

CLE Sessions for the Greene County Estate Planning Council
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Session #1

I'm Your Huckleberry: Ethical Issues for Attorneys Who Act as Trustee

Attorneys are sometimes asked by clients to serve as trustee or successor trustee in the client's estate plan. Sometimes attorneys proactively offer to do so. While many attorneys regularly assist and advise trustees, some will and some will not also serve as trustee. The related ethical issues are:

- (a) What are an attorney's ethical responsibilities in general around naming or recommending trustees or successor trustees?
- (b) What ethics rules apply to an attorney drafting a document in which he or she is named as a trustee or personal representative?
- (c) Is there anything unethical with the drafting attorney inserting into a trust in which he or she is named trustee, language that exonerates the trustee for responsibility for certain actions?

Includes specific references to the Missouri Rules of Professional Conduct.

Session #2

What Could Possibly Go Wrong? Don't Let Your Clients Choose the Wrong Trustee!

In the course of counseling clients about their estate planning, the question whom to name trustee or successor trustee may not always get the attention it deserves, from planners or clients. The right trustee can efficiently and effectively carry out the grantor's plan as intended. The wrong choice can cause a mess, sometimes a costly one.

This discussion looks at the factors that are relevant and those that are irrelevant to determining the most appropriate choice for trustee. This includes looking at different kinds of corporate trustees, and the character traits of individuals who might be considered. The discussion is illustrated with actual examples drawn from experience, and includes citations to relevant cases and statutes.

Session #3

Terence, This is Stupid Stuff: Avoiding the Unintentionally Defective Trust!

There has been a lot of discussion about the intentionally defective grantor trust as a planning tool. Frankly, I've seen more unintentionally defective trusts, rendered so by various drafting errors and oversights. Often these are merely humorous goofs, but some border on malpractice and can have significant consequences for beneficiaries or pose administrative quandaries for trustees. I'll use real-life examples drawn from some of the thousands of trust documents I've seen in 30+ years in the trust business; you'll find many of them entertaining. I'll also offer some "best practices" drafting suggestions from the trustee's point of view.