



## I Saw Mommy Kissing Santa Claus! When and How to Use Remarriage Protections

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Forget about Biff the pool boy and Bambi the bar maid; Santa Claus is coming to town! Clients are not only concerned about protecting their hard-earned assets from creditors and predators during life, but also from unintended beneficiaries after death. Even if that jolly man with the beard woos the surviving spouse with that shiny sleigh, there should be remarriage protections in place to prevent the unplanned distribution of assets. Let's focus on trust drafting techniques and counseling methods that can help ensure our clients' plans effectively protect against the potential "new spouse."

**Definition of Remarriage.** First, it is important to understand the definition of remarriage and why it is important. Typically, when a client hears "remarriage," he or she assumes this refers to an actual, legally binding marriage, recognized by the State. In trust planning, remarriage can be (and probably should be) something much narrower. In the LWPPCS software, the definition of remarriage itself is important because a "remarriage" may trigger many other trust limitations.

You can either choose to use the default definition of remarriage, or you can customize your own language. The default reads as follows: "'Remarriage' for purposes of this Trust Agreement shall mean any marriage entered into by one of us after the death of the other that is valid in the jurisdiction where the marriage took place or the cohabitation of the survivor of us with another. 'Cohabitation,' for purposes of remarriage, shall mean living with another person with whom the survivor of us is romantically involved or sleeping overnight together in the same room for one night or more."

Should you decide to create a definition of remarriage that better works for you – and, more importantly, the sensibilities of the clientele in your practice area – you can default your customized definition in the software.

Remember, defaults can always be overridden or opted out of, depending on each client.

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### **Consequences of Remarriage & Other**

**Protections.** Once you have your definition in place, the next step is to decide what will happen within the Trust if remarriage occurs. Options include the following: limitation or removal of the surviving spouse's power of appointment; removal of surviving spouse as General Trustee or certain sub-trusts created under the original Trust; or removal of surviving spouse's power to remove and/or appoint Trustees. Each option serves to protect the original Trust objectives established when both Grantors were alive.

There are also provisions that work to protect against the re-allocation of assets to unintended beneficiaries even before remarriage. For example, a Common Trust can protect chosen Trust assets upon the death of the first Grantor. This Common Trust is created automatically upon the death of the first Grantor and does not require the definition of remarriage to be met. There are things to consider with the Common Trust, including who are the income beneficiaries and who are the principal beneficiaries; who is going to be Trustee of the Common Trust; what assets are going into the Common Trust; when do I want the Common Trust to terminate; and who, if anyone gets a power of appointment over the Common Trust assets?

**Counseling Issues.** Of course, all of these remarriage protections also require some level of counseling on our end. For example, sometimes it is a question of surveillance for the clients.

They wonder, "Who is in charge of making sure these remarriage protections kick in as soon as a remarriage event occurs?" Our challenge is to encourage them to name Successor Trustees who are going to administer the Trust in accordance with its original purpose and recognize the importance of upholding the terms of the Trust.

In drafting, we have to properly limit powers of appointment for the Grantors. We must be careful in granting the power to remove and appoint Trustees and selective in identifying the class of individuals eligible to even be appointed Trustees. An oversight in any one of these areas may result in the effective nullification of other remarriage protections.

**Conclusion.** Keep in mind that many clients are not actually worried about the act of their spouse remarrying after death. Instead, they are worried about the consequences of that marriage on their assets and their intended beneficiaries. Even if you think remarriage is unlikely among much of your clientele, you cannot afford to leave that up to chance. Clients are hiring you to make sure their assets are getting to who they want, when they want, in the manner they want, no matter what happens after their death. Familiarize yourself with all of the remarriage protections available, because clients do not want "Mommy" giving away the family estate to "Santa Claus."

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# Lawyers With Purpose would like to recognize **Stephanie Prestridge** as **NOVEMBER 2018** *Member of the Month*



## **What is the greatest success you've had since joining LWP?**

Our firm revenue and camaraderie have increased exponentially. And while those two items are certainly successes, my greatest happiness has come from having a system in place that allowed me to rely on my amazing staff. Instead of hoarding my work, I've been taught to let my people do their job – and they have risen to the occasion every single time, which is a testament to the training they have received through LWP.

## **What is your favorite LWP tool?**

According to my staff, my favorite tool is (should be) ActionStep. I (but really my staff) appreciate having an online database that tracks every case and keeps old and new clients at my (their) fingertips. Now I (they) can rely on ActionStep instead of my (their) memory or cell phone contacts! (I refuse to acknowledge that my memory may occasionally be shoddy.) My favorite tool – if you really want to know – is my coach. He hears me. He gets me. And he pushes me. Now, if Phil could just phone in when I go to the gym, I'd probably be in better physical shape, too.

## **How has being part of LWP impacted your team and your practice?**

LWP has allowed me to focus more on Lineage and continuing to build my client base. More importantly, however, being a part of LWP serves as a daily reminder that we are a part of a wonderful community of lawyers.

We have been uplifted by each person with their willingness to share experiences and answers. We are only as good as those who surround us and we are surrounded by amazing people through LWP.

## **Share something about yourself that most people don't know about you.**

My greatest sense of accomplishment is making my husband proud. I love him so much more than anyone really knows.

## **What is your favorite book and how did it impact your life?**

My favorite book is *Les Misérables* by Victor Hugo. I remember reading it when I was a young teenager – at a time in my life when everything was black or white, left or right, right or wrong. People were either good or bad. Actions defined personality, which, in turn, determined character. This book redefined movement and color. One who engages in bad conduct can be swayed – even ever so slowly – by the nudge of love and forgiveness. A single choice, however significant, may color our lives, but it does not have to define our character. One can be both imperfect and redeemable. I learned that there is a little bit of Jean Valjean in all of us and that even the smallest acts of kindness can make an enormous difference. It seems the lessons learned from a high school English required reading assignment remain true even more so today.



**Congratulations to you on your continued success!**

# PRACTICE COACHING vs IMPLEMENTATION

## What's the difference?

*Phil Miner and Amanda "Mandy" Bossow*

A question both the Practice Coaches and Implementation Specialists often receive is, "What is the difference between coaching and implementation?" In the most basic of terms, implementation is the process of putting a decision or plan into effect; coaching is a form of development in which a coach supports you to overcome challenges to achieving specific personal or professional goals.

The primary responsibility of an LWP Practice Coach is to help members discover the core elements to help them strengthen their business skills and focus on becoming an Intentional Entrepreneur. This requires establishing the proper mindset, planning, regular goal setting, and measuring the results.

The primary responsibility of an LWP Implementation Specialist is to work with members and their teams to lead, guide, and coordinate the successful implementation of the LWP systems and processes. The implementation specialist will teach each benchmark of implementation and provide homework that will enhance the members' ability to implement the benchmarks.

As our members learn the LWP systems and processes with the assistance of the implementation specialist, the practice coach helps to identify the value of those systems and how they work together to assist the member in becoming an intentional entrepreneur.

The member and the practice coach create step-by-step action plans with timelines, focused on achieving goals without creating chaos in the day-to-day operations of the law firm. This plan will consist of four pillars that ensure consistent profitability while also measuring growth in the eight core attributes of an intentional entrepreneur.

The implementation specialist assists members to generate reports to track the results of key performance indicators. Implementation also provides members the infrastructure and clear understanding of standardized workflows to create consistency, efficiency, and reliability for increased profitability.

The practice coach will utilize these reports to assist the member in analyzing their business to determine what is working, not working, and help identify possible solutions for what is not working.

The implementation specialist and the practice coach work together to ensure the members have what they need in place to not only meet but exceed their goals. Once a solid foundation has been established and specific benchmarks have been achieved, the implementation specialist and practice coach work together to support the member in developing time templates, team meetings, and building their teams. In doing so, the attorney can delegate responsibilities and keep their focus on areas that are consistent with their unique abilities and generating revenue. It is important attorneys learn to empower their team to utilize their specific strengths to continue to grow the business.

Although the practice coaches and implementation specialists have different benchmarks that they assist the members in achieving, their process syncs seamlessly towards the same overall goal. They listen with empathy, are genuine, and have a deep commitment to supporting all LWP members in becoming successful and profitable business owners and intentional entrepreneurs.

If you are looking for something to take your firm to the next level, reach out to the Member Success team to discuss your options in working with your own Practice Coach and Implementation Specialist.