

## The Longest Day

*Kimberly M. Brannon, Esq., Legal-Technical and Software Trainer*

I was young when Granny T died. Granny T loved grilled cheese sandwiches, she loved porch swings, and she gave us grandkids MadLibs at Christmas. Granny T told me one time that she was the valedictorian of her high school class and that I was smart, just like her. Granny T had issues with her brain that were largely misdiagnosed and improperly treated. The night she died, the nursing home called and told my mother to come right away. She left immediately. She and her two sisters drove the hours it took to get to Granny as quickly as any child would after getting such a call.

But Granny T died alone in the nursing home at 66 years of age. None of her daughters made it to her in time. She was too far away from her family in a nursing home assigned by the state under the Medicaid program. It was one of the few times in life I saw my mother truly sad and broken.

My MeeMaw is still alive. She is 94. I introduced her to Taco Bell and the Gap, and she taught me the joy of soap operas and clipping coupons. MeeMaw regularly mailed me the most delicious homemade blackberry jelly when I was in college, much to the delight of all of my friends and dorm mates. MeeMaw always wrote notes with the jelly telling me that I could do anything that I put my mind to and that she was so proud to have a granddaughter with such a fine education. MeeMaw has diagnosed dementia, for which she is monitored by a geriatric physician. She forgets our names, she forgets we came to see her just minutes after we leave, and leaving her home environment is so disheveling and confusing for her that we don't take her out any more.

There is no cure for dementia. MeeMaw will die from the physical ailments that come with it. She will likely pass not remembering where she is or how she got there. But MeeMaw is comfortable, clean, and close to her family. She lives in a lovely assisted living, afforded through proper early planning, not far from any of her three children, four grandchildren and eight great grandchildren. She will pass having led a much fuller life than Granny T, our memories of her will be stronger, and we will all make it there when the time comes.

Now you know my purpose story.

It is the story of why I have practiced in Elder Law for 13 years. It is why I love helping attorneys across the country, through the best program on the market, to provide the most comfort possible to families in very difficult times. It is also why I am passionate and committed as an advocate and ambassador for the National Alzheimer's Association. And, it is why I would like to ask each of you as legal advocates for those who suffer from Alzheimer's and dementia to join the Lawyers with Purpose team in the fight to find a cure. June 20, 2016 is the summer solstice and the longest day of the year. We will honor those family members, friends and clients who have joined us for planned events at the Practice With Purpose retreat and at firms across the country. We ask that each of you consider joining our team, as the LWP elder law community shows our support of our personal communities.

Together we can help find a cure and improve the lives of millions of families.

**You, and your firm,  
may join our team at:**  
[http://goo.gl/SkK7rb.](http://goo.gl/SkK7rb)  
alzheimer's  association®

# Member of the Month

*Andrew Jaloza — Glendale, NY*

## WHAT IS THE GREATEST SUCCESS YOU'VE HAD SINCE JOINING LWP?

The greatest success is having created a thriving Estate Planning Practice run by a cohesive team of dedicated people who are passionate about helping as many families as we possibly can..

## WHAT IS YOUR FAVORITE LWP TOOL?

It is not just the tools but the total client centered systematic approach of the LWP process that has allowed us to quickly go from zero to hero as an Elder Law and Estate Planning firm.

## HOW HAS BEING PART OF LWP IMPACTED YOUR TEAM AND YOUR PRACTICE?

We have been impacted by our implementation coach Roz Drotar and our mentor Coach Candace Pollock, both of whom have held us accountable and challenged us to reach our highest possible potential while imparting their year experience-based suggestions to help us achieve amazing growth over the past year.

## SHARE SOMETHING ABOUT YOURSELF THAT MOST PEOPLE DON'T KNOW ABOUT YOU.

Something that people don't know about me is that I am transparent. What you see is truly what you get.

## WHAT IS YOUR FAVORITE BOOK AND HOW DID IT IMPACT YOUR LIFE?

My favorite book is called Man's search of meaning by Viktor Frankl. This book has impacted my life because after reading it, it has taught me that everything in your life is a matter of perspective, and how you look at something creates your world.



## NEW MEMBERS THAT HAVE JOINED SINCE MARCH

▶ **Douglas Ley** — Janesville, WI

▶ **Jennifer Ballantyne** — Spokane, WA

▶ **Denise Oxley** — San Diego, CA

## EVENTS NOT TO BE MISSED

Monday, April 11th (4pm EST) — **Live Case Study Review**

Thursday, April 14th (12pm EST) — **Medicaid Estate Recovery...It's Not as Bad as You Think**

Thursday, April 14th (4pm EST) — **Marketing Roundtable with Special Guest: Julieanne Steinbacher**

Monday, April 18th (4pm EST) — **Live Case Study Review**

Tuesday, April 19th (2pm EST) — **Simplifying Medicaid Eligibility & Qualified Transfers**

# Advising Trustees of Special Needs Trusts on Spending Issues

*Kimberly M. Brannon, Esq., Legal-Technical and Software Trainer*

Special Needs Trusts are often created with funds received from legal settlements or inheritances. Special Needs Trusts are important documents when established for people who are receiving government benefits. However, as practitioners we must remember that a Special Needs Trust must not only be effectively drafted for those receiving public benefits, the trustee must also make distributions in accordance with the guidelines of the trust so as not to risk loss of Supplemental Security Income (SSI) or Medicaid benefits for the beneficiary.

The first place a trustee should look when making a distribution from an SNT is the four corners of the document. Even though the state code may allow a distribution, if the trust instrument itself does not, the trustee must abide by the language of the trust. For example, most states will allow SNT funds to be used to pay for vacations, but if the trust instrument itself states it is not to be used for “travel expenses,” the trustee is now limited beyond what the state code might allow. However, once the trustee is familiar with the limitations of the trust document, he should look to the state code and what programs the beneficiary is on for any other limitations on disbursement.

Special Needs Trust payments are designed for “supplemental” or luxury needs not provided for by government benefits. SNT funds are not intended to be used for basic shelter or food, as those needs are provided for by the government benefits. Any money from the trust spent on food or shelter on a regular basis, or given directly to the beneficiary, can count as income for government benefit purposes.

If a beneficiary is receiving SSI benefits, the trustee should be cautious not to make payments directly to the beneficiary, payments to restaurants or grocery stores, mortgage or rent payments, or tax payments on the home. Some jurisdictions also frown on disbursements

to basic utility companies, stating that those payments are covered by the SSI payment. Most of these types of payments will result in a 1/3 loss of SSI income. So, while they are discouraged disbursements, there may be some cases in which the trustee determines that the benefit of making the payment outweighs the loss of SSI income. For example, if the beneficiary is unable to pay the tax notice on his home, the trustee may decide to pay the taxes and let that money count as income for the beneficiary the month it was paid. In this scenario, the loss of the 1/3 income is far outweighed by keeping the home taxes up to date, assuring that the beneficiary has a place to live.

When institutionalized clients come to us with a Special Needs Trust, we must be cautious with distributions as well. However, there are plenty of supplemental needs the money can pay for. Nursing home patients can use the money in an SNT to pay the additional fee for a private room, a television, eye glasses and tooth care not provided for by Medicaid, the travel expenses and mileage of the sponsor to come and check on the patient, and caregiver expenses. Oftentimes, nursing homes are happy to hear that a patient has a Special Needs Trust to pay for additional expenses that arise, and some homes will look more favorably upon Medicaid and Medicaid-pending patients who have such funds to “supplement” care costs.

The LWPCCS software allows us to create both first-party and third-party Special Needs Trusts that conform with the federal and state requirements and allow the greatest discretion possible to your trustees. It is, of course, important that the trustee understand what distributions he can make and that he contacts an attorney with disbursements he is unsure of. This type of trustee guidance is a great opportunity for us to provide our clients with our understanding and counsel through a maintenance plan.

**I was not looking forward to the “touchy-feely” day but I really reflected on my skills/talents/role. Can’t wait to see the roles in our office!**

**- Brittney H.**

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New Hartford, NY 13413



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PRESENTS

# PRACTICE ENHANCEMENT RETREAT

JUNE 22-24, SAN DIEGO, CA

*Industry leading focus sessions being offered include:*

- Assisting Trustees and Protecting Trusts
- Speaking with Clarity, Confidence and Connection
- Battling the VA: Common Challenges with VA Pension and Their Solutions
- Understanding the Media: Print, TV, Radio & Billboard...oh MY!
- Where Law & Business Meet
- LWP Standards for Adding People to the Bus
- Ratings, Reviews and the Online Consumer Revolution
- Upleveling Your Client Experience with the LWP Workflow
- What Kind of Difference Maker Are You?

**Early Bird Registration Now Open:** [retreat.lawyerswithpurpose.com](http://retreat.lawyerswithpurpose.com)