

Planning for THE FUTURE

LITTMAN KROOKS
LLP

WINTER
2008



Important issues facing our elder population and families of adults and children with special needs, brought to you by the law firm of Littman Krooks LLP.

A Message from BERNARD A. KROOKS



Dear Friends:

It seems like only yesterday, I wrote you recalling the events that framed 2007. Here we are at the end of a very extraordinary and disquieting year. The events of the recent presidential campaign and election are ground-breaking to say the least. No matter who you voted for, I believe the record voter turn-out reaffirmed our commitment to a strong democracy. Voters young and old waited in line for hours for a chance to vote and to make their voices heard. Many voters came out for the first time ever. We will never forget the election of 2008.

On a somber note, we at Littman Krooks recognize the economic uncertainties we all face. However, we are pleased to be able to share with you important information provided by our talented team at Littman Krooks and to possibly help you make some decisions that you may have put off because of economic worries. We have dedicated this issue to providing you with articles that address how to prepare in uncertain times. Vincent Mancino gives you insight on how to care for family members at home instead of placing them in a nursing home and the role he has played in one family's journey. This article highlights the importance of considering all available options to protect your family's assets.

Terry Devens, a paralegal in our Dutchess office, writes about the digital TV transition scheduled to happen in February 2009. The transition from analog to digital television broadcasting will be historic. After February 17, 2009, the country's full power broadcast television stations will stop broadcasting in analog and broadcast exclusively in digital, as mandated by Congress in the Digital Television and Public Safety Act of 2005. Consumers who receive their local broadcast stations through a paid provider such as cable or satellite TV are already prepared for the DTV transition. However, consumers who rely on free, over-the-air television programming by using rooftop antennas or "rabbit ears" on their sets have two choices to be ready for the DTV transition: (1) they can purchase a digital television (a TV with a built-in digital tuner) or (2) they can purchase a digital-to-analog converter box for each of their analog TVs so they can continue to receive free, over-the-air programming on them. We will continue to send alerts to our clients and friends in the disability community as the date approaches.

Amy O'Hara provides a checklist on the importance of estate planning especially in these challenging times. Amy, a regular contributor to this newsletter, is also the featured attorney. We hope that by featuring our team members, you will gain insight into our spectacular team. We are very proud of the work she does and her commitment to professionalism and client satisfaction. She continues to reach out in her community and reflects the firm's commitment to community service.

As our newsletter will note, in an effort to be environmentally conscious and to conserve resources, this will be the last "hard" copy issue of "Planning for Your Future." All future issues will be sent via electronic mail so please call or email us with an updated email address. We do not want you to miss out on future issues.

In closing, even in these demanding times, the holiday season and approaching New Year always bring about a sense of renewed hope. We understand and appreciate your many concerns and we are here to help.

As always, on behalf of the Littman Krooks team, I wish you a holiday season filled with peace, prosperity and happiness.

Sincerely,

Bernard A. Krooks
Managing Partner,
Littman Krooks LLP

LITTMAN KROOKS IS GOING GREEN!

In an effort to save paper and be environmentally conscious – this is the last paper copy of our newsletter you will receive SO please give us your e-mail so we can continue to stay in touch.

ON AIR TUNE IN! NEW SEASON BEGINS MARCH 2009

Listen to "Bernie the Attorney" on WFAS 1230AM from 6:05 to 6:35 pm on Thursday evenings. Bernie interviews professionals and advocates who specialize in the areas of special needs planning, trust & estates and elder law.

COMMUNITY OUTREACH

Littman Krooks LLP hosted a SEPTA recognition event last summer. This event was open to all SEPTA members as a thank you for their continuous hard work and dedication to families in their local school districts.

Nicole M. Garcia participated in the Salute to Seniors at the Westchester County Center on April 30th, 2008. She provided the seniors with useful information about Estate and Medicaid Planning.

Littman Krooks participated in the Dutchess County Bar Association Law Day Free Legal Clinic.

Adrienne J. Arkontaky, Nicole Garcia, Terry Devens and Melissa Hayn participated in the several Autism Walks held in Westchester, Dutchess, Orange and Sullivan counties to raise awareness of Autism Spectrum Disorders.

Adrienne J. Arkontaky recently spoke to graduate students at Mercy College's Master in Education program about Special Education law. This program was chaired by our business development coordinator, Nicole M. Garcia.

Amy O'Hara and other Littman Krooks employees participated in the Memory Walks in White Plains, New York and Dutchess counties. The events benefitted the Alzheimer's Association.

Adrienne J. Arkontaky chaired the Annual Walkathon for the John A. Coleman School in October and also co-chaired the "Matter of Taste Five" to benefit Westchester ARC.

CONGRATULATIONS
AND BEST WISHES

Elizabeth Valentin was honored by the Caregivers Outreach Ministry Empowerment Inc. for her work in the elder law community.

Bernard A. Krooks was elected President of the Special Needs Alliance during their fall meeting. The Special Needs Alliance is a nationwide group of attorneys dedicated to serving the needs of individuals with disabilities and their families.

Adrienne J. Arkontaky was elected to the Board of Directors of Family Ties of Westchester. Family Ties is devoted to assisting individuals who experience emotional, social and behavioral challenges, and their families.

Ellyn S. Kravitz has become a member of the Estate Planning Council of New York.

SEEN & HEARD

Elizabeth Valentin spoke at the Bronx Senior Center on April 3, 2008 on Estate Planning.

Adrienne J. Arkontaky spoke at the Department of Mental Health in Orange County on the importance of special needs trusts and guardianship. Adrienne also spoke on Understanding Educational Rights of Children diagnosed with Autism for the Family Empowerment Council in Orange county.

Elizabeth Valentin spoke at the 8th Annual Early Stage Memory Disorder Forum given by the Alzheimer's Association on Medicaid issues and the importance of estate planning. She was able to offer the information in Spanish.

Littman Krooks LLP held a series of seminars at the Somers Library in Somers NY on estate planning, special needs planning and special education advocacy.

Dina Cohen and **Nicole Garcia** participated in the transition fair at Putnam Northern Westchester BOCES.

Nicole M. Garcia participated in the Community Health Awareness Day at the Pelham Senior Center.

Nation In Transition

What DTV Means To You



by Terry Devens

It was the Spring of this year when my mother called me very concerned that she was not going to be able to watch her favorite television shows when the digital "switch-over" takes place in February, 2009. "Mom," I said in a calming tone, "you have cable. You shouldn't have a problem."

She had been hearing news reports and alerts regarding the federal law requirement that on February 17, 2009, all full-power television broadcast stations must stop broadcasting in analog format and begin broadcasting in digital format only. This made me think...am I sure my mother will survive the digital DTV transition? Maybe I should get the facts...what is it; what does it mean to me (and Mom); and what do we need to do?

After February 17, 2009, all full power broadcast television stations will stop broadcasting in analog and begin broadcasting exclusively in digital as mandated by Congress in the Digital Television and Public Safety Act of 2005. The main purpose for this switch-over is to free up airwaves for police, fire and rescue communications. In addition, broadcasters will be able to offer more programming choices with better picture and sound quality, while allowing for advanced wireless services for consumers. In essence, this will mean more programming choices for you, the viewer. This historic transition will affect viewers in a variety of ways.

First, for those viewers who receive free over-the-air programming with a roof-top or "rabbit ears" antenna, the type of television they own is very important. A digital television (a TV with an internal digital tuner) will be ready for the digital transition in February 2009. For those viewers who have an analog television, they will need a "digital-to-analog converter box". The cost for these boxes is estimated to be between \$40 - \$70 each. To assist consumers with the transition, the Government has established the "Digital-to-Analog Converter Box Coupon Program." Until March 31, 2009, every U.S. household is eligible to receive up to two coupons worth \$40 each toward the purchase of these boxes. Coupons must be used at the time of purchase and will expire 90 days after mailing. For more information on this program, visit the National Telecommunications and Information Administration (NTIA) website at www.dtv2009.gov or call 1-888-388-2009(voice) or 1-877-530-2634 (TTY).

Second, for those viewers with analog televisions who use cable and satellite services, there should be no interruption in programming. However, it is highly recommended that these viewers contact their individual providers to find out if any preparation

is necessary for the February transition. It may be necessary to obtain a digital set-top box in order to view digital broadcast programming.

How do you know if your television is a "DTV" containing a digital tuner? As of May 25, 2007, any new television sold should have contained a digital tuner, or should have been identified by the retailer as not containing one. Also, many DTVs will have labels or markings on them such as "Integrated Digital Tuner" or "Digital Tuner Built-In." If your set is labeled as a "Digital Monitor" or "Digital Ready," it does not necessarily mean that it actually contains a digital tuner, and you may need a digital set-top box in order to view programs in the new digital standard. When in doubt, it is wise to check the user manual on your particular television.

As most of you know, we are a law firm that pays particular attention to those services provided to individuals with disabilities. It is therefore noteworthy to address the effects of this transition on closed captioning and video description services. Some concern has been expressed about how the digital transition will affect these services.

In regard to closed captioning, Federal Communications Commission ("FCC") rules require digital-to-analog converter boxes to either pass through available analog captions or generate their own digital captions if the programming is captioned. Since not all digital-to-analog boxes display closed captions, it is recommended that the consumer ask the retailer to check the user manual that comes with the converter box. For more information on closed captioning, please visit: www.fcc.gov/cgb/consumerfacts/dtvcaptions.html.

Some programming providers offer video descriptions in order to make television more accessible to people with vision disabilities. Digital television provides broadcasters with more audio channels on which to offer video description. Because digital television encodes audio differently than analog television, digital does not use a secondary audio programming (SAP) channel to transmit video descriptions. Therefore, broadcasters now have more audio channels to provide this voluntary service. For more information on video descriptions, please visit: www.fcc.gov/cgb/consumerfacts/dtvvideodescription.html.

My mother and I now have a more complete understanding of what this digital switch-over means for us, and we are looking forward to the better viewing experience we will all receive due to the transition from analog to digital. Happy transitioning!

Terry Devens is a paralegal in the Dutchess office of Littman Krooks LLP. Terry lives in Hyde Park with her husband Chris and their two sons.

Off to My Book Club

We all wonder how she does it?

By Adrienne J. Arkontaky

On most mornings, Amy O'Hara is in the office by 7:00 am. Her husband, Peter is charged with the task of getting their sons, Patrick, four and Timothy, three, ready for the day. Once the boys are at pre-school, Peter jumps on a train to Manhattan where he works as an attorney

Amy works "flex hours" for Littman Krooks which affords her the opportunity to pick up the boys in the afternoon. In addition to managing a full caseload, Amy manages to find time to participate in a book club, chair many charitable events and spend quality time with her husband of seven years and the two boys. We are all amazed at how she does it. Amy is known in the office for her diligence, calmness, upbeat enthusiasm and courtesy towards her colleagues and clients.

Amy hails from Binghamton University where she received a Bachelor of Science degree in business. After working as a defense litigation paralegal upon graduation, she decided to pursue a law degree. Early on, she knew she was interested in trusts and estates and special needs planning for families of loved ones with disabilities. Amy attended and graduated from the University of Buffalo Law School where she met her husband Peter and they married in their third year of law school. Upon graduation, Amy worked at a mid-size firm in Buffalo. After her second son Timmy was born, it was difficult to visit family who lived downstate. My daughter attends the University of Buffalo so I can appreciate the hardship of the seven hour drive to and from Buffalo. Amy and Peter made the decision to move down to Westchester in early 2006. Amy began working for Littman Krooks in September 2006.

Amy filled the firm's desire to add an experienced Trusts and Estate attorney with a background in Special Needs Planning and Estate Administration. Amy's experience in the many tax issues that arise with higher net-worth estates and her knowledge of estate administration added value to our ever-growing practice. Amy has developed a reputation both within the firm and with clients for being extremely attentive to her clients and very detail oriented. In addition, Amy's ability to balance her work and still maintain her commitment to her family is striking.

In addition to a full caseload, on behalf of the firm, Amy represents several not-for-profit organizations; she is regularly appointed as Guardian ad Litem in Surrogate Court matters and frequently lectures on the importance of proper estate planning. Amy also has been a speaker at New York State Bar Association and Practicing Law Institute programs. Her professionalism is respected by all who meet her.



Amy and I work side by side on many special needs planning cases. I asked what sparked her interest in this area. I find that very often there is a personal experience that draws individuals into this arena. Amy's father was paralyzed from the waist down for most of his life and lived with many limitations. In addition, her husband, Peter is hearing impaired. Amy and Peter have worked to raise awareness of hearing loss and the many options open today to the deaf and hard of hearing community.

I asked Amy about the biggest challenges she has faced. Interestingly enough, she did not say it was balancing home and work. I expressed my surprise. Amy said "Littman Krooks provides me with the flexibility to maintain and develop a practice as well as remain committed to my husband and children. The firm continues to make it easy for me to succeed and I am forever grateful for the opportunities I have been given." I understand and agree with this comment. I believe that our firm in particular has been so supportive in allowing employees to enjoy the benefits of working in an interesting field but yet respecting that our team has family which is a priority.

Amy also enjoys many outside activities including her infamous "book club" meetings. For Amy, reading is a passion. The office staff looks to her for recommendations and has dubbed her choices as "Amy's book club selections" (move over Oprah....). It is not surprising that she is the chair of a literacy program that works with 250 children annually through the Junior League of Westchester on The Sound. In addition, she found time this fall to serve on the Memory Walk Committee of the Alzheimer's Association.

She is also proud of the fact that she works with families of children with disabilities to preserve eligibility for government benefits. She enjoys helping families through the guardianship process which can be very daunting. Amy has told me how good it feels when a family has been well served by the work she has done which is a testament to her work ethic.

The most important events of her life were her marriage to Peter and the birth of her children. She is also proud of being a mother. Amy has her priorities in order. By having these priorities in order, I know that her clients and our firm benefit because she realizes the importance of taking care of family, the importance of good planning and the importance of a family knowing that Amy is there ready to assist. On a personal note, I have been so fortunate to work with Amy on many cases. I know that I speak for the entire Littman Krooks team when I say, we are a better firm because of her presence.

Have You Reviewed Your Estate Plan Lately?

It is important to review your estate planning documents periodically to ensure that your existing estate plan meets your objectives. The following are some of the questions you should ask yourself when reviewing your documents:

- 1. Has any beneficiary become ill, disabled or died?**
- 2. Did you marry, remarry, divorce or become widowed?**
- 3. Did you have a child either by birth or adoption?**
- 4. Do you still want the same individuals/corporate fiduciaries serving as Executor, Trustee and/or Guardian of any minor children?**
- 5. Do you still want to distribute your estate to the individuals/charities listed and in the same percentages?**
- 6. Do you want to consider any charitable bequests?**
- 7. Is there a significant change (either increase or decrease) in your assets?**
- 8. Did you start your own business or become involved in a partnership or closely-held corporation?**
- 9. Did you retire?**
- 10. Did you recently move? Do you own property outside your state of residence?**
- 11. Do your health care proxies, living wills and powers of attorney need updating?**
- 12. Do your beneficiary designations on your retirement plans, IRAs and life insurance need updating?**
- 13. Do you have the appropriate amount of life insurance? Do you need long term care insurance?**

If you answered "yes" to any of the above questions, you should have your estate plan reviewed by a legal professional. There have been substantial changes in the laws during the last few years which should be considered when reviewing your estate plan to ensure that your wishes are carried out.

When you are reviewing your documents, please do not make changes on your current estate planning documents. Mark-outs, interlineations and other informal changes are of no effect and will not be honored during an illness or after your death.

Amy O'Hara is an attorney with Littman Krooks LLP. Amy's practice focuses on estate planning, estate administration, elder law, special needs planning and guardianship.

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Helping a Family – A Story of Light in the Business of Busyness



by Vincent Mancino

These days, it seems that we are all so busy with our lives and jobs (admittedly, the distinction between the two can sometimes be difficult to see) that one minute runs into the next, and one hour into another; the days

blur into weeks, then months; and before you know it, it's hard to remember what we did only a few days ago. In the midst of our business and busyness, it's easy to lose sight of why we do what we do. However, when you're fortunate enough to have the privilege of being in the business of helping others, it's often good, if not therapeutic, to look back on the lives of those you've touched to remind us of why we do what we do. So goes the story of our law firm and one local family who came to us not too long ago.

The adult children of Mr. and Mrs. Smith came to us with much fear and trepidation about mom and dad, both of whom were around 90 years old and in need of an increasing level of care, particularly dad. At the time that we met with the family, dad was in a nursing home and receiving rehabilitation following a hospital stay for treatment of injuries resulting from a serious fall. Prior to dad's fall, he had been the primary caregiver for mom, along with one of their adult children (daughter) who resided with mom and dad in their modest home. However, following dad's fall and rehabilitation, his anticipated care needs (and, in particular, the

level of care required for a safe discharge from the nursing home) were greater than mom's care needs. In fact, according to the care team at the nursing home, dad required full time home care (i.e., 24 hours per day x 7 days per week) in order to be safely discharged from the facility. The family was very worried. Not only didn't mom and dad have enough money to pay for full time care for dad, but who would care for mom now that dad was unable to do so? The daughter who lived with mom and dad had a full time job and could not assume the role of primary caregiver for either parent, much less both parents. Her siblings had their own families and lived in other states.

Other than the family home, which was of modest size and value, mom and dad had very limited assets, certainly not enough to pay for 24/7 care for dad for any significant period of time. We discussed various options with the family, including the possibility of a reverse mortgage which would have allowed mom and dad to use the equity in their home to privately pay for their necessary home care, while at the same time not incurring the additional monthly payment of a traditional mortgage or home equity loan. However, mom and dad were very concerned that they had worked so hard their whole lives, and they just didn't want to see their home (their only asset of any value, albeit modest) exhausted on their care costs. After careful consideration, we decided on a plan that would allow the family to use mom and dad's liquid assets (which were transferred into mom's name) and mom's monthly Social

Security income to privately pay for her care needs, which were far less than dad's care needs; and we applied for Medicaid benefits for dad to cover the cost of his full-time home care. In addition, we were able to keep title to the house in the family's name in the event that mom or dad ever needed to apply for Medicaid to cover the cost of long term skilled nursing care. We were able to preserve many tax benefits for the family as well and minimize capital gains and estate taxes.

We were successful in securing the full-time coverage that dad needed. Unfortunately, not too long thereafter, mom passed away. However, her final days were spent peacefully at home with her husband and children, knowing that her husband would get the good care that he needed and that their home was protected for the benefit of their daughter. Today, dad is still living at home with full-time care. The family now has the peace of mind that they so desperately sought when they first came to our firm.

At the end of a busy day, it's nice to think back on Mr. and Mrs. Smith and remember that what we do is more than just the business of busyness; instead, our work is real and, when done right, it can actually change the lives of those around us for the better.

Vincent Mancino is a Partner with Littman Krooks LLP. His practice focuses on Elder Law, Asset Protection, Nursing Home representation and Guardianships.