have any parents still alive, and your closest relative is in another state, it's a potential mess.

Nancy: Um-hm. It sounds like it. It's truly worth it to have, of drawing up the correct documents and everything.

Atty. Paul Nidich: Ah, it really is. It really is.

Nancy: I have a friend approach me and asked, she said that she's gone into the bank and wanted to open a trust and they didn't understand what she wanted. It's not like a savings account.

Atty. Paul Nidich: Well, it's not.

Nancy: [laughter]

Atty. Paul Nidich: No it's not. Your friend just may have gone into a branch of a bank and gotten someone who wasn't well-versed in the bank procedures. What typically happens when someone goes into a bank to open a trust account, the bank will ask for a copy of the trust to find out if the trust is revocable, or irrevocable, to find out if the person opening the account is indeed the trustee, and entitled to open the account. And if so, then, they will go ahead and open the account. The issue of revocable versus irrevocable is primarily one of tax implication. A revocable trust is usually taxed to the beneficiary of the trust. So if a client created a revocable trust, for the clients' two children, the bank would want the two children's social security numbers, and it would report to the children and to IRS what the earnings were for that year, to each child, so they would record it on their tax return. An irrevocable trust is a taxpayer in and of itself. And it must have its own tax identification number. An irrevocable trust gets taxed at the highest levels of the tax system that we have in the United States. There's a small exemption, depending upon certain language and the trust. It could either be a hundred dollars or three hundred dollars. So, if the trust earned $5000 in income, it's going to pay tax on probably $4900 of income. And it's going to be taxed as not too bad a rate. I think the rate is only 15 percent. But when you get over $10000 of taxable suggested income, the rate jumps to 35 percent. So if there's a reasonable amount of money in a trust, and it's earning more than $10000, it's going to pay a significant amount of tax. The exception to that is when an irrevocable trust pays money on behalf of a beneficiary, that money is deductable by the trust on its tax return. And he beneficiary should get a 1099 form that tells the beneficiary how much money he or she needs to declare as income on his or her tax return.

Nancy: Um-hm.

Atty. Paul Nidich: So, the short answer, the simple answer is the bank screwed up. You need to take the trust into the bank the trustee does. They will set up the account. If it's an irrevocable trust, you need to have a new tax ID number for the trust. And if it's a revocable trust, as most living trusts are, you can just give the bank the social security number of, if it's a couple, of one of the couples' social security numbers, or the beneficiary's social security number. But the trustee is not going to be liable for the income. It's not going to have to claim the income on the trustee's tax return.

Nancy: So, are you saying that trust accounts can earn interest?

Atty. Paul Nidich: Yes.

Nancy: Can grow?

Atty. Paul Nidich: Yes.

Nancy: Okay.

Atty. Paul Nidich: In fact, that's one of the obligations of the trustee is to invest the money in the trust wisely.

Nancy: Um-hm. I've had people ask me, grandma wants to give birthday money to little Billy. You know, Christmas money, birthday money. They don't want to jeopardize anything that he could potentially, you know, benefit from, government benefits. So they don't want to go over that $1500 or $2000 threshold. Should a trust account, an account be opened for that money to go into?

Atty. Paul Nidich: Probably not. Unless it's a lot. Unless it's significantly more. If it's 5 or 10 thousand dollars, there ought to be a trust in place. And there ought to be a trust account invests the money. What you want to try to avoid is having uniform gift to minor act or uniform transfer to minor act accounts that when your child with autism gets older, and the money has accumulated, you're going to have to create a payback trust to be able to qualify for government benefits.

Nancy: Um-hm.

Atty. Paul Nidich: Because it's going to be more than that $1500 or $2000.

Nancy: So in the meantime, just a regular child's bank account would be fine?

Atty. Paul Nidich: As long as you're spending it on behalf, as long as you're spending it for things for the child.

Nancy: Um-hm.

Atty. Paul Nidich: Buying toys, paying for vacation, doing something with it so that it doesn't accumulate and become a problem.

Nancy: Okay.

Atty. Paul Nidich: Otherwise, when the child turns 18, you're going to have to, just before the child turns 18. You're going to have to create a payback trust for what might be a relatively small amount of money. And that might be a good use of a pooled trust for smaller amounts of money, so that you don't have to go to the expense of creating a payback trust. But I had clients that are well to do enough that the small savings account for the child has 50 or a hundred thousand dollars in it.

Nancy: Okay. How about accounts that grandparents typically open for college funds?

Atty. Paul Nidich: Okay. If it's a 5-29 plan. The 5-29 college plan belongs to the person who is putting the money in. It does not belong to the potential college attendee. So, if a grandparent starts a 5-29 plan for child 1, when he or she is born, and it builds up, and child 1 then gets diagnosed with autism, and as that person gets older, if he or she doesn't go to college, the grandparents can change the beneficiary of that account to child 2 or child 3. So the money isn't lost. Loss is not the right word. Because they can always take the money back. It's just that they would have to repay the tax savings that they were able to take when they put money into the 5-29 plan.

Nancy: Okay. And how about as the individual with the disability is an adult, the trust has been established, everything's going great, they're getting government benefits, but about their income. Can their income go into the trust? If they're earning an income.

Atty. Paul Nidich: No.

Nancy: Okay.

Atty. Paul Nidich: No. Their money, if they're earning an income, and by the way, the individual is allowed to earn up to a thousand dollars a month without being disqualified from collecting means-tested benefits, SSI or Medicaid. If it's their money, it cannot go into a third party trust that their parents or their grandparents set up. It has to go into a payback trust, if it's going to be put into a trust situation. It's a trust that is going to be spent on a regular basis, but it's going to be accumulated.

Nancy: There's something like this exists where there's maybe a data base of special needs attorneys or there are some places folks can go to find a special needs attorney?

Atty. Paul Nidich: There are a couple of organizations that charges seed to belong to for attorneys to do special needs trust. How can I forget the name of the organization? There's another organization called National Alliance of elder law attorneys, NAELA, and they have a website. And most elder law attorneys also do special needs trust because a lot of what an elder law attorney does mimics what a special needs trust attorney does. And so you will frequently find a special needs trust attorney belongs to the NAELA, I do.

Nancy: Um-hm.

Atty. Paul Nidich: And that's a good source for special needs attorneys. You might want somebody who doesn't do it, but that would be certainly the exception rather than the rule.

Nancy: The organization again is the NAE... what did you say?

Atty. Paul Nidich: LA, national association or National Academy of Elder Law Attorneys.

Nancy: Okay, I found you through Met life.

Atty. Paul Nidich: Yes.

Nancy: That's how I got started.

Atty. Paul Nidich: Yeah. The Met desk is a good resource for special needs information. They're very active in the disabled population. You may find it in other insurance company fights as well. I don't know for sure.

Nancy: Yeah, there are other insurance agencies that have a special needs planning division.

Atty. Paul Nidich: Yes.

Nancy: I just happened to go through the Met desk because it has snoopy and it was not intimidating.

Atty. Paul Nidich: Right, right, right, exactly.

Nancy: It can be scary and snoopy was very comforting.

Atty. Paul Nidich: Yes, I can understand that. I have a question that I would like to address.

Nancy: Yes sir.

Atty. Paul Nidich: Here is a question that came in earlier. This person has a six-year old with autism and he is self employed and he is thinking about employing his son when he turns eight and paying him a salary for the next ten years. So that he can make contributions to Social Security and Medicare. So when the son turns 18 he will qualify for Medicare and social security for life. He wants his son to have Medicare instead of Medicaid. And he's thinking about paying him 18500 dollars which 16500 going to a 401k. He asks if that's possible. The answer to that is I'm not sure if it is possible but it is a bad idea even if it is possible. First of all in order to qualify for Social Security disability income, You have to be disabled and if you have been earning 18000 dollars which is more than a thousand a month. You are not going to be able to convince social security that this person who is on your payroll yesterday is now totally disabled. So it's going in the exact opposite direction of where you ought to be going. Secondly, for someone who does qualify as an individual whose parents have started taking social security disability, the Medicare that he wants doesn't start for the first 24 months. Otherwise it doesn't start until you turn 65. So he's got some interesting ideas but they don't work. So, if he is listening or if anybody else is thinking along these lines, this is not what you want to do. You're taking your child. And just because someone has autism doesn't necessarily mean that they're not going to be able earn a living. Everybody in the autism community knows Temple Grandson, and knows that she is the world's expert in stockyard design. She not going to qualify for SSI and Medicaid. She'll qualify for Medicare when she turns 65. So, there are you know, levels of autism that is different from certain other kind of diseases where if you have this kind of problem, you are never going to not be disabled.

Nancy: Let me ask you this.

Atty. Paul Nidich: Please.

Nancy: Oh, were you finished with your thoughts?

Atty. Paul Nidich: Yes, I was just going to say, so, you need think about things before you do them and check them out with somebody that understands the law.

Nancy: Excellent advice. Yes, I know several people that I've tried to just do all this on their own and besides being more of a headache than it needs to be it may not do what you want it to do.

Atty. Paul Nidich: Exactly. And you may be doing the exact opposite of what you want.

Nancy: Right. I just want to ask too, would life insurance for the individual with the disability count as an asset for them?

Atty. Paul Nidich: If the Life insurance is cash value would count as an asset. If it is term life insurance it would not count because that does not have cash value. You're talking about if that person owns the policy not is a beneficiary of the policy

Nancy: Right. Yeah, if it's for that individual.

Atty. Paul Nidich: If the individual is the beneficiary that’s not something that you want to do.

Nancy: Right.

Atty. Paul Nidich: If the person owns the policy, then I'm not sure why he or she would. But if that’s the case and it’s a term policy it does not have any cash value that’s not an accountable resource.

Nancy: Okay. Keira from Illinois asked, do you work with families in other states?

Atty. Paul Nidich: No. Because this is the practice of law doing wills and trusts. Only someone who’s admitted to practice in a particular state can do can draft wills and trusts for someone who lives in that state. And I belong to the, I'm admitted in Ohio. I am admitted in Kentucky but I haven’t practice in Kentucky for many, many years. I am not admitted in any other state. So I can’t do this kind of work in any other state.

Nancy: Um-hm. It's not a simple thing to go trough to plan. It's not. Some people are finding it to be cost prohibitive, as what I am trying to say. Can you give people maybe a ballpark estimate of what they can expect to pay for drawing-up these documents? I know it varies widely from state to state, and attorney to attorney but I think some people think it’s out of their reach. I did.

Atty. Paul Nidich: I try to take into consideration what my client can afford in setting a fee especially in this area. So if someone who lives in Ohio wants to contact me and discuss their situation, my fee might be a little likely be different than other clients.

Nancy: Okay. So just check with the attorney and use your check refunds and get it done.

Atty. Paul Nidich: Yes.

Nancy: That's what we did.

Atty. Paul Nidich: [laughter]

Nancy: Well it is 11 o'clock I told you the time would fly.

Atty. Paul Nidich: Yes, it did.

Nancy: It's just been tracking this information, I hope this helped some folks. I've lost the slide-up with your contact information.

Atty. Paul Nidich: Okay.

Nancy: So, if people have questions they can email you.

Atty. Paul Nidich: That would be fine.

Nancy: They could find it on the site with lots of answers.

Atty. Paul Nidich: I would be happy to.

Nancy: Okay, great. Yeah, I want to thank you for coming on the program and for helping us try to sort through these things. It can be complicated but you make it very understandable.

Atty. Paul Nidich: Thank you and I appreciate your asking me to do this. I enjoyed it very much.

Nancy: Maybe we should come on and do it again soon because I'm sure that we barely touched the surface.

Atty. Paul Nidich: Well, yes. We can talk about that.

Nancy: Okay.

Atty. Paul Nidich: Yeah.

Nancy: Sounds good.

Atty. Paul Nidich: Okay.

Nancy: Okay, I appreciate it so much. I want to tell our listeners too that our next webinar will be January 19th when we will have Doctor Jerry Kartzinel. We will get his information posted to the website soon so you'll know the topic and everything. But Doctor Jerry is very well known in the autism community. So I'm sure it’s going to be very interesting topic. If you want a transcript of tonight’s event, join our spectrum gold club. It's just a dollar to join and you will receive a copy of this webinar audio and transcript. Plus you'll have access to all of our previous webinars. That’s over 40 topics, including autism 101 the basics, century integration therapy, effective IP strategies and much more. Also tell us what you think. Call us at 877-211-0212 extension 1, and leave a short comment or testimonial. Again, that number's 877-211-0212. And I bid you all a fun farewell and a nice night. Thank you Paul.

Atty. Paul Nidich: Thank you. Goodnight.

Nancy: Goodnight.

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