

## AREAS OF PRACTICE

### ELDER LAW

ASSET PROTECTION  
MEDICAID PLANNING  
NURSING HOMES  
HEALTH CARE DECISIONS  
LONG TERM CARE  
PLANNING  
MEDICAID APPLICATIONS

### ESTATE PLANNING

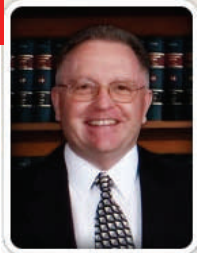
WILLS  
LIVING TRUSTS  
DURABLE POWERS OF  
ATTORNEY

### ESTATE AND TRUST ADMINISTRATION

PROBATE  
ESTATE AND GIFT TAXES  
ASSET MANAGEMENT  
TRUST ACCOUNTINGS AND  
FIDUCIARY TAX RETURNS

### TAX AND BUSINESS PLANNING

CORPORATIONS AND LLC  
ACQUISITIONS AND  
DISPOSITIONS  
BUSINESS SUCCESSION  
PLANNING



**DONALD W.  
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*ESTATE & ELDER LAW  
ATTORNEY, CPA*

Don has practiced law for thirty three (33) years and concentrates his practice in the areas of Estate and Trust Administration, Estate Planning, Elder Law, Financial Retirement Planning, Business Formation and Succession Planning. He is a member of Wealth Counsel©, National Organization of Estate Planning Attorneys, Elder Counsel (a National Organization of Elder Law Attorneys), and National Academy of Elder Law Attorneys (NAELA).

Don is also a member of the New York Bar Association and Indiana Bar; a member of the Taxation Section and the Trusts and Estates Sections of the American and New York State Bar Associations and the Elder Law Section of the New York State Bar Association, having served as a member of its Executive Committee.

In addition, Don is a Certified Public Accountant in the State of New York, a member of the American Institute of Certified Public Accountants, and a member of the New York State Society of Certified Public Accountants.

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**DONALD W. MUSTICO**

**ATTORNEY AT LAW**

**WHY YOUR  
ESTATE  
PLAN  
DOESN'T  
WORK!  
&  
HOW YOU CAN  
FIGURE IT OUT  
YOURSELF**

**THE SOUTHERN TIER'S  
PREMIER  
ELDER LAW, ESTATE PLANNING  
& SPECIAL NEEDS  
ATTORNEY**

## INSURANCE BENEFICIARY?

### Why 9 out of 10 Plans Don't Work

Upon your death, your Estate Plan is “frozen in time”, that is, “it is cast in stone” never to be changed again. How good of a job did you do? I've been doing Estate Planning for over 33 years and probated hundreds of Estate. The answer to the above question is probably very poorly.

### Why Most Estate Plans Get an “F”!!!

- There was really no “planning” in the first place
- The planner failed to identify assets which are not controlled by your Will
- Most of your assets are jointly owned with your spouse or child
- Beneficiary designations for insurance policies, annuities, IRA's & pension plans were not reviewed or changed to correspond with the scheme of distribution in your Will
- If this is a “second marriage” for you , proper consideration was not given to the rights of your second spouse in your Estate before your children can take or inherit
- The needs of a “special needs” child is not addressed adequately or even Worse, the child is completely with his/her share going to the other

## IS MY SPOUSE PROTECTED?

- brothers/sisters of the special needs children who—”will take of him/her
- Bank or other financial accounts are titled jointly with only one child (typically with the one child that lives nearest the parent) as a “convenience account”. Upon the death this account only to the child who is named on the account with the other



### Three Phases to an Estate Plan

children disinherited as to that account unless the named child “voluntarily” shares the account with siblings

An Estate Plan is more than the mere drafting of a Will or Trust. Estate Planning is the process by which a plan is put into effect for the intended transfer of your Estate upon death. The key word being *intended*. In order to achieve the “intended” result, we utilize a three phase approach to Estate Planning.

**Phase 1 is the “Planning Phase”.** This involves a detailed analysis of the assets of the client, so that we understand the nature and extent of your assets. This information is input into a computer program to be used in Phase 3. We also review deeds, life insurance policies; annuities, IRA's to determine to whom such assets will pass upon

## NURSING HOME?

death and if consistent, your intended plan. We discuss your plan and any special needs or concerns that need to be addressed in your plan, such as a special needs child, Medicaid Asset Protection Planning, remarriage of your spouse, children of a prior marriage, and any other concerns you have which may need to be incorporated in the plan.

**Phase 2 is the “Document Preparation Phase”.** Once we have reviewed your assets and developed the plan of distribution, we then draft the documents (such as Wills, Trusts, Powers of Attorney) necessary to implement the plan.

**Phase 3 is the “Funding and Re-titling Phase”.** The best drawn Will or Trust will not be effective if the assets it is designed to distribute are not owned or titled properly. Phase 3 is the primary reason why most Estate Plans don't work. Rather than leave the death benefit of a life insurance policy or annuity directly to your surviving spouse, designate the primary beneficiary in the name of a Trust in which he/she is the Trustee and beneficiary of and which is also protected from invasion by the Department of Social Services if he/she ends up in a nursing home after your death.

