IRS To Begin Levies on Social Security Payments and Other Federal Benefits

By Thomas J. Murphy, Esq.

So much for the kinder, gentler IRS.

In a low-profile study, the General Accounting Office (“GAO”) has submitted a report to the House Ways and Means Committee that details a new IRS program, set to begin in July 2000, that will aggressively expand the IRS’s levies on Social Security benefits, federal retirement payments and other federal funds.

As of February 1999, the GAO reports that there were 4.4 million individuals and businesses who owed a collective $59 billion in federal taxes. Of these, there were 264,000 delinquent taxpayers who owed a collective $2.8 billion yet who received $2.1 billion from the federal government. The GAO estimates that, by targeting these taxpayers, the IRS could recoup up to $478 million per year.

The monies paid to delinquent taxpayers came in many forms, such as vendor payments on contracts with the federal government and salaries of federal employees. However, in recouping the annual $478 million, it is estimated that 65 percent of that sum will come from levies issued on Social Security benefits with another six percent coming from federal retirement plans. This is causing many bureaucrats outside the IRS to squirm.

The angry phone calls from elderly taxpayers will start to come in July 2000, which is when the IRS will begin implementation of this program. It will initially involve levies on federal retirement plans and vendor payments. Not long after that, the program will

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be expanded to include Social Security benefits and federal salaries. A precise date has not been set because, according to the report, the Social Security Administration (SSA) wants nothing to do with the program due to the increased volume of inquiries and complaints that will be generated by the levies. The SSA is insisting that it receive a copy of any levy notice sent to a Social Security recipient. The IRS is equally insistent that it is precluded from such disclosures until the levy has actually commenced. Only time will tell how this is resolved. The GAO report also recommends that payments from other federal agencies, such as HUD, the SBA and the VA, be brought into the program although there are no definite plans as yet for that.

Practitioners need to have some idea of what to do when the calls from elderly widows begin in July. This is particularly true since the IRS has not established any meaningful quality control procedures for this program.

A levy is essentially a two-step process. A taxpayer receives a “notice of intent to levy” and then there is the actual levy itself that is sent to the bank, employer or, as here, the government agency. The notice of intent to levy tells the taxpayer to do something within the next 30 days or a levy will commence. During that 30-day period, the taxpayer can demand an administrative hearing. All collection activity must cease while the results from the hearing are pending.

If the taxpayer does nothing (or, if due to a recent change of address, does not receive the notice), a levy is issued.

The levy states that, if the agency does not hear from the IRS within 20 days, it is to garnish 15 percent of the payment and send it directly to the IRS. In other words, the taxpayer still has 20 days to cut a deal with the IRS before the money is gone.

Due to the sensitivity of the Social Security issue, the IRS has already stated that it will issue a second notice of intent to levy (and thereby giving the taxpayer a second 30-day window) if the levy is on Social Security payments.

When a levy hits, there are several quick measures that any practitioner can undertake. First, have the taxpayer complete a 2848 form, which is the IRS power of attorney form. As most practitioners know, the IRS will not give you the time of day without a completed 2848 form on file with the IRS. If you have it but have not filed it, take the form with you to the nearest IRS office, present it to the local staff and call the collection office from that IRS office. Otherwise, it will take two to three weeks to process the power of attorney. By that time, your client’s money is gone.

The second step is to get a copy of the levy, which will indicate which IRS office to call.

Third, make sure your client is current, i.e., that all tax returns have been filed. You will not get far with the IRS if there are years in which your client has not filed a return.

Fourth, is to review section 6334 of the Internal Revenue Code to see if your client’s funds are exempt. Do not get your hopes up. There is not much that is exempt. And, contrary to popular belief, retirement money has never been exempt from IRS collection.

Fifth, get a hold of IRS Publication 1494 and review the “Table For Figuring Amount Exempt From Levy

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President’s Message
By Judith A. Stein, Esq.

Last time I wrote our garden here in Northeastern Connecticut needed pruning, replanting, and mulching. The tulips and daffodils had gone by. The annuals were newly planted and not yet blooming. The perennials were just leafing out. Much has developed since then. This past July 4th weekend was celebrated with a garden in full bloom. Daisies, roses, zinnias, impatiences — all announced their independence with vibrant color. The tomato plants are full enough to need staking. We cut back the iris leaves and forsythia branches to get more air and light to the herbs and daylilies. Still, not all is success: the neighbor gopher has apparently destroyed any chance of sunflowers and done in quite a bit of the Echinacea. Ken says maybe it has a cold.

Like my garden, much of the work to establish NAELA’s infrastructure and project’s for 2000-2001 is now complete. New committee chairs are in place and they are taking on their jobs as NAELA leaders with enthusiasm and dedication. In order to complete certain tasks, some individuals have agreed to continue as chairs. Equally as important, many past chairs and leaders have continued the NAELA tradition of graciously relinquishing the reins and helping new volunteers so that NAELA can continue to develop new leaders, new visions, and thrive in the years ahead.

Most of this year’s committees and SIGs have met. I provided each committee and SIG chair with an itemized agenda for the year with their appointment letter. Each has an ambitious “to-do” list for the year (continued on page 6).
IRS To Begin Levies on Social Security Payments and Other Federal Benefits
(continued from page 2)

On Wages, Salary, and Other Income”. Do not overlook this one. It sets out the minimum amount that a taxpayer is allowed to keep from a levy. For a single person over age 65, a taxpayer is entitled to keep $666.67. A married taxpayer over age 65 is entitled to keep $1,183.18.

Do all of the above before contacting the IRS. It really pays to do your homework prior to contacting them. It has been my experience that a practitioner is much more likely to get concessions from the IRS if the IRS staff thinks you know what you are talking about. The knowledge level of many IRS staff members is broad but not very deep. They will often back off if you seem to know what you are talking about.

If you do not get anywhere with the IRS collection staff and you feel that your client has been treated unfairly, then you need to acquaint yourself with form 911, which is the “Application For Taxpayer Assistance Order”. This has recently become a very potent weapon for tax practitioners. This form requests the involvement of the taxpayer advocate. Simply asking for this form will get a collection agent’s attention. The taxpayer advocate is an in-house ombudsman. It used to be a toothless paper tiger. No longer. You can obtain meaningful relief by filing this form and it costs nothing. Do not hesitate to use it.

If you are determined to keep fighting, you need to take some time to become well versed in IRS collection procedures. This is not as difficult as you might think, especially since there are two fabulous treatises that will tell you everything you need to know. They are IRS Tax Collection Procedures by Robert S. Schriebman from CCH and Representation Before The Collection Division of the IRS by Robert E. McKenzie from Clark Boardman Callaghan. You cannot go wrong with either one. If you can afford it, I recommend getting both since each author offers some unique insights and strategies.

The 52 page GAO report is cited as GAO/GGD-00-65. It was issued May 9, 2000 and is available from the major tax services.

Spread the Word About NAELA!

Do you have any speaking engagements in the near future? If so, we’ve got the perfect proposition for you!

*If you are speaking at a CLE or a legal seminar, did you know that NAELA is able to provide you with valuable informational brochures and membership applications to distribute to your audience? This is your opportunity to help build NAELA’s membership!* 

Help us spread the word about elder law and the good works our members do... contact us today with the following information and we will mail you the materials for you to distribute:

1. Title of your presentation.
2. Who you are presenting to.
3. Date and location of presentation.
4. Estimated attendance.

*Please send your requests to: Kimberly Hess at khess@naela.com or Jihane Rohrbacker at jrohrbacker@naela.com. They can both be reached at (520) 881-4005.*

Calendar of Events (continued from page 1)

**October 28 - November 1, 2000**

**November 16-19, 2000**
National Academy of Elder Law Attorneys’ 2000 Institute, “Climbing To Prosperity with Professionalism,” The Broadmoor, Colorado Springs, CO. For more information contact Jenifer Mowery at (520) 881-4005, ext. 114 or jmowery@naela.com.
Lexis
Ad
(right-reading, close to front)
the year ahead. I thank all these dedicated volunteers for agreeing to tackle this work. I continue to offer whatever help I can provide. I also thank NAELA’s fine professional staff which ably assists me, the NAELA Board, all committees, and SIGs with administrative tasks and invaluable support. The staff also serves our members and is an integral part of NAELA’s institutional memory.

Of particular note, congratulations are due to Rene Reixach and Ellice Fatoullah. Rene, chair of NAELA’s Amicus Committee, led NAELA’s support of Ellice’s Shah case, drafting a wonderfully intelligent amicus brief. A fine decision in favor of Plaintiff Shah was issued in June 2000. The decision and brief are available on NAELA’s website at www.naela.org. Rene’s committee has now begun work for 2000-2001. Joined by Julie Osterhout, Bill Browning, Sally Hart, and Frank Johns, the committee will develop standards and procedures for determining when NAELA will file amicus briefs in the future.

As I write this message I look ahead to the NAELA Board’s annual retreat which will be held this year in Portland, ME from July 12 –16, 2000. We will be tackling many issues critical to NAELA’s future. We will greet new board members, Craig Reeves from Kansas, Mark Shalloway from Florida, Jo-Anne Jeffereys from New Jersey, and Lawrence Davidow from New York. This year’s retreat not only includes a full day of Board meetings, but also a long range planning meeting.

On Saturday, July 15, the board will meet with representatives from the NAELA Long Range Planning Committee which has worked throughout 1999-2000 to develop a long range plan and vision for NAELA. These are dynamic times and the committee has proposed a dynamic long range vision. The committee has worked by conference call and in-person for 12 months under the able leadership of chair, Myra Giffix, to bring this proposed plan to the Board for review and action. I thank the entire committee for their extraordinary dedication to this endeavor: Donna Bashaw, Dennis Christensen, Jamie Long, Vincent Russo, Dennis Toman, and Ira Wiesner. Thanks too are due to NAELA’s Executive Director, Laury Adsit Gelardi for her professional facilitation of this effort. In my next president’s message I will report on the board’s meeting and long range plan decisions.

One of the challenges facing NAELA and its board is to embrace the new opportunities and tackle the challenges brought to us by computers, email, and the Internet. In our roles with NAELA, as well as in our law practices, technology has changed and enlarged our means of communication dramatically - and it promises to continue to do so in the future. Indeed I do not know how I would be doing the work I do if it were not for e-mail and the Internet. Thus, I hope to increase NAELA’s effective use of technology in my year as president.

I have asked NAELA’s Technology Committee Chair, Steve Silverberg, to work with President-Elect Charlie Sabatino and NAELA’s Managing Director, Debbie Barnett, to develop a vision for NAELA’s website and to make plans for immediate and long term enhancements. I have also asked Steve Silverberg, and the Program Committee, led by Stu Zimring, to review our ability to offer NAELA Symposium and Institute materials on computer disk, CD-ROM, or in other “non-traditional” formats. We have added member e-mails addresses whenever possible to this year’s NAELA Directory, and we increasingly communicate among ourselves by e-mail - both for NAELA and professional purposes. (I can be reached at .)

NAELA’s Listserv boasts over 700 members and, as anyone who reads it can attest, it is a vibrant site to share NAELA member news, opinions, and debate. I posted an invitation on the Listserv for volunteers and received approximately 10 responses. I have communicated with all of these individuals and have suggested committees or SIGs in which they might like to participate. Still, for all its value, the Listserv still only includes about 1/5 of NAELA’s membership, and it engages far fewer in active “conversation.” We must keep this in mind when we gauge membership opinion through the Listserv and when we decide what, and how, to “speak” through the List. This too is a changing dynamic and one, which the board will continually review.

Currently we have determined to place all formal NAELA positions on NAELA’s website. While we announce the postings on the List, we do not use the List as an official means of communication. The board will discuss this too at its July meeting. I encourage members to participate on the Listserv. I also ask all members to encourage thoughtful discussion and to understand that your officers and board members are trying hard to think carefully and fully on NAELA’s behalf. There is a temptation to respond immediately on the List, which is, after all, a very immediate technology. There is also, however, a need for process and discussion by the NAELA Board and Executive Committee. Thinking together during our in-person and telephone meetings brings important group dynamics and enhanced results, which we do not want to lose through our competing desire to be, and to seem to be, responsive. I hope all NAELA members will understand and support us as we work to strike this important balance.

I look forward to reporting on NAELA’s Board and Long Range Planning meetings and on all our varied committee activities in my next report. Until then I send best regards for a sunny and restful summer - with some time to spare for whatever your garden may be.
NAELA Members in the News

NAELA was mentioned as a resource in the following publications.

- *Prevention*, in the July 2000 issue, in “License to Cry.”

Howard J. Atlas, CELA, was featured in the Summer 2000 issue of the *Albany Law School Magazine*, in “The Holistic Practice of Elder Law.” He was also featured in the July 2000 issue of the *ABA Journal*, in “More Mileage for an Old Vehicle” and “Reality Check.”

Donna Bashaw, CELA, was featured in an article written by Fay Blix, CELA, for the June 2000 issue of *Orange County Lawyer*, entitled “Donna Bashaw : The 2000 Justice Harmon G. Scoville Award Recipient.”


Clarence Behrend, Esq., was featured in the June 3, 2000 issue of *The Daily News*, in “Estate Planning, Living Wills take on Greater Importance.”

Fay Blix, CELA, and Doris Hawks, Esq., were co-presenters at the Estate Planning Section’s “Advance Directives Under the New Health Care Decisions Law” session at the California State Bar Section Education Institute held in June 2000.

Jan L. Brown, Esq., was named one of Pennsylvania’s Best 50 Women in Business. She was also featured in the May 19, 2000 issue of *The Central Penn Business Journal*, in “Pennsylvania’s 2000 Best 50 Women in Business Judges.”

Robert Clofine, CELA, was quoted in the July issue of *Mutual Funds Magazine*, in an article (continued on page 8)
dealing with IRAs.

David Dorfman, CELA, was quoted in the May 28, 2000 issue of Dependancy Care, in “Who’s Looking After Sheila and Her Money.”

Mark W. Dost, Esq., was featured in the June 26, 2000 issue of The Connectcut Law Tribune, in “Boomers Swell Elder Law Ranks.”

Linda L. Eliovson Esq., and Keith Bradoc Gallant, Esq., were featured in the June 26, 2000 issue of The Connectcut Law Tribune, in “Boomers Swell Elder Law Ranks.”

Ronald Fatoullah, CELA, and Edna Spiegel, Esq. were featured in the June 10, 2000 issue of Newsday, in “The Stubborn Generation.” Ron was also featured in the June 18, 2000 issue of The New York Times, in “A Method of Cutting Taxes.”

Philip R. Farthing, Esq., Todd J. Preti, Esq., and C. Arthur Robinson III, Esq., were featured in the June 6, 2000 issue of the Virginia Lawyers Weekly, in “Lawyers in the News.”


Marc Hankin, Esq., was featured in the May 15, 2000 issue of The Los Angeles Daily Journal, in “Easy Marks.”

Sally Hurme, Esq., was featured in the March 22, 2000 issue of the Record, in “Crime Wave draws New Alert for Seniors to Be Wary.” She was also featured in the June 18, 2000 issue of The Washington Post, in “Living Trust Peddlers Prey on the Uninformed” and the Fort Worth Star – Telegram in “Living Trusts Can Be a Raw Deal.”

James Jaeger, Esq., was quoted in the May 25, 2000 issue of the Milton Courier, in “Inside Wisconsin.”

Michael A. Jensen, Esq., wrote an article for the May 2000 issue of Utah Spirit, entitled “Be Careful When Amending Your Will” and for the June 2000 issue of the Utah Spirit, entitled “Plan Now for Your Long Term Care.”

John F. Kearns III, CELA, was featured in the June 1, 2000 issue of About Time, in “Improve Your Financial Literacy” and in the June 9, 2000 issue of Health City Sun, in “Improve Your Financial Literacy.” He was also featured in the June 26, 2000 issue of The Connectcut Law Tribune, in “Boomers Swell Elder Law Ranks” and in the July 2000 issue of the ABA Journal, in “More Mileage for an Old Vehicle.”

Clifton Kruse, Jr., Esq., was featured in the June 18, 2000 issue of the Fort Worth Star – Telegram in “Living Trusts Can Be a Raw Deal.”

Whitney M. Lewendon, Esq., was featured in the June 26, 2000 issue of The Connectcut Law Tribune, in “Boomers Swell Elder Law Ranks.”

Julia E. Merkt, Esq., was mentioned in the June 11, 2000 issue of the El Paso Times, in “People in the News.”

Rebecca C. Morgan, Esq., and Katherine Mewhinney, CELA, were featured in the July 2000 edition of the ABA Journal, in “More Mileage for an Old Vehicle.”

Danielle B. Mayoras, Esq., presented a special needs seminar at the Summer 2000 Michigan Special Olympics.

Charles Ian Nash, Esq., was recently reappointed to the Wills, Trusts, and Estate Certification Committee of the Florida Bar after completing his term as chairman of that same committee.

Daniel Parsons, Esq., was featured in the May 18, 2000 issue of The Elburn Republican, in “Governor and St. Charles Mayor Call Attention to Legal Needs of Elderly.”

Steve Perlis, CELA, was interviewed by Alan Krashevsky and Patrick T. Murphy for News Views, a Chicago ABC Program On Financial Issues Affecting Elderly Persons, which aired June 18, 2000.

Ruth Phelps, CELA, presented “Special Needs Trusts - How and When to Use Them” for the Senior Lawyer Section at the California State Bar Section Education Institute held in June 2000.

Rene H. Reixach Jr., Esq., was recently featured in the June 9, 2000 issue of the New York Law Journal, in “Medicaid Continues After Asset Transfers.”

Charlie Robinson, Esq., was quoted in the July/August 2000 issue of Family Money as a Board Certified Elder Law Attorney concerning Medicaid qualifications. On July 14, He addressed the Pennsylvania Bar Third Annual Elder Law Institute on “It’s Time to Reinvent Ourselves—Multidisciplinary Practice in Elder Law.” He also Addressed the Florida Legal Education Association Guardianship at its 2000 seminar held in May 2000.

Don L. Rosenberg, Esq., was quoted in the March 6, 2000 issue of Forbes magazine, in “It is to Be True.”

Charles Sabatino, Esq., was featured in the June 19, 2000 issue of The Washington Times, in “Movers and Shakers.”


Peter Strauss, Esq., was featured in the May 15, 2000 issue of Physicians Financial News, in “Meeting Needs of Aging Parents.”

Jan Warner, Esq., co-wrote an article for the June 4, 2000 issue of The State, entitled “Inheritance Shouldn’t Disqualify Husband from Medicaid.”

Greg Wilcox, CELA, was featured in the May 22, 2000 issue of The Recorder, in “Taking Aim at Annuities.”
Interim Healthcare Ad
(right-reading, close to front)
Getting to Know NAELA Leaders
A Conversation with Past President A. Frank Johns, CELA
by Steven Stern, Esq.

Steven Stern (SS): Frank, one of the many issues important to you and to the future of NAELA is developing future leaders. You have worked hard to promote the NAELA Leadership Task Force. What do you think are some of the most important commendations of the Task Force?

A. Frank Johns (AFJ): One is to more carefully identify those in the membership with leadership potential and organize ways by which their efforts may be more carefully guided and then to couple that with giving them proper training and that would help them best learn how NAELA works and then how to be leaders in NAELA.

SS: Do you feel that it needs to be a standing committee?
AFJ: I do. We must have a constant and continuing effort in targeting members who by their efforts show leadership potential and providing them necessary educational opportunities.

SS: Another area that you are into very heavily today is ethical issues facing elder law attorneys, and particularly the issue of “who is the client?” What kind of work have you been doing personally on that issue and what do you see as some of the important developments in that area?
AFJ: My personal work in the area has been to study more historical and philosophical writings that chronicle current legal thinking when examining multiple client relationships. This has led to a conceptional examination of how lawyers are lawyers. It is split in two philosophical camps. One is called “radical individualism”, which is considered the flagship or the hallmark of legal ethics currently supported by the ABA’s majority. That is, that the autonomy and the singular connection between a lawyer and a client is sanctified and should be of the greatest interest. Anything else should be treated with some degree of negativity, although not rising to the level of sanction. The other camp is a philosophical approach based on the communitarian concept that within the social construct we deal with families as entities. Regardless of the argument that there is no legal definition of “family”, our society clearly functions on the basis of family. In fact, the concept of the right of privacy is the primary element that wraps around the family and protects it. Within the family, the parent has a right to do things for a child. Within your family, you have the right to dictate faith, behavior, discipline and even punishment to the point of physical punishment of family members. You have the right within the family context of so much. So the idea that you can’t legally define family is somewhat of a ruse or illusion propped up by the philosophy of radical individualism. Currently, under Model Rule 1.7 family unit or entity representation is not available. What is available is that you can provide joint or multiple client engagements as long as it is clear that there are no material conflicts. Multiple engagements could be several family members each engaging you to represent them collectively. What legal ethics experts currently assert is that you can’t represent all members of the family as one entity. That is where a lot of my writing has been of recent focus for NAELA, and really for the benefit of all elder law and estate planning counsel.

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Getting to Know NAELA Leaders

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SS: Is there current activity on that issue and has it changed a lot of rules perhaps?
AFJ: There has been a lot of activity, although NAELA is not articulating a communitarian conceptual approach and we are not asserting, at least not now, advocacy for the family unit or family entity representation because there is a huge political negativity towards it currently. But it is such an important issue for elder law attorneys in particular. That is why I started a particular drum beat last year when the significant publication for elder law attorneys in particular. But it is such an important issue for elder law attorneys in particular. That is why I started a particular drum beat last year when the significant public hearing process began on the model rules. I went to the then-chairs, Clifton Kruse and Becky Morgan, and I said what we at least need to do is share with the ABA Commissioners that the negative view of this type of representation and the comments and rules of Model Rule 1.7 need at least one counter comment that says in proactive language that you can approach families and represent them even to the point of family unit and/or family entity representation. We only had a few days last summer to get what I was thinking about on paper. Then at the ABA annual conference last year I presented it at a public hearing. I did that and I came back to NAELA with a broader perspective, articulating why we should at least begin a dialogue on the national level and make NAELA a visible player with its assertion that clientship laws are effective. The second thing is to bring more national attention to the fact that we are neither training guardians, nor holding guardians accountable for the quality of life of the wards that they serve. We keep them in close attention to the accounting of the money, but we do not in terms of the person. We really then need to be paying attention and doing something about it.

SS: What can or should be done?
AFJ: There are many things. One is to take some of the volunteer models from across the country that have been successful at not only organizing guardianship training, but also organizing volunteers and monitor the wards. NAELA and other organizations should do it as a national project. The problem is that many other players out there want to take the project and do it themselves. I hope the conference recommends a consortium to approach a group like Robert Woods Johnson Foundation and literally bring the grant back to NAELA. I believe that if this type of project was housed within a volunteer organization whose members serve the clientele as the target, I think it would be better served.

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SS: We first met following one of your presentations on guardianship issues. In fact, to this day I still use the phrase; guardianship is “not always a slam dunk.”

AFJ: I appreciate that. You know, you never know if anyone really appreciates your writing. I worried about that with all my president’s messages I wrote last year. I guess I lost my self-assurance and can’t tell. Objectively and on the whole I worry about whether I served NAELA as president the way its members hoped I would.

SS: What are some of your proudest accomplishments as NAELA President?

AFJ: There were two board meetings that were not easy, and I feel that while maintaining my responsibilities as the president, I was able to make it clear to everyone that I would not allow any of the hot issues to become personal. Outside of that boardroom some of it did, but that was dealt with professionally and with high standards. I am proud of how I guided the board through those difficulties. When you talk about leadership, I think that leadership is generally delivered based on the personality and the presence of the person leading.

SS: What do you think are the most important things to be accomplished by the organization in the future?

AFJ: I think growth is one, and growth can only come if NAELA pays attention to its grassroots. A major component of growth has got to be in the chapters and we are not that good at it yet and one reason is because in some states we don’t have chapters at all or we have weak chapters. It is because the state bars have sort of usurped our position by creating strong elder law sections. New York is certainly an example of that. So we need to promote position and attract people to organize chapters in those states and to do it in ways that are parallel and not in conflict with State Bar sections. Two, if we accomplish the growth, as a parallel to that, we become much more visible in terms of our political advocacy and in support of our client needs both at state levels and even more at the congressional level.

SS: How do you think NAELA has done in that department thus far?

AFJ: I think on a federal and national level we must be thankful to some other players who just happen to be our members. I think we would be politically invisible if we didn’t have Judy Stein with the Center for Medicare Advocacy and the fact that they are so well recognized as a national player; and if we did not have Charlie Sabatino, assistant director of the ABA Commission of Legal Problems of the Elderly and singularly recognized for his own gifts to the aging network and if we did not have Brian Linberg and Chip Chiplin keeping NAELA visible inside the beltway. If we did not have important players such as those, I’m not so sure that NAELA would be seen with much strength at all. Put all of this together in the beltway and we have gained a lot of credibility and visibility. At the state level, we are not there yet, but we can be and I think we will have to be if we are going to increase membership and we have to, that is a prime focus.

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PAID ADVERTISEMENT
Protection of Social Security Benefits from Banks and Other Creditors

by Gerald A. McIntyre, Esq.

Statutory Protections: Ever since the Social Security Act was first enacted in 1935, it has contained a provision to protect benefits payable under the Act from the claims of creditors. 42 U.S.C.§ 407.1 When the SSI program began in the 1970s, a provision was enacted incorporating the protections of 42 U.S.C. § 407 into the SSI program. 42 U.S.C. § 1383(d)(1). In 1983, after cases finding a modification of the statute implied by subsequent legislation, Congress strengthened the protection by the addition of § 407(b), prohibiting any modification or limitation of the statute, except by express reference. Pub. L. 98-21, Title III, § 335(a). Congress has enacted exceptions to 42 U.S.C. § 407 for 1) collection of federal, but not state, taxes, 26 U.S.C. § 6334(c), 2) enforcement of a judgment imposing a fine, 18 U.S.C. § 3613(a), 3) administrative offset of a claim owed to the U.S. Government (most commonly delinquent student loans), 31 U.S.C. § 3716(c)(3)(A)(i), 4) recovery of SSI overpayments from Title II benefits, 42 U.S.C. § 1320b-17(a)(1), and 5) withholding of Title II (but not SSI) benefits for child support.

The majority of states also have statutes protecting Social Security and SSI benefits, with the majority of them simply providing an exemption from the state’s garnishment provisions or incorporating the Social Security Act provision by reference. An exception is California which protects $2,000 ($3,000 for a couple), regardless of source, in a bank account into which Social Security or SSI benefits are directly deposited. Cal. Code Civ. Proc. § 704.080.

Bank Practices: As more and more Social Security beneficiaries and SSI recipients choose to receive their benefits through some form of automatic direct deposit in a financial institution,2 banks have found them to be increasingly attractive customers. Not only does the bank receive the advantage of the float and the low transaction cost of the electronic deposit, but it also has the assurance of incoming funds the next month. A number of banks, secure in the knowledge that a new SSA benefit will be automatically deposited the next month, are now trying to entice their low-income Social Security or SSI customers into overdrawing their accounts through use of a debit card, in the process running up substantial overdraft charges each time they use the debit card. The next month, when the Social Security or SSI benefit is deposited by the Treasury, the bank then simply helps itself to so much of the incoming Social Security or SSI benefit as is needed to cover the overdrafts and associated bank fees. In some instances, the bank takes the whole monthly benefit with disastrous consequences for the individual.

Litigation has been filed to challenge these bank practices, with the plaintiffs alleging that the practices violate the Social Security Act and/or state law.3 The banks contend there is no violation of the law because there was consent and, in any event, there is no “execution, levy, attachment, garnishment, or other legal process” involved. There have been no rulings in any of these cases so far.

Case Law: The Supreme Court has examined the Social Security Act protections on two occasions. In Philpott v. Essex Co. Welfare Board, 409 U.S. 413, 93 S.Ct. 590 (1973), the court invalidated a New Jersey statute authorizing recovery from past due Social Security benefits for state welfare benefits previously provided. In so concluding, the court noted that the statute “imposes a broad bar against the use of any legal process to reach all social security benefits.” 409 U.S. at 417, 93 S.Ct. at 592.

Similarly, the court struck down an Arkansas statute, insofar as it authorized the state to recover from Social Security benefits for the cost of care of state prison inmates, ruling that “Section 407(a) unambiguously rules out any attempt to attach Social Security benefits.” Bennett v. Arkansas, 485 U.S. 395, 397, 108 S.Ct. 1204, 1205 (1988).

Subsequent Cases: Much of the litigation since Bennett has revolved around the meaning of the statutory term “other legal process.” In Brinkman v. Rahm, 878 F.2d 263 (9th Cir. 1989), the court found Washington State’s practice of seizing Social Security funds of patients committed to state mental hospitals was “other legal process” even though the judicial process was not used. See also, Crawford v. Gould, 56 F.3d 1162, 1167 (9th Cir. 1995) (Social Security benefits “cannot be used to pay the plaintiff’s cost of care without the patient’s knowing, affirmative and unequivocal consent.”), but see Fetterusso v. State, 898 F.2d 322 (2nd Cir. 1990). More recently, the Tenth Circuit rejected a credit union’s attempt to recover a delinquent loan from Social Security funds through setoff, even though the Social Security beneficiary had signed an agreement authorizing such a practice. Tom v. First American Credit Union, 151 F.3d 1289, 1292 (10th Cir. 1998).

Other cases have found a violation of § 407 even where payment was not required from Social Security funds. King v. Schafer, 940 F.2d 1182 (8th Cir. 1991) (State’s efforts to seek reimbursement (continued on page 14)
Protection of Social Security Benefits from Banks and Other Creditors
(continued from page 13)

ment for care triggered by receipt of Social Security benefits; Continental Casualty Co. v. Hunt, 913 P.2d 292 (Okla. 1996) (Insurance co. could not maintain suit for repayment of disability insurance benefits when it was re-
ception of Social Security benefits that triggered repayment obligation).

Although there was virtually no litigation on the anti-assignment clause until the decision in Philpott, almost 40 years after its enactment, there has been a fair amount of litigation since that time in both state and federal courts. It can be expected that litigation surrounding the provision will increase in the coming years, both in connec-
tion with more aggressive banking practices and also in connection with the use of SSI income for determination of child support.

Gerald A. McIntyre is Directing Attorney, National Senior Citizens Law Center, Los Angeles office.

Footnotes

1. The text of this section currently reads as follows:

(a) The right of any person to any future payment under this subchapter shall not be transferable or assignable, at law or in equity, and none of the moneys paid or payable or rights existing under this subchapter shall be subject to execution, levy, attachment, garnishment, or other legal process, or to the operation of any bankruptcy or insolvency law.

(b) No other provision of law, enacted before, on, or after April 20, 1983, may be construed to limit, supersede, or otherwise modify the provisions of this section except to the extent that it does so by express reference to this section.

2. In December, 1999, the percentage of Social Security beneficiaries using direct deposit was 77.2 percent wide, ranging from a low of 46.4 percent in Puerto Rico to a high of 87.6 percent in Florida.


4. For example, see Davis v. Office of Child Support Enforcement, ___S.W.2d___, 2000 WL 638934 (Ark.).

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Who’s Who on the NAELA Staff?

There are often questions as to who is who on the NAELA staff. As you know, we have a staff of 15 people working for us, and everyone is responsible for very specific things. Our offices are located at 1604 North Country Club Road, Tucson, Arizona 85716 and are open from 8:00am. to 5:00pm., Mountain Time, Monday through Friday, except holidays. The telephone number is (520) 881-4005. The fax number is (520) 325-7925. We also have voice mail and therefore, you may leave messages 24 hours a day, seven days a week! To help you in your endeavor to get through the maze, we are listing who you should contact for what things:

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<thead>
<tr>
<th>Name/TelephoneNumber Ext.</th>
<th>E-Mail Address</th>
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<tbody>
<tr>
<td>Address Changes</td>
<td>Jenifer Mowery, ext. 114</td>
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<tr>
<td>Advertising</td>
<td>Kimberly Hess, ext. 106</td>
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<td>Billing Questions</td>
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<td>Brochures</td>
<td>Terri Anthony, ext. 107</td>
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<td>Certification</td>
<td>Britanny Betz, ext. 116</td>
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<td>Committee Placement</td>
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<td>Experience Registry</td>
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<td>Fellows</td>
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<td>Finances</td>
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<td>Mailing Questions</td>
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<td>Media Relations</td>
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<td>Membership</td>
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<td>Membership Directory</td>
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<td>NAELA News/Quarterly Articles</td>
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<td>State Coordinators</td>
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<td>Pam Carlson, ext. 108</td>
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<td>Tapes/Manuals</td>
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“But, I’d have to leave Nike.” Nike is Bill’s nine-year-old cat. Widowed, my client’s three children are long out of the nest. Bill is now alone and his best friend is a long-haired mandarin orange colored feline, one the cat fanciers would call “a red.”

Nike and his servant-master live together; their home is one among several clinging to a rocky slope on the city’s western edge, part of the great Rocky Mountain foothills. Bill’s and Nike’s home is high enough so that the city’s lights can be seen as evening comes each day. They are visible from the home’s kitchen window and from the windowed pantry where Nike’s food is stashed when its sliding door is open.

A modest but deep, narrow gorge is a slash at the eastern lot line’s edge. This ravine carries the rainfall and the runoff fills the narrow slit in the hillside slope to an unknown destination somewhere on a lower level, perhaps to an underground, natural cistern. The water just disappears. Bill doesn’t know where it goes and doesn’t care. Nike knows to stay away when the runoff fills the narrow slit in the earth beside his home; so do the red foxes and an occasional gray who trample the backyard earth of the homes on Constellation Avenue where Bill and Nike live.

It’s a macadamed shelf that conjoins the houses of those living in the skyward loft nestled onto the mountains initial slope. And it’s fresh, crisp mountain air that’s breathed at every moment by those whose claims are staked out on the rising ground above and below the avenue’s passageway.

Bill is 82 and for the past few weeks has been carousing1 the city’s assisted living centers, the “A-L’s” he calls them, those in places filled with the combined aroma of people living in a large indoor community, and those in the making, scheduled for completion soon with leasing offices on site, and colored drawings on large signs urging lookers to stop - to make deposits before the good rooms, not yet framed, are all taken.

“It’d be $3,400.00 a month just to live in one,” Bill said, “with no assistance until I need it. Then the bill goes up. Holy moly, it only costs me $700.00 a month now, maybe $800.00, to live in my own home - with Nike.” Bill’s cat wouldn’t be welcomed in an A-L, and Bill knows that.

Draft one of Bill’s will had just been completed, and we met at his home to do some fine tuning. His net worth in dollar bills stacked on top of each other wouldn’t reach the tallest peak in the Rocky’s range within Bill’s eyesight, but there would be a tall stack. How high would a pile of two million ones be?

“All my friends tell me to get into an A-L center so I’ll be ready if and when I need it.” He looked at me helplessly. He needed some ammo, reasons for remaining where he is, in his home, as if leaving his beloved Nike wasn’t a sufficient reason to stay put.

“Ever been on a cruise ship, Bill?” I asked, “same people every day, day after day. The cabin doors open and out they come, parading toward the breakfast buffet. Do the topics of conversation change? Do you get cornered? Do you listen to the same nonsense every day? Do you stay inside the cabin’s close confines some days just to avoid the ceaseless chatter, the phatic talk, of those who have nothing to say?”

“Do the people change at the A-L’s? One dies or is taken to a nursing home, another arrives, one who looks and talks just the same as the one now gone. Do I have this right, Bill? And you’re a prize, a really good catch. Those looking will have their Woolworth cologne smeared on at breakfast mixed, of course, with the aroma of bath powder, a whiff of which will be enough to overcome you. It’ll make the crepes less tasty. Burned toast is something you’ll look for, a nosebag full, a nostrum against the freshly perfumed ones near you, those in line for seconds.

“I’ve never been on a cruise ship, Bill, so I’m just making this up - but can you visualize it - a room filled with the same people every day, people who have little in common except they, too, were told, as were you, that they’d better move into an A-L because they might need it someday. “And they might, and so might you, so rent one then, not now. This is the rule, Bill: never, ever leave your home until you have no choice. Bring help to you. How much help can you have for the same price that the A-L will cost? You spend $800.00 a month now. Subtract

(continued on page 17)
There is more demand today for the services of elder law attorneys than ever before. There is also more competition from other aging network professionals than ever before. Some of us will be inclined to stick our heads in the sand: hoping we will retire before the practice changes. But most of us are looking at our crystal balls trying to figure out what to do and where to go to keep our practices healthy and thriving.

Geriatric care managers, accountants, insurance agents, and financial planners are all eyeing areas that were traditionally considered elder law matters. The American Institute of Certified Public Accountants (AICPA) has actually formulated their “Elder Law Assurance Program” that proclaims how the CPA should be “the trusted professional” for all their clients’ elder care needs.

I met with the AICPA Elder Care Committee in January 1998 to discuss how CPAs could work with elder law attorneys as part of the aging network. It was very apparent to me that accountants were not aware of nor participating in the aging network. We had an extensive discussion at that point, about attorneys being the center of the aging network and that we would welcome other knowledgeable professionals in working with our clients and exchanging referrals.

My hats are off to the AICPA. Faced with declining tax work, they are working to position their members into new areas of practice. They could have reacted like the American Medical Association and stuck their heads in the sand (no one but doctors will head health care organizations), but instead, they are looking to guide their members into viable practice areas. The reality is that CPAs can have non-

CPAs as partners and can practice in areas that were not traditionally deemed to be “accounting work.”

Our board has closely watched the activities of the AICPA and their materials were definitely studied closely by our long range planning committee. We have had board members participate as speakers at AICPA meetings. The feedback has been interesting. Accountants are definitely trying to figure out how they can replace attorneys as the center of the aging network. I told them in 1998, that they were 10 years behind the elder law attorneys. The feedback I have gotten from members who have worked with the AICPA and their members is that NAELA members have a passion for the work that is lacking in AICPA members. NAELA members have entered the field, by and large, because they want to make a difference in the lives of others….not because it was the next business venture. NAELA members are the ones who are knowledgeable about the available resources. One NAELA member from the state of Washington told me in Philadelphia: “I was an estate planner, but I really like this caring stuff.”

Personally, I think CPAs will make a nice addition to the aging network team. We should welcome them and work with them in the areas that they excel. There is more than enough work for everyone and the more reputable and knowledgeable professionals who can work with the elderly…the better it is for the client. Some members think we should be threatened by CPAs……..I think not! We just need to be the ones who define the relationships and preserve the areas we have. CPAs may just push us to be better at what we do and to stay on our toes…as we should!

As Judy has mentioned in her column, watch for the report on NAELA’s long range planning efforts. They are exciting. They are innovative and they are substantial!! No heads in the sand here! The full report will be posted on the NAELA website as soon as it is done and a synopsis will be printed in a future NAELA News. Watch for it!
But, I’d Have To Leave Nike
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that from $3,400.00. How much care can you get for $2,600.00 bucks a month - in your own home?

“If you need round-the-clock care, the option’s yours - at home or in a nursing center; you’ve got the dough. Am I missing something?”

Bill leaned back in his overstuffed den chair; its lower side portions showing the effects of its double duty, used also as Nike’s scratching post. His look was upward at the high ceiling which made the room imposing. He was thinking. I didn’t interrupt this interlude with speech. “It’s my home - and Nike’s.” Bill finally exclaimed. “My wife and I built it. I love it! I must be crazy. My kids are fine - two lawyers out of three kids. The bright one is into computers - the third kid.” He grinned - so did I.

“Phatic talk - chatter, right? I was listening, and you’re right. That’s all I’d hear, and, if not perfume, an antiseptic smell . . . and institutional food.”

Bill leaned back again. “Lovely!” He began an introspection, a quodlibet, his eyes shut tightly. Some of his thoughts were verbalized, but mostly the contemplation was in quiet thoughts, the good ones accentuated with a wry smile. He could, should, stay in his home with Nike, his consort; he is a king in a Rockies’ castle, and he knows it.

Finally, Bill’s eyes opened. “Done,” he exclaimed. “I’m staying! Decision made! Why did I ever think otherwise?”

Nike took this occasion to get some stroking. He jumped up on his much loved master’s lap, and he turned on his motor. Two content beings, bound to each other, reinforcing their affection.

“Tell your friends that the A-L idea is history, Bill. You’re at the top of the heap. Don’t look down again.”

Two million. That’s enough for at-home care forever for Bill and his sidekick as well - if either ever needs it. It’s only money given in exchange for life, for living, for joy, for the privilege of breathing mountain air, seeing the city’s sky scape glowing through the night. It twinkles into Bill and Nike’s kitchen as cans are opened, their contents heated. Bill spoons up the food. Nike joins in when the scraps are attractive. For them, this is gourmet dining, feasts looked forward to and shared daily by inseparable friends.

Footnotes:
1. So as to acknowledge that I am worsening a word (expanding its historic meaning), the Middle French word as an adverb means “to the bottom,” the source perhaps for “bottoms up,” quaffing, drinking deeply. Such a word, however, metaphorically is what my friend, Bill, is doing, “drinking deeply,” taking in as much as his emotions can tolerate as he searches out the undesired care centers in his community. He has no interest in what he senses as the bottom line of this experience - his own death, leaving his much loved home and companion. I suspect at the end of each day of his search, he carouses again in his home with his beloved Nike - drinking deeply once more in the 1567 Middle French definition of the word.

Resources

AARP’s Public Policy Institute has published the latest edition of Reforming the Health Care System: State Profiles for 1999. This ninth edition includes expanded income-related health insurance measures and updated health systems change indicators, including fraud and abuse activity. It provides information on 95 key healthcare system indicators for each state and the U.S. territories. Call AARP at (202) 434-2277 for more information.

Senior Housing Net, and the American association of Homes and Services for the Aging, announced plans to provide a new directory of aging services and senior housing options. Finding needed aging services and senior housing will be easier than ever, according to the alliance, thanks to alliance between the association and Senior Housing Net, a member of the move.com network of home-related websites. The Association’s more than 5,600 members, all not-for-profit organizations offering aging services and/or housing, will now be listed and described on the Senior Housing Net website (www.move.com). Under the alliance, the association’s comprehensive listing of not-for-profit nursing homes, continuing care retirement communities, senior housing residences, assisted living and community service providers will be available through Senior Housing Net.

Safe Medication website http:www.ismp.org. — The institute of Safe Medication Practices, launched “Textbook Errata,” a new section of its website devoted to correcting dosage and other serious mistakes, as well as incorrect information, found in published articles or health-related books. The new web section currently provides full information about a number of errors and corrections that have been reported to the institute.

AARP introduces the following publication: “Where there is a Will…Legal Documents Among the 50+ Population: Findings from an AARP Survey.” You can order a free copy of this publication by writing to Consumer Issues, AARP, 601 E St. NW, Washington, DC 20049. You can also download the publication as a PDF file from www.research.aarp.org.
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Internet Corner
Let Your Website Bring New Clients to You

by Larry Bodine

There are 10,000 law firms that have websites today. One reason is that they are wonderful magnets for new business. By following a few tips, you can make your website stand out and work hard to attract new clients.

There’s no question that websites bring in new business. For several years I’ve operated the LawMarketing Portal, www.Lawmarketing.com, a Web site where law firms learn how to get more business. In this role I’ve seen many examples of the practice development power of the web:

● “The Internet brings us new clients seven days a week and 24 hours per day,” reported Jay Foonberg, a partner with Bailey & Marzano of Santa Monica, CA, who operates websites about ownership-sharing of business jets and about inheritance contests. “We don’t seek clients. They seek us,” he said.

● The website of Brown & Bain in Phoenix, www.brownbain.com, attracted an inquiry from the assistant general counsel at a semiconductor company, according to Marketing Director F. Patrick Bustamante. The firm responded promptly to the visitor’s web inquiry form and signed up the company’s intellectual property matter.

● The marketing effectiveness of plaintiff law firm websites were chronicled in the June 16, 2000 Wall Street Journal. The sites were devoted to pharmaceutical, construction and medical liability. Each was fine-tuned to show up high in web searches and offered interactive questionnaires for visitors. “Such websites can drum up a lot of business,” the Journal attested.

There are examples galore. Elder law attorneys can take advantage of cyber marketing by setting up an informative website, and can attract clients in a dignified way. If your firm doesn’t have a website, simply call a web designer in the yellow pages under “Internet.” Or you can get one free at FindLaw; by using a series of simple fill-in forms at http://office.findlaw.com/firms.html, you can create a professional website for your firm in a matter of minutes. NAELA also offers a personalized website service. For more information on that contact Debbie Barnett at dbarnett@naela.com.

First and most foremost, add fresh content to your site as often as possible. This is the single most important element of getting new business from your web site. People concerned about elderly family members are hungry for information. They want to know the definitions of terms and explanations about the law more than anything else. So turn your site into a “portal,” meaning a one-stop destination for clients and prospects to learn about elder law. Educate your clients and answer their most frequently asked questions.

For example, discuss what issues a caregiver will confront with an aging parent, what is involved in a contested guardianship, what a “springing” power of attorney is, what to know regarding long term nursing home Medicaid, and when a nursing facility is more appropriate than assisted living.

Here are three excellent elder law sites. They top my list because they are quickly and easily found.

● Lawyer Charles F. Robinson’s site at http://rclaw.com. His reassuring photo is on every page. The site is devoted to explaining elder law issues. It is written to answer many client questions and carries reports on court opinions and news stories. The site has a page, “What you should know about long term care insurance” and has a separate “How we can help” page.

● Elder Law Central is the name of lawyer Richard Stefan Lurye’s site at www.elder-lawyer.com. It’s a resource library for elder law issues designed to help the elderly client, and also features news alerts. It even plays music while you visit his site.

● Nay & Friedenberg sets out color photos of their attorneys at www.naylaw.com. A sidebar displays links to health news stories by Reuters. While the site is small, it still provides a “search” feature for visitors.

Once you have a site, put it to work:

● Include your URL in all your marketing materials. It should appear on your business card, letterhead, newsletters, advertisements and yellow page listings. Put your URL in your signature line in e-mails.

● Be sure to include your phone and fax numbers on your site, the mailing address and a map on how to get to your office.

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Internet Corner
(continued from page 19)

- Use the magic word “free” all over your site. A great example is Kraft & Associates site at www.kraftlaw.com, which offers a free initial consultation, free printed materials and a toll-free number on the site. Give away something of value to everyone who visits your site – a newsletter subscription or an article will do fine.

- Make your site interactive. For example the Finkelstein Levine Gittelson & Partners firm, www.lawampm.com, has a “Do I have a Case” button where visitors can complete what is essentially an intake form. Visitors provide their personal information and a detailed description of their matter, which can be reviewed by the firm at its convenience.

- Write articles about elder law and mention your site in the article. The editors will be happy to list your firm’s URL (web address) in the author’s biography.

- Tweak your site to make it rise high in search engine searches. I’m convinced that more clients find lawyers by using Yahoo than by going to the library and pulling a lawyer directory off the shelf. You can optimize your site by having your web designer insert invisible “meta tags” that improve your ranking by search engines. Also, ask the designer to hand-register your firm website with search engines. There are registration services you can pay to do this, but I’d avoid them if they use software or automatic programs to conduct the registration.

- Build an Extranet for clients on your site. An Extranet is a private area on your web site that clients may view after entering a password. They are allowed to view documents in process and check the status of their matters. This is a valuable benefit to clients and saves lawyer time spent updating clients on the status of cases. Note that you can get a free Extranet from FindLaw too. For 10 Mb of secure document storage go to http://office.findlaw.com/signup.html.

- Don’t load up your site with a lot of fancy graphics. Many people have old 56K modem connections to the web and graphics slow down the viewing process. Concentrate instead on putting up interesting text.

- Visit the LawMarketing Portal to get new ideas on how to market your law firm. The site is a top destination for promoting a law firm. See especially the “Legal Marketing Technology” page at http://www.lfmi.com/tech/technindex.html

- Make the site personal. People are scared of lawyers, and you should make visitors feel comfortable. A smiling picture of yourself surrounded by your friendly staff will show that you are not intimidating. The text on your site should be warm and assuring, and avoid impersonal “advertising-speak.”


- Put all your content into databases. This is a task that you must hire a sophisticated web designer to do. The goal is to keep your site fresh by making it easy to update. Web-bases databases allow you to enter new information in text boxes, without needing to use any HTML coding, and to publish the content to your site by simply clicking on the “save” button.

- Make your site “sticky” with Mind-It buttons. See www.lfmi.com/news/newsindex.html for an example. Visitors type in their e-mail address into the Mind-It icon displayed on your web page, and they will be notified by e-mail whenever the page is updated. This brings early visitors back again.

- Put your content on other websites, especially those of organizations to which your clients belong. Send them an article or newsletter you’ve written, and ask for a link back to your site. Also, grant reprint permission freely for your content, so that news and publication websites will carry your material. These techniques will build traffic for you and bring clients.

Larry Bodine, is the operator of the LawMarketing Portal and moderator of the LawMarketing Listserv. Both online resources are free at www.Lawmarketing.com . Mr. Bodine can be reached at Lbodine@LFMI.com.

Certified Elder Law Attorneys

The following individuals have recently completed the requirements to become a Certified Elder Law Attorney by the National Elder Law Foundation. Congratulations!

Ruthann P. Lacey, CELA
Atlanta, GA

Catherine Leas, CELA
Sun City, AZ

Dennis J. Toman, CELA
Greensboro, NC

For more information on how to become a Certified Elder Law Attorney, contact Brittany Betz at (520) 881-1076, ext. 116, e-mail: bbetz@naela.com.
Call for Proposals

Care/Case Management—Who Needs It?

5th International Care/Case Management Conference

Presented by The Learning Center of the American Society on Aging Co-sponsored by the National Academy of Elder Law Attorneys

June 28-July 1, 2001
Vancouver, British Columbia, Canada

Deadline for Submissions: October 27, 2000

For more information contact Rodney Martins, ASA Conference Manager, 833 Market Street, Suite 511, San Francisco, CA 94103-1824. (415) 974-9600; (415) 974-0300 Fax; www.asaging.org.

ATTENTION NAELA MEMBERS

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Attn: Kimberly Hess, Subscription Dept., 1604 N. Country Club Road, Tucson, AZ 85716-3102

PBS Series on Caregiving Seeks Sponsors

PBS is developing a nationally televised series on the subject of “caregiving.” The television event, which will be broadcast in the Fall of 2001 will feature celebrities and will address issues such as what to do when crisis strikes an aging parent, spouse or child, and what options are available for individuals. It will also tackle subjects such as the future of health care and technology including pharmaceutical, bio-engineering and robotic advances, coupled with discussions about long-term care, elder law, and financial planning.

Sponsorship benefits include national media connection through PBS to the largest segment of the US population—the baby boomers, prominent visual and audio credit at the beginning and end of each hour program, access to 50 million weekly PBS viewers, in a non-commercial environment, with quality demographics mirroring the US buying population, and more.

NAELA members interested in sponsorship opportunities for the series should contact Wiland-Bell Productions at (310) 396-4701, e-mail: hhw@ni.net or dalewbell@aol.com.

On behalf of the NAELA Institute Steering Committee, let me begin by sharing with you our programming objectives. We started by reviewing the feedback obtained by the NAELA Program Committee’s focus groups and surveys, SIG input, past program evaluations and of course NAELA’s rich traditions and bold vision. Here are eight program features that you suggested and that we’re incorporating into the program:

- An advanced rigorous curriculum for the seasoned practitioner.
- More in-depth treatment on useful and fewer topics.
- Practice management and development training and education (in the MDP environment.)
- The latest in law and national public policy and advocacy.
- Innovative effective formats for sessions that emphasize practice, not theory.
- An increase in the number of experts from other fields and industries to present.
- Fellowship and networking.
- An inspiring motivational experience for your renewal and rejuvenation.

With this in mind, we have planned three substantive tracks: Practice Development/Practice Management (PD/PM); Special Needs Trusts (SNT); and Hot Topics (HOT).

Highlights from the PD/PM track will bring outside industry experts to you. For example, gain the competitive edge and enhance your professionalism with Disney consultant, Darlene Bonnewell who will give us the secrets of how to deliver exceptional customer service to your clients. Brainstorm with your colleagues and author of Word of Mouth Marketing, Jerry Wilson, who will also present on powerful referral-based marketing techniques. Learn how to serve your clients on the Internet to build your practice with technology-based consultant Ken McCarthy (Warning: This session is not for techies; entrepreneurs only please.)

We will help you with practical real-life strategies to appropriately position you as the attorney in the MDP environment with presentations on structuring ancillary services as practice models for your firm.

Other 2000 Institute features include an interactive workshop on how to use Power Point to enhance the professionalism of your presentations, and early-birds can take advantage of a special bonus training workshop Thursday all morning on principles and techniques of adult learning theory, training and public speaking.

For an in-depth advanced curriculum, we dedicated an entire track for SNTs. This was based on the notion held by many that this kind of work is to veteran elder law attorneys in the millennium what Medicaid planning was to pioneer elder law attorneys in the mid-eighties and nineties. This track’s curriculum is designed to get you up to speed substantively and provide at least one set of additional services, such as case and money management. Indeed, if you combine this track with the training and information of the (continued on page 23)
NAELA 2000 Institute A
Must-Attend Event!
(continued from page 22)

PM/PD track, you might leave with a recipe for greater prosperity with professionalism!

Our Hot Topics track promises to keep you informed of the latest updates and trends in national public policy, legislation and advocacy on Medicare, SSI and Medicaid. It includes additional topics thematically connected by their currency and relevance. For example, debunk medical myths in palliative care and life-prolonging procedures from guest physicians to enhance the effectiveness of your Advance Directives. Witness and comment on a mock hearing before a three judge panel on two motions: One for an end-of-life medical decision, the other for proposed Medicaid planning; both in the context of a Guardianship.

Innovation in these session formats is pervasive at this institute. We’ll have roundtables, brainstorming exercises, mock hearings along with panels and the ever-popular PESI responder system will be returning.

In short, the PD/PM track seeks to enhance the ethics and prosperity of attendees. It is designed to facilitate the on-going task of positioning the NAELA attorney as the premier provider of legal advocacy, guidance, and services to enhance the lives of people as they age. The SNT track is designed to offer the seasoned elder law attorney a new opportunity to “do well by doing good” by incorporating this additional marketing niche service to an already thriving or mature elder law practice. And last, the Hot Topics track is to ensure our ability to be the premier providers of legal advocacy and guidance to enhance the lives of people as they age.

Please, make the pilgrimage! Enjoy the fellowship and networking programming elements included to rejuvenate and inspire you. First, we’ve scheduled a break from the curriculum for Friday afternoon to take advantage of this world-class resort and majestic country. Take the Garden of the Gods and Cripple Creek Historical Tours. Break bread with your NAELA family over dinner with the Flying W Ranch. The NAELA Institute brochure, which you should have received by now, will provide you with more detailed information. I also encourage you to come early and stay late with special NAELA rates at the Broadmoor—a five diamond AAA Rated (highest-rating) property.

Make Plans to Celebrate National Family Caregivers Month
Share in Caring in National Family Caregivers Month

More than 25 million Americans provide unpaid, long term care to loved ones. Care giving is more than a one-person job, yet one family member most often carries the responsibility alone, says the National Family Caregivers Association.

NFCA is asking for our help to “Share the Caring” for National Family Caregivers Month in November.

NAELA supports the NFCA’s effort to “Share the Caring” and recognize November 2000 as National Family Caregivers Month. NFCA reports that family caregivers provide more than 80 percent of all long term health care in America. Other statistics:

- Caring for an elderly relative ranks as one of the top financial worries for the 21st century;
- Family caregivers providing at least 21 hours of weekly care suffer from depression, sleep deprivation, and back pain at significantly higher rates than the rest of the population;
- Seventy-five percent of caregivers are women;
- Fifteen percent of all women between the ages of 36 and 64 are family caregivers;
- The value of the services family caregivers provide for “free” is estimated to be $196 billion a year.

NFCC Month is designed to:

- Raise awareness through activities that will help people recognize and appreciate the caregivers’ vital role in taking care of our nation’s chronically ill, elderly and disabled.
- Help family caregivers self-identify and increase their self-esteem.
- Increase the availability of education and services for family caregivers in communities across the country.

NFCA offers suggestions for programs, a media communications kit, educational materials, buttons, posters, tip sheets, and background information for National Family Caregivers Month as well as education and support for family caregivers. NFCA has also developed model services recognizing caregivers for congregations of all faiths.

For more information call 1-800-896-3650 or visit www.nfcacares.org.
Introducing An Eight-Hour, On Site Training Program In Nursing Home Resident Advocacy!

This program is designed for your clients and their families who have loved ones or anticipate the need for having loved ones in long-term care nursing facility.

We will provide your clients and their families with the tools to meet the challenging role of being a nursing home resident advocate which will decrease family stress, improve residents’ quality of care and life, and more!

Topics Include:
- Searching for and selecting a nursing home.
- Identifying good quality of care and danger signals.
- Admission paperwork/Resident Rights.
- Federal and state nursing home regulations.
- Making a new home and life.
- Plans of Care and medical charts.
- Identifying problems and problem resolution.
- Teaching advocates how to partnership with nursing homes.

Don’t Delay! Call Us Today!

For more information contact Joanne Bass of the Elder Law Practice of Timothy L. Takacs at (615) 824-2571 or jbass@tn-elderlaw.com; or visit http://www.tn-elderlaw.com/workshop.html.