



# A Family Affair

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*It's hard to believe that the end of the year is here and that a new one has begun. During this time, I like to think about the relaxing warm days my family and I had last summer. Then, my brother and his family visited several times from Virginia.*

My brother, Vic, and sister-in-law, Kate, are appointed as my younger daughter's Trustee for her Supplemental Needs Trust. We choose them because they have the qualities and values we would want for both our daughters, God forbid something happened to my husband and myself. But there was always a question in my mind, can they handle all the issues our daughter has and may have as she grows up? More over, would anyone be able to handle them?

These are usual questions, posed by parents of special needs children, after knowing that it is so very important to have a Supplement Needs Trust.

**A Supplemental Needs Trust (SNT) is a legal document to benefit an individual who has a disability. The SNT allows a person with a disability to have, held in Trust for their benefit, assets. In a properly drafted Supplemental Needs Trust, those assets are not included when trying to qualify for certain governmental benefits.**

SNTs were originally created to allow parents of children with disabilities to provide for them after they grow up without making them ineligible for public benefits (like SSI and Medicaid). Prior to the creation of SNTs, for example, an inheritance directly to a disabled child could potentially make them ineligible for public health insurance such as Medicaid. To avoid this, the Legislature allowed special needs trusts, which are structured in such a way that they do not impair a person's eligibility for public benefits. They supplement the disabled beneficiary's benefits, rather than replace them; hence the name Supplemental Needs Trust. One of the elements of a SNT requires that a Trustee be appointed to carry out the terms of the Trust and protect the beneficiary, in this case, my daughter.

In estate planning, the role of the trustee involves

administrative and technical skills in addition to communication skills. Identifying the appropriate trustee is difficult in general; a SNT presents additional challenges. It is common for families to name a relative, as my husband and I did, to serve as the trustee of their family's SNT.

Many articles have espoused that there is specialized knowledge needed to succeed as a Trustee. I can confirm that it makes sense to have a family member involved in some capacity in the care of the individual with special needs. But I can't help but think that my daughter will be best served by a family member AND a professional co-Trustee.

My kids have been always close to my brother and his family. But this past summer confirmed with me personally, that they were the absolute right choice. Not only are my brother and sister-in-law professionals, who are very well organized with extremely strong interpersonal skills, they quite plainly love my kids.

Trustees owe a fiduciary duty to their beneficiaries, which obligate them to act in the best interests of the beneficiaries. The role of the trustee should be discussed before the SNTs are implemented. Knowing is more than half the battle when faced with such an important undertaking. Trusts operate better when a heart to heart is done with a family member before the worse happens. I know that I plan to sit with my brother Vic and sister in law, Kate to discuss more of my daughter's issues. These conversations will naturally happen as she grows up and develops ever-new traits and characteristics.

*Often, however, many family members may not have the ability to handle the duties of a trustee. Some then turn to professional trustees, like financial institutions. But, many financial institutions may not have proper methods established for handling SNTs or unable to provide the care and contact families like myself would desire. In my office, we suggest a family member who possesses a strong relationship with the beneficiary as well as a professional trustee.*

So, when deciding to choose a trustees for your SNT, take stock of whether your choice has administrative skills, communication skills, investment skills, knowledge or capability to learn about public benefits rules and

regulations, ability to serve, desire to serve, and the wherewithal to keep up with the legal and policy changes with SNT administration.

Planning for a special needs child takes unique skills and knowledge. It's important that the people you designate as trustee can communicate and work with the professional services to the beneficiary. Above all, it is essential to have someone who will carry out the personal wishes of the family and the special needs individual with love and compassion. And I am so glad to have found those people for my daughter.

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