



BYRD & BYRD LLC
ATTORNEYS AT LAW

July 2016 Newsletter

Welcome to the latest edition of the Byrd & Byrd email newsletter. We hope that you enjoy this newsletter and find helpful information along the way. Happy Reading. If you want more information about Byrd & Byrd, please visit our website by clicking the link below:

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Special Needs Trust Decision - Decambre Case

by Jackie Byrd

In June, the Federal First Circuit in the case *DeCambre v. Brookline Housing Authority* reversed a lower court decision and held that distributions of principal from a special needs trust are NOT countable as income for purposes of Section 8 housing calculations.

This decision is a big victory for dis-abled Massachusetts residents, and has implications for the entire country, as Ms. Decambre was allowed to keep her Section 8 benefits.

An amicus curiae* brief submitted by Byrd and Byrd "of counsel" attorney Ron Landsman, on behalf of the National Academy of Elder Law Attorneys "proved persuasive" according to Harry Margolis of the Boston firm of Margolis and Bloom. Massachusetts attorney Emily Starr and Margolis & Bloom attorney Karen Mariscal also filed briefs in the case.



The issue on appeal was how money distributed from a special needs trust should be counted for Section 8 purposes. In its interpretation of HUD regulations, the First Circuit held that although investment **income** earned by trust assets and then distributed is countable, **principal** is not. Decambre received no gain from her investments in the trust, therefore there was no income to be counted. The only distributions she received were from principal.

The lower court decision that Decambre had too much income to be eligible for Section 8 funding was reversed, and her voucher was restored.

At the time of distribution of this B&B newsletter, it is unclear whether other courts will follow the First Circuit lead. Hopefully, this case will be precedent-setting in other states. In this case, the trust was created by the disabled individual (1st party trust). We do not yet know whether it would actually apply to "third-party" trusts (trusts created by someone else for the benefit of the disabled individual.)

Think you need to learn more about Special Needs Trusts and how they interface with various government benefits? Contact B&B attorney Joshua Winger at jwinger@byrdandbyrd.com or by telephone at 301-464-7448, ext. 114.

*literally, friend of the court. A person with strong interest in or views on the subject matter of an action, but not a party to the action, may petition the court for permission to file a brief. Such amicus curiae briefs are commonly filed in appeals concerning matters of a broad public interest.

Grandparent and Thirty-Party Visitation Now More Likely in Maryland

by Timothy Leahy

For years there was no right to "Grandparent Visitation" in Maryland. There was little chance that any unrelated "Third Party" (someone who was not a biological, or adoptive parent) could succeed in getting a Maryland Court to award Third Party visitation with a child over a parent's objection. It was considered a "fundamental right" of parents to direct and govern the care, custody and control of their children. This meant that unrelated individuals who wanted court-ordered custody or visitation had to prove that the parents were unfit, or that exceptional circumstances existed, and also prove that it was in the child's best interest for that Third Party to have custody or visitation.



[To read how things are changing, click here.](#)

Jessica's New Article in "Outlook by the Bay"

"Veterans Benefits" - check out what Jessica has to say in her latest article that was published in the [Summer 2016 edition of Outlook by the Bay](#). Her article is found on page 6 of the magazine.

Summer Fun at Byrd & Byrd



Jason and Sammy Byrd pose for the camera with Louie, the Baysox Mascot, during a Byrd & Byrd Family Fun Night at the Baysox stadium.

Freddie Maguire, friend of Byrd & Byrd and Marketing Director for Maryland Care Adult Medical Day Care, Camp Springs, MD, poses with Louie during the Byrd & Byrd Baysox Family Fun Night.



Dawson and Peyton Blackford (sons of legal assistant, Bryce Blackford) make the most of the photo-op with Louie at the Baysox Family Fun Night. Baseball and smiles all around!

Byrd & Byrd Attorney, Timothy Leahy, with District Court Judge (Ret.) Gerard F. Devlin at the Maryland State Bar Association in June (Ocean City, MD).



Medicaid Monday on August 8

On the second Monday of every month, Jessica Estes hosts a "Medicaid Monday" where she presents information to help you better understand the basic guidelines, requirements and process of Medicaid. This is a FREE informal seminar where you will be able to ask any questions you may have regarding Medicaid. Light refreshments will be provided at each event so we ask that you please RSVP as space is limited. The next Medicaid Monday is August 8th from 5:30pm - 7pm. [RSVP by clicking here](#) or by calling (301) 464-7448.

YouTube Video of the Month

Summer's here! We hope that you and your family are enjoying the warm days and long nights of the season... and hopefully, you have not had too many snafus like in our Video of the Month:



Testimonial of the Month

"I couldn't have done [the probate administration] without you and the supportive staff at Byrd & Byrd. Thank you so much!"

- C. Goddard of Bowie, MD

STAY CONNECTED:



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