



WARD & OEHLER, LTD. Legal & Title Services

*Serving clients throughout Southeastern
Minnesota in our Rochester and St. Charles offices.*

Rochester: 1801 Greenview Drive SW, Suite 102
St. Charles: 819 Whitewater Ave

*guiding you through life's **must crucial** legal decisions*

Winter 2020

(507) 288-5567

OUR OFFICE HAS MOVED!

We are pleased to announce our office has moved next door!

1801 Greenview Drive SW, Suite 102
Rochester, Minnesota 55902

New Office

Former Office

SECURE Act Requires Trust Updates

Depending on the value of your retirement account, you may have addressed the distribution of your accounts by using a Revocable Trust. Your trust may have included a “conduit” provision, and, under the old law, the trustee would only distribute required minimum distributions (RMDs) to the trust beneficiaries, allowing the continued “stretch” based upon their age and life expectancy. A conduit trust protected the account balance, and only RMDs--much smaller amounts--were vulnerable to creditors and divorcing spouses. With the SECURE Act’s passage, a conduit trust structure will no longer work because the trustee will be required to distribute the entire account balance to a beneficiary within ten years of your death. We should discuss the benefits of an “accumulation trust,” an alternative trust structure through which the trustee can take any required distributions and continue to hold them in a protected trust for your beneficiaries.



Alec Osland Joins Law Firm

Alec has been law clerk with us since the summer of 2018 and officially joined our team as the newest attorney this fall! Learn more about Alec in this Q&A.

Q: Where did you grow up? How long have you lived in the area? Tell us about your family.

I grew up in Manito, Illinois, which is a small town in central Illinois. Halfway through my freshman year of high school, I moved to Muscatine, Iowa. My parents still live in Muscatine and my younger brother is studying Civil Engineering at the University of Iowa and my sister is a senior in high school.

I lived in Rochester last summer when I was a law clerk for Ward & Oehler. I recently moved back to Rochester in August after graduating and taking the Bar Exam. My fiancé is a Registered Nurse at Mayo and works in the Bone Marrow Transplant Unit. We are getting married in May 2020.

Q: Tell us about the events that led you to where you are now (i.e. education, career path).

Raising livestock has played an important role in my life and I have always known that I wanted to stay involved with agriculture. In high school, I was President of the largest FFA in the State of Iowa and this experience reinforced that I wanted to be involved and protect the future of agriculture.

After graduating high school in 2013, I attended the University of Iowa and majored in Psychology and received a minor in Latin. After graduating from the University of Iowa, I went to Law School at Drake University Law School located in Des Moines, Iowa. While at Drake, I had a variety of legal experiences consisting of: Participating in Drake's Elder Law Clinic as a Student Attorney, working as a Legal Intern at Muscatine Power & Water, and working at Iowa Natural Heritage Foundation as a Legal Intern.

While at Drake, I was Vice President of our class in our Student Bar Association and served as Secretary of our Agricultural and Environmental Law Association. Upon graduating from Drake Law School in May 2019, I received three certificates in: Food and Agricultural Law, Environmental and Sustainability Law, and Public Service.

Q: What else would you like us to know?

It is never too early to start preparing. Staying on top of your estate plan is vital and something that everyone should reexamine every three to five years. Not only can your life drastically change every few years, but laws are always being updated which can have large implications on your estate plan. Further, if you have a legal question, it is always a good idea to receive clarification from an attorney. One may think that a quick search on the internet is enough; however, the internet is full of outdated information that can have negative consequences for what you thought you had an answer to. Meeting with an attorney and having him or her review your question can be a simple process that can save large amounts of time and money in the future.

IT'S A GIRL

Attorney Alyssa K. Jerde gave birth to Elenora Taylor Jerde on December 20, 2019.
Congratulations Alyssa and Calvin!

Transfer-on-Death Deeds and Medical Assistance Recovery

A Transfer-on-Death Deed ("TODD") can be a good tool for avoiding probate and simplifying the estate administration process in certain circumstances. To be valid, a TODD must expressly state that the deed is only effective upon the death(s) of one or more grantor owners, transfer the real property interest to one or more grantee beneficiaries, and must comply with all provisions of Minnesota law applicable to deeds of real property. A TODD must also be recorded in the county in which at least part of the real property described in the deed is located and must be recorded before the death of the grantor owner upon whose death the conveyance or transfer is effective.

After the death of the last grantor owner, the property can then transfer to the named grantee beneficiaries. The named beneficiaries must execute and record an Affidavit of Identity and Survivorship, together with a certified copy of the death certificate and a Medical Assistance Clearance Certificate, showing that there are no outstanding Medical Assistance claims or liens against the property for benefits received by the grantor owner during his or her lifetime. Without the accompanying Medical Assistance Clearance Certificate, clear title cannot pass to the grantee beneficiaries or any subsequent owner of the property.



To obtain a Clearance Certificate, an Application of Medical Assistance Clearance must be submitted to the county in which the grantor owner was living at the time of death. The county will then complete a search using the grantor owner's date of birth and social security number to determine whether or not there were benefits paid on his or her behalf. The county also runs a search on any predeceased spouse to determine whether the spouse also received care.

If either or both the grantor owner or the grantor owner's predeceased spouse received Medical Assistance, there will likely be a Medical Assistance lien placed against the real property to secure payment of any Medical Assistance claims. Liens last for either 10 or 20 years. The lien must be paid or otherwise satisfied in full before marketable title to the property can be transferred.

For example, Mary is the grantee beneficiary on a TODD for real estate owned by her father, John. John's wife, Jane, died ten years ago, and jointly owned the property with John at the time of her death. Mary's attorney submitted an Application for Medical Assistance Clearance, which showed that while John did not receive Medical Assistance benefits during his lifetime, Jane did receive benefits. The State of Minnesota recorded a lien against the property for benefits received by Jane. Mary wishes to sell the property, but must satisfy the Medical Assistance lien before marketable title to the property can transfer to the buyer. Mary decides to pay the Medical Assistance lien out of the closing proceeds on the sale. After the lien has been satisfied, a release will be recorded with the county to show that there is clear title to the property.

Minnesota law contains protective provisions for a surviving spouse as it relates to a homestead. For as long as the surviving spouse is living on the property, a Medical Assistance lien cannot attach (be enforced). Upon the death of the surviving spouse, the lien can attach. It's often a shock to families who are unaware that one or both of their parents were receiving Medical Assistance in some capacity and that the receipt of benefits subjects the estate to Medical Assistance recovery, even if the first parent to die has been gone for quite some time.

Office Hours and Locations

Rochester: 1801 Greenview Drive SW, Ste. 102

Monday – Thursday 8:30 – 4:30

Friday 8:30 – 3:30

St. Charles: 819 Whitewater Ave

Tuesday 12:30 – 4:30

Thursday 9:00 – 12:00

By appointment

To schedule an appointment in either office, call (507) 288-5567. You can also book appointments online at www.wardoehler.com/book-online for appointments in Rochester.



Ward & Oehler, Ltd.

(507) 288-5567

www.wardoehler.com



Winter Seminar Schedule

Medical Assistance & Preplanning Seminars

- **January 16 at 6:00 p.m.**
 - Plainview-Elgin Millville High School
500 West Broadway
- **January 23 at 6:00 p.m.**
 - Wabasha-Kellogg High School
2113 Hiawatha Drive East
- **January 30 at 6:00 p.m.**
 - Pizza & Preplanning
Pasquale's Neighborhood Pizzeria
130 5th Street SW
- **February 15 at 10:00 a.m.**
 - Byron Community Ed

To register for a seminar, please call the office or visit our website to RSVP. For the Pizza & Preplanning seminar, please register by calling (507) 280-031. For the seminar in Plainview, please register through PEM Community Ed. For the Seminar in Wabasha, please register through WK Community Ed. For the Seminar in Byron, please register for through Byron Community Ed.

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Interested in subscribing? Give us a call at 507-288-5567 or email Mary Lynn Schiltz at marylynn.schiltz@wardoehler.com. and let us know whether you want to subscribe to receive this quarterly publication via mail or email.