

February 2019

## 3 Takeaways from the 53rd Annual Heckerling Conference

*By Maxx Hickey, Trust Officer, Sterling Trustees*

In January, I had the pleasure of attending the 53<sup>rd</sup> Annual Heckerling Conference in Orlando. It was a tremendous conference filled with several interesting on-point topics. Throughout the weeklong conference several sessions stood out. Here are some of the more interesting takeaways from our experience this year.



### **Diblings**

R. Hugh Magill spoke about the new family dynamics we are seeing in 2019. He introduced me to the concept of “diblings”, or donor-siblings. Essentially, children who are half or full siblings from the same donors.

This was fascinating as he continued to discuss the importance of defining a trust’s purpose and selecting an appropriate trustee to fulfill the trusts purpose within these new family dynamics. It was interesting to note the changing dynamics of a trustee’s responsibility from previous generations to our current landscape of trust administration. Governing documents are frequently not clearly stating the intent of the trust and the trustee is left to conclude the overall purpose of the trust making it extremely important to understand the fundamental ethics and beliefs of a corporate trustee prior to selecting them.

### **Family as Fiduciary**

Another interesting takeaway from the conference came from the session presented by Stuart C. Bear, and it ties directly into the previous takeaway.

Mr. Bear addressed the potential issues when selecting a family member to serve in a fiduciary role including the importance of loyalty and impartiality when selecting a trustee to administer the governing document.

In addition to identifying the core duties of a trustee, Mr. Bear also discussed the attorney’s role in assisting a client with fiduciary selection. It was evident throughout the presentation the importance the family attorney plays in assisting the family in selecting a fiduciary. The practitioner should understand the client and ask penetrating questions in order to get further understand the dynamics of the client’s family. Mr. Bear continued to identify the importance

of the practitioner to educate the client about the different fiduciary roles and duties owed by the fiduciaries to fulfill their obligations.

### **Proper Planning and Drafting**

Finally, the last presentation that stood out to me was more focused on how the practitioner must identify and incorporate proper planning into the client's documents. In a presentation by Bernard Krooks and Craig Reaves, they contemplated how planning must be done with specific family objectives in mind. Precisely, the presenters identified four key areas to focus on in order to appropriately design an estate plan for your client. The four areas were:

- distributions of assets upon death,
- health care preferences,
- long-term care preferences, and
- substituted decision-making.

Drilling down on this discussion I thought the presenters did a good job of discussing the documents and dialog an attorney should utilize to accomplish the client's goals.


Finally, a key point I took away from this session was the presenters addressing that a drafter must be careful of standard provisions that may not fulfill the client's intent. Specifically, they cited the case *Lanagan v. Rorke* (182 S.W.3d 596 (Mo.App.SD. 2005) which if you haven't had the opportunity to read I would highly recommend it.

### **Your Thoughts?**

Were you able to attend the conference? What were your thoughts? Reach out and let me know what resonated with you as the key trends to watch as we're underway here in 2019.

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