



SHEPPARD LAW FIRM

A T T O R N E Y S A T L A W

31 FLAVORS MAKE CHOICES DIFFICULT

Craig R. Hersch, Florida Bar Board Certified Wills, Trusts & Estates Attorney, CPA



In the 1970s my grandparents owned a men's clothing store located in Indianapolis' Westlane Shopping Center at 71st Street and Michigan Road. Next door was a Baskin-Robbins ice cream store. When my mother took me and my sister by the store to visit, if I was lucky, my

grandma would give me a dollar to buy us ice cream cones.

One fortunate day, I took my sister by the hand as we raced off to select from the array of colors nesting in the display freezers' round, cardboard containers. I always liked to ask for a sample before choosing. Cherry vanilla!? Chocolate chunk!? Caramel swirl!? It was such a difficult choice!

We got our cones, I reached into my pocket to hand the dollar to the teenager behind the counter (she was beautiful but so much older than I!) and led sis back to the store. Exiting Baskin-Robbins, I froze. Not from ice-cream's prevalent brain-freeze when one takes too big of a bite, rather from red and blue flashing lights that blinded me. Police cruisers, ambulances and fire trucks blocked the parking lot, and a sheriff's deputy put his hand in front of my face to stop me from entering my grandparents' store.

"He's okay!" I heard my grandma shout. "Those are my grandchildren! Please let them in!"

The store was in chaos. My grandpa sat on the floor outside of the swinging, western saloon type doors that led to the backroom where he altered pants and suit jackets. Moments before, Grandma, who manned the cash register, was held at gunpoint during a robbery. Grandpa, unaware of the situation, burst through the swinging doors carrying hemmed pants. The ruckus spooked the robber, who turned and fired his gun.

Grandpa crumpled to the ground, Grandma screamed, the gunman fled. By the grace of God, the bullet merely skimmed Grandpa's temple, taking some skin with it. He wasn't seriously harmed.

I dropped my ice cream. My sister, remarkably, continued to eat hers as her five-year-old eyes watched the aftermath unfold. After things calmed down my grandpa took me back to Baskin-Robbins to replace my cone. I didn't feel like eating, but he insisted. I recall that I chose an easy flavor like vanilla just to appease him.

Mom came to pick my sis and me up. Trembling, she hugged us, unknowing at the time that we were safely next door when the incident occurred.



These days, as an estate planning attorney, I'm more like the Baskin-Robbins server than like a customer. With adverse tax legislation looming, my clients say they want a "SLAT" (Spousal Lifetime Access Trusts). They've heard about them from friends or read about them in the Wall Street Journal. This type of advanced estate planning technique is used to consume one's federal gift/estate tax exemptions before they are legislated away or expire yet retain income for a spouse's lifetime.

Hence the demand, "I want a SLAT!"

What my clients don't realize is that's like going into the Baskin-Robbins and declaring that one wants an ice cream cone! What flavor do you want? Without telling your server, he has no idea what to make for you.



Do you want two SLATs, one for you and one for your spouse? The IRS has something known as the "Reciprocal Trust Doctrine" you need to avoid, or the entire transaction won't work. There are several ways to so avoid the doctrine, which way shall we choose? Do we create SLATs a period of time from one another? Will one SLAT allow for a power of substitution of assets?

Do you want your spouse to be the only beneficiary for her lifetime, or can the trustee sprinkle the trust income or principal among your children and grandchildren? Will the trust be consumed before your children die or is it likely to grow for subsequent generations? Should we opt-out of the automatic

generation skipping transfer tax allocation or save that for another strategy? Are your children wealthy and how should that answer play into the strategies considered? What other strategies might work to fit your goals – are there any better than SLATs?

Can SLATs result in higher income tax payments? (Answer: Yes) How do we minimize them?

The questions go on and on. Properly strategized, SLATs should not be form documents. Like any other estate planning tool, the advantages and disadvantages of various techniques should be considered before creating and funding this irrevocable instrument.

These questions can freeze you in your tracks. Make it difficult to choose the strategy most appealing to you. An excellent guide will walk you through the process, rather than whip up the flavor of the day.

Especially for those reading this with high net worth, the stakes are enormous. My grandparents were simple haberdashers. They never had to worry about an estate tax, even in the years when the threshold was so much lower than it now stands. Grandma and Grandpa worked long, hard hours into their elder years before retiring. Thankfully, they had each other until my grandfather died at age 85. Grandma followed a few years later.

I still miss them.

Craig Hersch

Email Address: hersch@sheppardlawfirm.com

Craig R. Hersch is a Florida Bar Board Certified Wills, Trusts & Estates attorney and holds his Florida CPA license, with over 30 years of experience in his practice. Craig is a partner at Sheppard, Brett, Stewart, Hersch, Kinsey & Hill and has created several trademarked processes tied to his estate planning and administration practice, including The Family Estate & Legacy Program and The Estate Settlement Program.



Craig has authored six books for clients: The Florida Estate Planning Guide, Selecting Your Trustee, Common Cents Estate Planning, Legal Matters When a Loved One Dies, Asset Alignment and Your Estate Plan and Common Cents Estate Planning II. His work has appeared in several professional journals, including The Practical Tax Lawyer, and The Florida Bar Journal, as well as being on the editorial advisory board for Trusts & Estates Magazine, the premier trade journal for estate planning attorneys, CPAs, and financial advisors. Craig also writes a weekly estate planning column that is published in Sanibel's Island Sun newspaper and on his firm's blog.

Craig is a multiple graduate of the University of Florida with accounting and law degrees and has provided his expertise as a continuing education lecturer for The Florida Bar and the Florida Institute of Certified Public Accountants.

Craig holds an AV Martindale Hubbell rating, the highest attainable by the independent national attorney rating service, has been selected as a Worth 100 Top Attorney and has been named to the Super Lawyers list every year since 2009, a highly-esteemed recognition given to no more than five percent of attorneys in Florida.

During his free time, Craig enjoys competing in triathlons, having finished an Ironman distance race and seven half-Ironman races over the last decade. Craig is married to his wife, Patti, and they have three daughters: Gabrielle, Courtney, and Madison.

Michael B. Hill

Email Address: hill@sheppardlawfirm.com

Michael B. Hill is a partner at Sheppard Law Firm. Michael is a Florida Board Certified Will, Trusts & Estates attorney concentrating his practice in estate and wealth preservation and business succession planning.



Michael has extensive tax, legal and technology skills, enabling him to create unique plans for meeting client's individual and family needs.

Michael is a double graduate of the University of Florida, receiving his Bachelor of Science in Accounting in 1998, and his Juris Doctor, with honors, in 2001. He is a member of the Florida Bar Association, the American Bar Association, and the Lee County Bar Association.

Michael and his wife, Jamie, have four children, Connor, Chase, Lindsay, and Caleb. In his free time, when there is any, Michael enjoys playing golf, working out, and watching most Gator sports. As an alumnus of the Fightin' Gator Marching Band, you may be able to spot him on Florida Field as a member of the Alumni Band, which marches at one home football game each year.

Hayley E. Donaldson

Email Address: donaldson@sheppardlawfirm.com

Hayley E. Donaldson has been recently promoted to partner with the Sheppard Law Firm, working closely with estate planning attorneys Craig R. Hersch and Michael B. Hill.

Hayley helps guide family members in the trust administration and probate process after the passing of their loved one.

Additionally, she assists clients with their tax and estate planning, drafting simple and complex wills, trusts, and related estate planning documents.

Hayley received her Juris Doctor from the University of Florida Levin College of Law, graduating first in her class. In law school she was a member of the Florida Law Review and Volunteer Income Tax Assistance (VITA) program which assists lower income individuals with their yearly tax returns.

Hayley is also a Certified Public Accountant (CPA) and worked previously as an Internal Audit Consultant for a national firm. Hayley has a Masters in Professional Accounting from the University of Texas and holds degrees in Accounting and Finance from the University of Miami. Raised in Fort Myers, she is also a proud graduate of the International Baccalaureate program at Fort Myers High School.

In her free time, Hayley enjoys running, swimming, and watching the Boston Red Sox.



Andrew H. Barnett

Email Address: barnett@sheppardlawfirm.com

Andrew is an associate of Sheppard Law Firm, works closely with estate planning attorneys Craig R. Hersch and Michael B. Hill. Andrew assists clients with their tax and estate planning, drafting simple and complex wills, trusts, and related estate planning documents.

Andrew holds Bachelor of Science from Virginia Commonwealth University and Juris Doctor degree from the St. Thomas University School of Law. His non-legal experiences includes work in the real estate industry as a licensed Realtor and appraiser.

Andrew also worked as a regulator analyst for Dominion Energy where he administered contracts that connected generating facilities to the electric system.

Andrew served as an Assistant State Attorney in southwest Florida before transitioning into a general trial practice concentrating on civil litigation and personal injury lawsuits.

Andrew is a member of the Florida Bar Association, and is also admitted to practice in the U.S. District Court, Middle District of Florida.

Andrew is married to Jennifer, who practices criminal law in southwest Florida. In his spare time, Andrew enjoys exercising, fishing, home improvement projects, and spending time with his family.

