



# KH LAW NEWS



Preserve Your Legacy  
Living Trust Seminars  
June Kudos

June  
2009 Edition

Employers: Document...  
From All of Us  
Go Green!

## Preserve Your Legacy, Not Just Your Money

Death and incapacity are natural parts of the process of life. We are born; we grow up; we may experience incapacity; and we eventually pass away. Along the way, we develop our values and accumulate assets and experiences. Sure, when we die, we want to pass along our assets to our family while paying the least possible taxes, but, what is most important is passing along our lifetime of values and experiences.

A new paradigm in estate planning is emerging, *Legacy Planning*. This allows your plan to consider everyone and everything that is important in your life. It considers not only how much money and assets you are going to leave to your family, but also your life story, your goals, your experiences, and your values.

The heart of Legacy Planning is a *Family Wealth Trust*. This Trust leaves your tangible assets to your family. You may choose to leave the assets in the Family Wealth Trust so that your beneficiary has the ability to withdraw all the assets at any time, called an *Access Trust* for the beneficiary. While an Access Trust may provide divorce protection, it does nothing to protect against other creditors. However, you may also choose to leave the assets in your Family Wealth Trust so that your beneficiary is protected from the risks of potential future creditors by leaving the assets in a continuing discretionary Trust, sometimes called a *Sentry Trust* for the beneficiary. With a Sentry Trust another person is the Trustee and makes decisions regarding when it is appropriate to make distributions to the beneficiary. This allows the Sentry Trust to protect your beneficiary from the many perils and pitfalls of life, even if you cannot be there to protect them yourself. For example, if your daughter is a physician and is sued for malpractice, the assets which you left for her in the Sentry Trust would not be in jeopardy.

In addition, a Legacy Plan includes Powers of Attorney for financial matters and health care matters, as well as a "HIPAA" power which ensures that those in need (whom you designate) have access to your health information. Perhaps most importantly, the Legacy Plan incorporates the *My Legacy Workbook*, in which you can share treasured memories, cherished values, and hard-earned lessons which you wish to preserve and pass on for those left behind.

You have more to share with your family than the things which you have accumulated during life. Legacy Planning recognizes that your most valuable possessions may be the values and life lessons you have to share...because the best things in life aren't things.

An estate planning attorney experienced in Legacy Planning can help you develop a plan that meets your needs and which your family will cherish for generations to come.

Attorneys Michelle T.L. Hernandez and Dera Johnsen-Tracy have extensive legal experience in the area of estate planning and are active members of the Academy of Estate Planning Attorneys. To schedule your free consultation today, simply call (800) 431-9776.

**If you're interested in learning more about making sure your estate goes to the people you love and not to the IRS or probate court, sign up for one of our free seminars. To register for one of the dates below, please call us at (800) 431-9776 or visit us online at [www.KH-LAW.net](http://www.KH-LAW.net)!**



**SHERATON  
MADISON**  
**Tues. June 16**  
706 John Nolen Dr.  
**10am-12pm**  
(Refreshments)

**SHERATON  
MADISON**  
**Tues. June 16**  
706 John Nolen Dr.  
**7pm-9pm**  
(Refreshments)

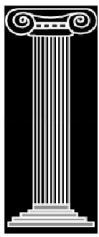
**ONE FINANCIAL  
PLACE**  
**Wed. June 17**  
8215 Greenway  
Blvd.  
**10am-12pm**  
(Refreshments)

**ONE FINANCIAL  
PLACE**  
**Thurs. June 18**  
8215 Greenway  
Blvd.  
**10am-12pm**  
(Refreshments)



### 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. All testimonials are released by express consent of our clients.*



**KRUEGER &  
HERNANDEZ SC**  
Attorneys at Law

We Listen  
We Care  
We Get Results

**For all your legal needs:**

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| Divorce           | Injuries from Accidents      | Estate Planning    |
| Real Estate       | Vaccine Injury Litigation    | Family Matters     |
| Adoption          | Workers Compensation         | Products Liability |
| Criminal/Traffic  | Professional Malpractice     | Mediation          |
| Guardianship      | Employment/Discrimination    | Business Needs     |
| Personal Contract | Probate/Trust Administration | Tax Preparation    |
|                   | Personal/Business Litigation |                    |



**June Kudos**

**Birthdays:**  
Shelley Craker 6/9  
Kate Aeschbach 6/21  
Kayleigh Robinson 6/22  
Angela Nichols Philipp 6/28



**Anniversary:**  
Dera Johnsen-Tracy – 9 Years!

**Happy Birthday and Congratulations Ladies!**

**Employers: Document or Pay the Consequences**

In representing employers and employees in employment related claims (unemployment compensation, wrongful discharge, harassment, discrimination, etc.) it is clear that the employer's chance of success is greatly increased if they have written documentation confirming that the employee violated company policies. Without documentation the odds favor the discharged employee.

In a recent unemployment compensation case in which the employee failed to show up for work for a week, the employer assumed the employee had quit and thus terminated his employment. The employee was successful in getting unemployment compensation benefits because of the employer's failure to have a company policy with respect to time off from work, failing to reprimand the employee for not calling in when not coming to work and for not having any proof that the employee was reprimanded.

The law clearly sets forth that providing notice when absent is a reasonable expectation of most employers. The employer has a duty to let employees know what is expected and what will happen should employees not adhere to those expectations. Even in situations where the employee was put on notice that they were required to provide notice of their absences, if the employee was not disciplined for failing to provide notice and was not informed that their job was in jeopardy for not providing notice, that is enough to warrant a finding of termination without cause and thus entitling the employee to unemployment benefits. Other than in the most egregious cases, before there can be a finding of misconduct, the employee has to be aware or have reason to be aware that their job is in jeopardy or will be if they engage in certain types of conduct. That is a legal requirement of employers and, although relatively easy to follow, often times it is not.

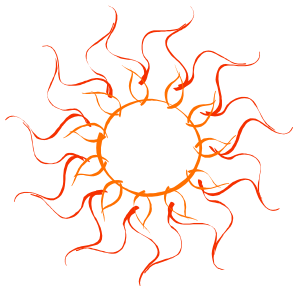
In another case, an employee was on restricted duties due to a work related injury. Prior to the employee being injured at work, his performance was below par and was far below any of the other employees. The employer testified that the employee had been told of expectations and that he was not meeting those expectations. However, nothing was put in writing to acknowledge that there was a discussion or that if things did not change the employee may be terminated. Eventually, the employee was able to return to work, at which time the employer decided to terminate the employment. The employer did not want to violate worker's compensation laws by terminating prior to the employee returning to work for fear that he would claim it was because he filed a worker's compensation claim. In reality, the employee made just that claim and the employer lost the case because there were no written expectations that were acknowledged by the employee nor was there any documentation to support the employer's claim that the employee had been warned. Had the employer followed the above guidelines, the employer would have had every legal right to terminate the employee. However, because the employer did not do so, the employee was awarded one year's wages and attorney's fees.

All employers, whether big or small, should have employee files. The employee files should have such things as start dates, pay, benefits, etc. In addition, employers should have policy handbooks setting forth very basic terms and conditions of employment. Finally, when a breach of conduct occurs there should be written notification provided to the employee and the original of that notification should be put in the employee file. These are simple procedures to follow and, if followed, can substantially decrease or even eliminate employer liability for terminating an employee.

Should you as an employer or a wrongfully discharged employee have questions with respect to your legal rights please contact Attorney Mark L. Krueger at (866) 455-2993 for a free, no obligation consultation.

**Enjoy the Weather from Krueger & Hernandez SC!**

Mark L. Krueger, Michelle T.L. Hernandez,  
Angela Nichols-Philipp, Dera L. Johnsen-Tracy,  
Kara Malston, Rynae Stefan, Eileen Shanks,  
Renee Nehring, Shelley Craker, Stacie Ray,  
Kayleigh Robinson and Kate Aeschbach



Sign up for our paperless newsletter!  
Simply email us at  
moassistant@kh-law.net and you'll be  
added to the list!

