Public Benefits Eligibility and Special Needs Trusts for People with Disabilities

Patricia E. Kefalas Dudek

Part Two
Basics-Special Needs Trusts (SNTs)

I. Why are SNTs an Important Planning Tool?

More than 54 million Americans have a mental or physical disability.[1] Through special needs planning, individuals with disabilities are provided with financial resources to help manage their lives successfully, and as independently as possible. Although public benefit programs are extremely important to special needs people, these programs are usually limited to the financially needy. A SNT is a tool that can assist families of any economic status in planning for their loved one.

The key component of a SNT is that the funds in the trust do not disqualify the beneficiary from public benefit programs. The individual is not disqualified from public benefits because the funds are not considered to be "available" to the individual. SNTs have the potential to be powerful tools to preserve assets and to guard a SNT beneficiary's eligibility for public benefits. The relationship between the SNT and public benefits is such that the beneficiary is allowed to retain their standard of living, without completely depleting available resources. Without a properly drafted SNT, the individual would exhaust their assets.

II. Considerations in Drafting a SNT

A. Information Gathering

Similar to the drafting of general estate planning documents, the information gathering process is a necessary component to drafting a SNT. Information gathering is the essential first step to take, and it must be done in a thorough manner. Biographical and financial data must be discussed first. This is getting to know the client, their family, and their assets. Next, it is important to get to know the client on a personal level. Learning about the client's aspirations, goals, and fears, will result in more effective special needs planning. Information gathering provides the foundation for the entire special needs planning process. Samples of the client intake forms I use are attached. *See Attachment 2A, 2B, 2C.*

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[1] *National Organization on Disability,* available at: www.nod.org.

B. Program Operations Manual System (POMS)

When drafting a SNT, POMS, which are published by the Social Security Administration (SSA) and contain operating procedures for SSI, must be taken into consideration. POMS not only recognize the trust as an instrument, but also provide helpful definitions.[2]

C. Letters of Intent

A Letter of Intent is a method for the creator of a SNT to communicate their intentions regarding the trust beneficiary to the trustee, successor trustees, or a court. It is not a legally binding document. Ideally, it should include personal information about the beneficiary that only the creator knows. It should include facts, hopes and dreams that the creator has for the trust beneficiary. There is no required format. It can include information on medical history, housing desires, recreation, vocational and travel preferences, family and/or religious traditions, etc. The Letter of Intent should provide the trustee with guidance as to what "special needs" the beneficiary has or will have.

The Letter of Intent should be frequently updated as the beneficiary's needs change. An updated copy should always be kept with estate planning documents.

For great samples of Letters of Intent and a blank form to help you clients in drafting one check out my website and blog:

- www.pekdadvocacy.com
- http://pattidudek.typepad.com/pattis_blog/welcome.html

[2] POMS may be accessed online at: www.socialsecurity.gov.

III. Types of SNTs

After the information gathering process is complete, the next step is to determine which type of SNT will best meet your client's needs. There are two types of SNTs: 1) Self Settled Trusts, including: Exception A Trusts, Exception B Trusts and Exception C Trusts; 2) Third-Party Special Needs Trusts.

A. Self Settled Trusts

i. Exception A Trusts[3]

To meet the requirements of an Exception A Trust,

A. The trust must be funded with the assets attributable to the person with special needs;
B. When established and funded, the person with special needs must be under 65 years of age at the time of funding;
C. The beneficiary must be disabled pursuant to the SSA definition;
D. The trust must be established by either a parent, grandparent, legal guardian/conservator of the beneficiary, or a court;
E. The trust must be for the sole benefit of the person with special needs during his or her lifetime;
F. Any state paid medical assistance on behalf of the beneficiary must be reimbursed from any amounts remaining in the trust upon the death of the beneficiary; and
G. The trust must be irrevocable.

ii. Exception B Trust[4]

A. Clients who reside in income cap states must meet an income threshold in order to qualify for Medicaid. Essentially if a client is even as little as a few dollars over the limit they will not qualify for benefits and their application will be denied. Where available Exception "B" Trusts offer a solution.
B. Exception "B" trusts (also known as Miller or Qualified Income Trusts) may be used in <u>some</u> states to attain qualification for Medicaid when

[3] Authorized by 42 USC §1396p(d)(4)(A)
[4] Authorized by 42 USC §1396p(d)(4)(B)

an applicant exceeds the income eligibility limits. Essentially the client is allowed to keep a certain amount of money for personal needs and the amount exceeding the Medicaid cap or the remainder of their income may be put into the trust.

C. Upon the death of the beneficiary the state must be paid back with trust funds for assistance provided

iii. Exception C Trusts

A. Exception "C" trusts or Pooled Accounts Trusts, are established by a non-profit organization or charity.

B. Individuals with disabilities are allowed to participate in PATs by opening what is known as a sub-account, with the master account being managed by the non-profit entity.

C. The trust must be established by a parent, guardian, grandparent or conservator for the benefit of the individual with the special needs.

D. Unlike Exception A Trusts, the beneficiary of a PAT does not have to be under age 65 to participate.

E. Funds remaining after the beneficiary's death remain the sub-account and are retained in trust by the non-profit for payback of medical assistance or Medicaid. The funds may also be designated to a remaining beneficiary of the PAT.[5]

B. Third Party SNT

A Third Party SNT is established by a third party, with the assets of the third party, for the benefit of the individual with the disability.[6] In drafting a Third Party SNT, there are fewer hurdles for the drafter to overcome. For example, there is no requirement that the state Medicaid agency be paid back funds upon the beneficiary's death. Therefore, the attorney need not be concerned with Medicare claims, Medicaid liens, or age limits in regard to the beneficiary.

It is important to note that income and assets may not be distributed directly to the beneficiary, without the risk of elimination or

[5] Authorized by 42 USC §1396p(d)(4)(C) and PEM 401.
[6] Begley, Thomas D. and Canellos, Angela, *Special Needs Trusts Handbook,* §4.01[A] (2008).

reduction of public benefits. As a result, the assets should be distributed to a third party who then pays for the beneficiary's necessities.

IV. Permissible Distributions

The Trustee(s) of a Special Needs Trust may utilize any of the foregoing listing for expenditures from the Trust. The following list of non-support items is provided for purposes of description and shall not limit the Trustee(s) in making other distributions for other items of amenities that the trustee may believe are in the best interest of the beneficiary. Those items may include, but are not limited to:

1. Automobile/Van
2. Accounting services
3. Acupuncture / Acupressure
4. Alterations or mending to clothing – shoe repairs
5. Appliances (TV, VCR, stereo, microwave, stove, refrigerator, washer/dryer and maintenance/repairs)
6. Assistive Technology and Assessments
7. Bottled Water or water service
8. Bus pass/public transportation costs
9. Camera, film, recorder and tapes, development of film, photo albums, scrapbook supplies, web cite or blog services
10. Carpet cleaning
11. Clothing and shoes
12. Clubs and club dues (record clubs, book clubs, health clubs, service clubs, zoo, Advocacy Groups, museums, wine clubs)
13. Computer hardware, software, program, maintenance/service
14. Internet service
15. Assistive technology
16. Conferences and travel related to same
17. Courses or classes (academic or recreational) including supplies
18. Craft and supplies
19. Curtains, blinds, drapes and the like
20. Dental work not covered by Medicaid, including anesthesia.
21. Down payment on home or security deposit on apartment.
22. Dry cleaning and/or laundry services and/or supplies
23. Elective surgery
24. Fitness equipment, personal trainers, bike and maintenance including a helmet
25. Funeral expenses
26. Furniture, home furnishings and insurance
27. Gasoline and/or Maintenance for automobile
28. Haircuts / Salon services
29. Hippo therapy, horse back riding lessons, equipment and the like
30. Holiday Decorations, parties, dinner dances, holiday cards and postage
31. Home alarm and/or monitoring/response system
32. Home improvements, repairs and maintenance (not covered by Medicaid), including tools to perform home improvements, repairs and maintenance by homeowner, paint, wallpaper, contracts for same

33. Home Purchase (to the extent not covered by benefits)
34. House cleaning / maid services/lawn services/snow removal
35. Independent Care Managers/Case Managers
36. Insurance (automobile, home and/or possessions)
37. Insurance Co-Payments not covered by any other source
38. Legal Fees/Advocacy
39. Linens, towels, bedding and other household furnishings
40. Massage, facials and other similar services/treatments
41. Musical instruments (including lessons and music)
42. Non-food grocery items (laundry soap, bleach, fabric softener, deodorant, dish soap, hand and body soap, personal hygiene products, paper towels, napkins, kleenex, toilet paper, any household cleaning products, allergy medications, asthma supplies)
43. Over the counter medications (including vitamins and herbs, etc.)
44. Personal Assistance Services not covered by Medicaid or any other source
45. Pets and pet's supplies, veterinary services
46. Physical therapy and equipment not covered by any other source
47. Physician specialists if not covered by Medicaid or any other source
48. Private counseling if not covered by Medicaid or any other source
49. Repair services (appliance, automobile, bicycle, household, fitness equipment)
50. School supplies
51. Snow removal/Landscaping/Lawn Service
52. Sporting goods/equipment/uniforms/team pictures/travel to games/tournaments
53. Stationary, stamps, cards, etc.
54. Storage Units
55. Taxi cab
56. Telephone service and equipment, including cell phone, pager, etc.
57. Any therapy (physical, occupational, speech) not covered by Medicaid – or any other source
58. Tickets to concerts or sporting events (for beneficiary and an accompanying companion, travel)
59. Transportation (automobile, motorcycle, bicycle, moped, gas, bus passes and helmets)
60. Utility bills (direct TV, cable TV, electric, heating as long as not basic needs)
61. Vacation (including paying for personal assistance to accompany the beneficiary)

V. Examples of Trust Distributions which will Reduce SSI Benefit:

1. Food
2. Basic shelter related expenses
3. Cash for any purpose (including for gambling)

VI. Examples of Impermissible Disbursements from 1st Party SNT's:

1. Paying for something that is not for the sole benefit of the beneficiary.
2. Paying for a service already paid for by another source
3. Distribution not in the best interest of the beneficiary.

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PRELIMINARY ESTATE PLANNING QUESTIONNAIRE
CONFIDENTIAL

Estate planning recommendations are based on your present asset and family information. Therefore, we would appreciate you providing us with the enclosed confidential information. Furthermore, in the event of a significant change should occur after your estate plan has been prepared, you should contact this office for a review of the impact of any change to your existing estate plan.

FAMILY DATA

1. **Basic Information**

Client/Husband 1: _____ DOB _____

Social Security Number: _____ U.S. Citizen? Yes ☐ No ☐

Client/Wife 2: _____ DOB _____

Social Security Number: _____ U.S. Citizen? Yes ☐ No ☐

Home Address: _____

County: _____

City, State, Zip: _____ Home Phone: _____

Client 1's Employer: _____ Business Phone: _____

Client 2's Employer: _____ Business Phone: _____

Email Address: (1) _____ (2) _____

Date of Marriage: _____

Has Client 1 ever been married to someone else? Yes ☐ No ☐

Has Client 2 ever been married to someone else? Yes ☐ No ☐

Children: (attach an additional sheet for additional children)

1. Name: _____ SSN: _____ DOB: _____

   Address: _____ Phone: _____

   Marital Status: _____ # of Children _____ Spouse's First Name _____

   Who is parent of this child? Client 1 ☐ Client 2 ☐ Both ☐

2. Name: _____ SSN: _____ DOB: _____

   Address: _____ Phone: _____

   Marital Status: _____ # of Children _____ Spouse's First Name_____

   Child of this marriage? Client 1 ☐ Client 2 ☐ Both ☐

3. Name: _____ SSN: _____ DOB: _____

   Address: _____ Phone: _____

   Marital Status: _____ # of Children _____ Spouse's First Name_____

   Who is parent of this child? Client 1 ☐ Client 2 ☐ Both ☐

Do any members of your family have any special physical or mental challenges? Yes ☐ No ☐

If so, please state name and any special physical or mental challenges: _____

_____

_____

If you now assist your parents/grandparents or other relatives, or wish to make provisions for them in your estate plan, or discuss long term care for them, please list below:

_____

_____

_____

1. Personal Representative of Will and Trustees (of any trust) and Attorney-in-Fact for Durable Power of Attorney (Names and Addresses)

   For Client 1:

   First Choice:

   Name _____

   Address _____

   Telephone No. (H) _____ (O) _____

Second Choice:

   Name _____

   Address _____

   Telephone No. (H) _____ (O) _____

Third Choice:

   Name _____

   Address _____

   Telephone No. (H) _____ (O) _____

For Client 2:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

2. Proposed Guardian of Any Minor Children (Names and Addresses)

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

3. Patient Advocate for Patient Advocate Designation

For Client 1:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

For Client 2:

First Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Second Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Third Choice:

Name _____

Address _____

Telephone No. (H) _____ (O) _____

Please list the name and address of those who are to be the primary beneficiaries of your estate.

_____

_____

Please provide the name, address and relationship of those to whom you would leave your estate (final takers) and the percentages for each in case all of your primary beneficiaries predecease you or perish with you.

_____

_____

If you wish to make any charitable or other special gifts, please indicate the charity and the amount you wish to donate.

_____

_____

SUMMARY OF ASSETS & LIABILITIES

1. Assets	**Client/Husband 1**	**Client/Wife 2**	**Joint**
(FEEL FREE TO ATTACH MORE DETAILED STATEMENTS/SUMMARIES)			
A. Non-Retirement Securities, Mutual Funds, Cash Related Accounts and similar Intangible Property	$	$	$
B. Real Estate			
C. Retirement Benefits – IRA's & 401k's			
D. Insurance			
Face Value on the Life of:			
Named Beneficiary:			
E. Monies owed you From whom:			
F. Government Bonds			
G. Additional Assets (personal effects, collections, patents, trademarks, etc.)			
Total	$	$	$
2. Liabilities	$	$	$
A. Real Estate Mortgages			
B. Notes to Financial Institutions			
C. Loans on Insurance Policies			
D. Other Obligations			
E. Charitable Pledges			
F. Tax Liabilities			
Total	$	$	$
3. Net Worth	$	$	$
4. Potential Inheritance	$	$	$

5. **Do you have long term care insurance?** Yes _____ No _____

CHECKLIST OF DOCUMENTS & FAMILY ADVISORS

1. Safe Deposit Box – Location: _____
2. Present Documents (if any)
   A. Will: dated _____
   B. Trusts:
      i) created by client _____
      ii) created for client by others _____
   C. Gift Tax Returns filed? _____ location? _____
3. Advisors (Names and Addresses)

   Accountant _____

   Trust Officer _____

   Commercial Banker _____

   Investment Advisor _____

   Stockbroker _____

   Life Insurance Agent _____

   Casualty Insurance Agent _____

DOCUMENTATION FOR ESTATE PLAN ANALYSIS
- Please bring this documentation to your meeting -

1. **Copies of Last Will and Testaments, Revocable Trust Agreements, Durable Powers of Attorney for Health Care and General Durable Powers of Attorneys for Finances and/or any additional estate planning documentation which may currently be in effect.**
2. **Copies of deeds for all real estate holdings wherever situated.**
3. **Copies of Partnership Agreements and Operating Agreements for any partnerships, limited liability companies or other entities in which the client is a member of other participant.**
4. **Current personal balance sheet, if available.**
5. **Copies of life insurance policies and current statements regarding the same.**

March 30, 2006

Questions for Personal Injury Attorneys/OBRA 1993 Clients

Personal Information regarding the Person with a Disability

1. Full Name of the person with a disability, including middle initial:
   _____

2. Address and telephone number of the person with a disability:
   _____
   _____
   _____

3. Date of Birth:
   _____

4. Social Security Number:
   _____

5. Sex: [ ] Male [ ] Female

6. If the person with a disability is a minor, does he or she:

   a. Have a guardian? [ ] Yes [ ] No

   If so, who? _____

   In which county was the guardianship established? _____

   What is the docket number of the court file? _____

   Who was the presiding judge? _____

   b. Have a conservator? [ ] Yes [ ] No

   If so, who? _____

   In which county was the conservatorship established? _____

   What is the docket number of the court file? _____

   Who was the presiding judge? _____

   c. Have a guardianship of the estate? [ ] Yes [ ] No

   If so, who? _____

   In which county was the guardianship of the estate established? _____

   What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

7. Is the adult person with a disability the subject of a guardianship?

[ ] Yes [ ] No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

b. Have a conservator? [ ] Yes [ ] No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

c. Have a guardianship of the estate? [ ] Yes [ ] No

If so, who? _____

In which county was the guardianship of the estate established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

8. What is the marital status of the parents of the person with a disability? With whom does the person with a disability reside?

_____
_____
_____
_____
_____

9. Does the person with a disability live at home or in an alternative living situation? If the person with a disability resides in an alternative living situation, please list:

a. Type of living arrangement:_____

b. Address and phone number of residence:
_____
_____
_____

c. Contact person (if necessary):_____

10. Is the person with a disability a citizen of the United States? [ ] Yes [ ] No

11. If the person with a disability is not a U.S. citizen, is he/she a qualified alien?

[ ]Yes [ ] No [ ]Don't Know

Personal Injury Attorney

1. Name: _____
2. Address:_____
   _____

3. Telephone:_____ 4. Fax:_____

Insurance Companies

( ) Health ( ) Auto ( ) Other

1. Name_____
2. Address:_____
   _____
   _____
3. Telephone_____ 4. Fax:_____
5. Contact Person:_____
6. Policy Owner: _____

( ) Health ( ) Auto ( ) Other

1. Name:_____
2. Address:_____
   _____
3. Telephone:_____ 4. Fax:_____

5.Contact Person:_____

6. Policy Owner:_____

Potential Trustees

1. Initial Trustee Name:_____

2. Address:_____
_____

3. Telephone:_____ 4. Fax:_____

5. Alternate Trustee Name:_____

6. Address:_____
_____

7. Telephone:_____ 8. Fax:_____

Factual Background

1. What was the date of the injury and / or disability and how did it occur?

2. Describe the nature and extent of the injuries and / or disabilities.

3. Describe the person with a disability's current physical, mental and emotional condition.

4. What is the prognosis for the future?

5. Is it anticipated that nursing home care will be required?

6. What is his or her life expectancy?

7. Who are the present caregivers? Please describe them.

8. Are services provided by an agency or by family members?

9. If from an agency, please list:

Name of Agency:_____

Address of Agency:_____

_____

Telephone:_____ Fax:_____

Contact Person at Agency:_____

10. If he or she is receiving care from family members, please list the following:

Name of Family Member:_____

Address of Family Member:_____

_____

Telephone Number of Family Member:_____

11. Are there other significant health conditions (related or not)? If so, please attach a copy of pertinent past history.

The Parties

1. Is there more than one plaintiff? ( ) Yes ( ) No

2. If so, who are they?

3. What is the nature of their claims?

4. What are their damages?

5. If the plaintiff is a parent, does he or she have reimbursable costs? If so, for what?

6. Who is the tortfeasor? Is there a qualified assignment?

The Settlement

1. How much is the overall settlement of judgement?

2.What are the costs?

3. What is the contingency fee?

4. Are fees owed to more than one lawyer?

5. Will there be any attorney liens filed in the case?

6. Will the amount of the settlement or judgement make the Plaintiff whole or will Plaintiff's injuries be permanent?

7. Is the settlement a lump sum?

A structured settlement?

8. If there is no settlement, is there an offer?

If so, how much is the offer?

What does plaintiff's attorney realistically think the case is worth?

9. How much of the settlement is allocated to medical claims of the person with a disability?

10. What is the allocation of that portion of the settlement not allocated to medical claims of the person with the disability?

Liens, Subrogation Claims

1. Was the plaintiff receiving Medicaid at any time since the accident?

2. Was the plaintiff receiving Medicare at any time since the accident?

3. Has Medicaid or Medicare been notified of the commencement of the action, or of the settlement, arbitration award or jury verdict?

4. Is there a Medicaid lien or Medicare claim? If so, how much is it?

5. Has this lien of claim already been negotiated? Have any releases been signed?

6. Has Plaintiff received any benefits from worker's compensation?

If yes:

Name of Carrier: _____

Address of Carrier:_____

Telephone number of Carrier:_____

Fax Number of Carrier:_____

Contact Person at Carrier:_____

7. Are there any insurance subrogation claims in the case? If so, please describe the nature and extent of the subrogation claim.

8. Has he or she ever received Medicaid in any other state?

If so, please list the states in which Medicaid benefits were paid.

Public Benefits

1. Is *anyone* in the household of the person with a disability or an immediate family receiving public benefits? Who?

2. What public benefits are family or household members receiving?

3. What public benefits is the person with a disability receiving? (Please list all public benefits: Medicaid, Special Waiver Programs, SSI, SSD, Workers' Comp, Medicare, etc. and please attach verification of all forms of benefits received).

Have any of the benefits been discontinued?

Are any of the state and federal agencies aware of the possibility of these funds?

4. Does the person with a disability receive case management from an agency? If so, which agency?

5. Is it likely he or she will require public benefits assistance in the future? If so, why?

6. Does the he or she have any income? From what source?

7. Has the person with a disability made an application for public benefits that is still pending?

8. Has the person with a disability ever received public benefits (other than Medicaid) in any other state? [ ] Yes [ ] No

If so, please list the states in which benefits were paid and the nature of the benefit.

Court Proceedings

1. Do you believe court approval of the settlement is necessary? If not, why not?

2. Assuming court approval is necessary, who are the interested parties? What are their names and addresses?

3. Who signed the engagement agreement with the plaintiff's counsel?

4. Please set forth the court in which the proceeding is pending.

5. Please set forth the docket number of the case.

6. Please set forth the name of the presiding judge.

Expectations

1. What types of services does the person with a disability now need that the he or she is not receiving?

2. What kinds of equipment or personal property does the person with a disability hope to purchase.

3. Where would the person with the disability like to be in two years?

4. If the person with a disability is living with parents or a spouse, what kinds of equipment, personal property or renovations would the parents or spouse like to see come out of this trust?

Estate Planning

1. Does the person with the disability presently have any estate planning documents (wills, trusts, powers of attorney)? If so, please attach copies.

2. Do the parents or spouse have any estate planning documents? If so, please attach copies.

Who is the client?

1. Who will be the client of Patricia E. Kefalas Dudek & Associates?

Counsel?	[ ] Yes	[ ] No
Person with the disability?	[ ] Yes	[ ] No
Guardian?	[ ] Yes	[ ] No
Conservator?	[ ] Yes	[ ] No
Power of Attorney for the Person with the Disability?	[ ] Yes	[ ] No

2. Will the fees of Patricia E. Kefalas Dudek & Associates be carried as a cost of the pending litigation by plaintiff's counsel?

3. Who is the guarantor of the fees of Patricia E. Kefalas Dudek & Associates?

INTAKE FORM FOR OBRA 1993 Clients

Personal Information regarding the Person with a Disability

1. Full Name of the person with a disability, including middle initial:
   _____

2. Address and telephone number of the person with a disability:
   _____
   _____
   _____

3. Date of Birth:
   _____

4. Social Security Number:
   _____

5. Sex: [ ] Male [ ] Female

6. If the person with a disability is a minor, does he or she:

   a. Have a guardian? [ ] Yes [ ] No

   If so, who? _____

   In which county was the guardianship established? _____

   What is the docket number of the court file? _____

   Who was the presiding judge? _____

   b. Have a conservator? [ ] Yes [ ] No

   If so, who? _____

   In which county was the conservatorship established? _____

   What is the docket number of the court file? _____

   Who was the presiding judge? _____

   c. Have a guardianship of the estate? [ ] Yes [ ] No

   If so, who? _____

   In which county was the guardianship of the estate established? _____

   What is the docket number of the court file? _____

Who was the presiding judge? _____

Please attach court orders, guardianship letters of authority and relative pleadings.

7. Is the adult person with a disability the subject of a guardianship?

[ ] Yes [ ] No

If so, who? _____

In which county was the guardianship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

b. Have a conservator? [ ] Yes [ ] No

If so, who? _____

In which county was the conservatorship established? _____

What is the docket number of the court file? _____

Who was the presiding judge? _____

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Please attach court orders, guardianship letters of authority and relative pleadings.

8. What is the marital status of the parents of the person with a disability? With whom does the person with a disability reside?

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_____
_____
_____
_____

9. Does the person with a disability live at home or in an alternative living situation? If the person with a disability resides in an alternative living situation, please list:

a. Type of living arrangement:_____

b. Address and phone number of residence:

_____

_____

_____

c. Contact person (if necessary):_____

10. Is the person with a disability a citizen of the United States? [ ] Yes [ ] No

11. If the person with a disability is not a U.S. citizen, is he/she a qualified alien?

[ ]Yes [ ] No [ ]Don't Know

Potential Trustees

1. Initial Trustee Name:_____

2. Address:_____

_____

3. Telephone:_____ 4. Fax:_____

5. Alternate Trustee Name:_____

6. Address:_____

_____

7. Telephone:_____ 8. Fax:_____

9. Advisors to Trustees:

Name_____

Address_____

_____

Factual Background

1. What was the date of the injury and / or disability and how did it occur?

2. Describe the nature and extent of the injuries and / or disabilities.

3. Describe the person with a disability's current physical, mental and emotional condition.

4. What is the prognosis for the future?

5. Is it anticipated that nursing home care will be required?

6. What is his or her life expectancy?

7. Who are the present caregivers? Please describe them.

8. Are services provided by an agency or by family members?

9. If from an agency, please list:

Name of Agency:_____

Address of Agency:_____

_____

Telephone:_____ Fax:_____

Contact Person at Agency:_____

10. If he or she is receiving care from family members, please list the following:

Name of Family Member:_____

Address of Family Member:_____

_____

Telephone Number of Family Member:_____

11. Are there other significant health conditions (related or not)? If so, please attach a copy of pertinent past history.

Source of Funds & Amount of Funds
(Be very specific)

Public Benefits

1. Is *anyone* in the household of the person with a disability or an immediate family receiving public benefits? Who?

2. What public benefits are family or household members receiving?

3. What public benefits is the person with a disability receiving? (Please list all public benefits: Medicaid, Special Waiver Programs, SSI, SSD, Workers' Comp, Medicare, etc. and please attach verification of all forms of benefits received).

Have any of the benefits been discontinued?

Are any of the state and federal agencies aware of the possibility of these funds?

4. Does the person with a disability receive case management from an agency? If so, which agency?

5. Is it likely he or she will require public benefits assistance in the future? If so, why?

6. Does the he or she have any income? From what source?

7. Has the person with a disability made an application for public benefits that is still pending?

8. Has the person with a disability ever received public benefits (other than Medicaid) in any other state? [ ] Yes [ ] No

If so, please list the states in which benefits were paid and the nature of the benefit.

Expectations

1. What types of services does the person with a disability now need that the he or she is not receiving?

2. What kinds of equipment or personal property does the person with a disability hope to purchase.

3. Where would the person with the disability like to be in two years?

4. If the person with a disability is living with parents or a spouse, what kinds of equipment, personal property or renovations would the parents or spouse like to see come out of this trust?

Estate Planning

1. Does the person with the disability presently have any estate planning documents (wills, trusts, powers of attorney)? If so, please attach copies.

2. Do the parents or spouse have any estate planning documents? If so, please attach copies.

Who is the client?

1. Who will be the client of the Law Office of Patricia E. Kefalas Dudek?

Counsel?	[ ] Yes	[ ] No
Person with the disability?	[ ] Yes	[ ] No
Guardian?	[ ] Yes	[ ] No
Conservator?	[ ] Yes	[ ] No
Power of Attorney for the Person with the Disability?	[ ] Yes	[ ] No

3. Who is the guarantor of the fees of the Law Office of Patricia E. Kefalas Dudek?

What type of OBRA' 93 Trust is best suited for the client?

- Exception A
- Exception C

If other, please describe. Attach a copy of