

# 09/07

# KH LAW NEWS

The Edge on Today's Top Legal News



## September's Issue Features:

~Welcome and Kudos!

~September Birthdays

~Protecting Your Children Now and in the Future

~Top Ten Mistakes (Part 3)

~From All of Us

## Protecting Your Children Now and in the Future

Your children have always meant the world to you. You've done everything within your power to meet all their needs and ward off dangers. You've always kept a watchful eye out for them, whether it's when they were swimming in the ocean or wandering too close to the edge of the Grand Canyon. You've met their needs, from putting food on the table to buying them new clothes for school.

We cannot protect our children from every risk in life. When they grow up, they will make some mistakes, just as we did. But, we can afford them some financial protection by leaving their inheritance in trust.

A trust can help because it holds *legal* title to assets, even though as beneficiary, your child will hold *beneficial* title. By leaving your assets to your child in a "Family Access Trust," he or she could still get at the assets at any time. He could even remove all the assets from the trust, if desired. But, while the assets remain in the trust, it protects the assets from your child's divorcing spouse and, in most states, keeps your child's future ex-spouse from taking your child's inheritance.



You've spent your life building your legacy, which will become your children's inheritance. You can keep that inheritance from being attached by their future ex-spouses or other creditors. A qualified estate planning attorney can help you provide for your children, and not their creditors.

*Attorney Michelle T.L. Hernandez has extensive legal experience in the area of estate planning and is an active member of the American Academy of Estate Planning Attorneys. To schedule your free consultation today, simply call (800)431-9776.*



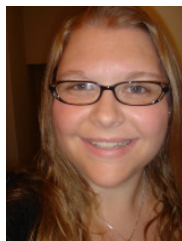
## Welcome Kera!

Please help us in welcoming Kera Palmer to our staff! Kera will be the new face and voice in our Madison Office, where she will be replacing Kara Sanger at the front desk.



## Congratulations Kara!

Congratulations to Kara Sanger who has been promoted to our Estate Planning Production and Marketing Coordinator!



## With Our **FOUR** Convenient Locations....

**BARABOO**  
2nd Street Professional Offices  
123 Second Street  
P.O. Box 41  
Baraboo, WI 53913  
Phone (608) 356-3961  
Fax (608) 356-2008

**MADISON**  
Olde Towne Office Park  
6325 Odana Road  
Madison, WI 53719  
Phone (608) 273-0820  
Fax (608) 273-0821

**MILWAUKEE**  
930 Elm Grove Road, STE C  
Elm Grove, WI 53122  
Phone (262) 782-2229

**JANESVILLE**  
51 South River Street  
Janesville, WI 53545  
Phone (608) 758-5454

## TOP 10 FINANCIAL MISTAKES MADE IN DIVORCE (part 3 of 3\*)

The seventh financial mistake often seen in divorces is not planning for the premature death of a former spouse. It frequently happens that a person, receiving maintenance for a certain number of years under a Marital Settlement Agreement, is faced with the premature death of the payee before the expiration of the maintenance obligation. Of course, if there are children at home, social security benefits may apply. However, maintenance under the tax laws must cease. If you are going to be dependent on your former spouse paying maintenance for any extended period of time, it would be in your best interest to ensure that income stream. By planning in advance, you could negotiate during your divorce for your spouse to pay for the coverage or a portion of it. Please remember that, if the former spouse pays for a portion or all of the premiums, you may be required to report those as income on your tax return, as well.

The eighth financial mistake in divorce is failure to organize personal financial affairs immediately after the divorce. It is imperative to review all of your financial matters such as the named beneficiaries on your life insurance policies, 401(k) plans, annuities, etc. If children are involved, it is possible that your premature death could result in your former spouse gaining control of your assets in trust that are left for the benefit of your minor children. Most divorced couples would find that inconceivable. A thorough review of your estate plan and a simple testamentary trust can be established so that you may name a person of your choice to handle the finances left behind for the benefit of your children. In that manner, the custodian spouse must then go to your named trustee for funds, and you are assured that your children's inheritance is handled by a person you trust. This planning can occur even during the divorce to avoid the same scenario occurring if the unforeseen happens before your divorce ends. An experienced and well qualified divorce attorney should discuss estate planning options at your very first meeting.

The ninth financial mistake is failing to recognize marital assets from non-marital assets. Assets brought to a marriage, as well as assets acquired during the marriage are considered marital property in Wisconsin. That does not automatically mean that all assets are divided equally between the partners. Assets that are gifts or inherited are not considered marital property. However, the characterization of those assets may very well turn unintended non-marital assets into divisible marital assets. In addition, if you have brought a substantial amount of assets to the marriage, depending upon the circumstances, including the value, whether or not they are still in existence at the time of the divorce, the length of your marriage, etc., could be considered by the court to allow you to receive an unequal share of property. You need to know the difference between marital and non-marital assets and how they are counted for in a divorce.

Finally, one of the biggest mistakes is failing to hire a knowledgeable divorce attorney and consulting with other professionals during your divorce.

An experienced divorce attorney may not understand all of the tax issues but understands them enough to know when to bring in other professionals such as an accountant, financial advisor, etc. These professionals can show a client the short and long-term results of the various options and proposals made throughout the divorce case. This will educate you, the client, and allow you to make much better-informed financial decisions now and into the future. Often times, people going through a divorce can only think a day or two ahead of them which is why it is even more important to have professionals on your behalf looking out for your financial future.

**If you would like to make an appointment with a qualified and experienced divorce attorney, please call Attorney Mark L. Krueger at (866) 455-2993.**

**\*To read this article in its entirety, please visit us at our website at [www.kh-law.net](http://www.kh-law.net).**

### Disclaimer

*The information provided in this newsletter is not intended to serve as specific legal advice. Viewing this information does not constitute an attorney-client relationship.*

**Happy Birthday Penny  
Bykowski!**



**Penny's Birthday is September 10**

**From the crew at  
Krueger & Hernandez SC...**

Mark L. Krueger,  
Michelle T.L. Hernandez,  
Renee Nehring, Eileen Shanks,  
Penny Bykowski, Stacie Ray,  
Shelley Craker, Dera Johnsen,  
Kara Sanger, Gregory J. Fumelle, and Kera Palmer



**Make it a safe and happy one!**