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Buffalo Office

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Buffalo, NY 14202

Clarence/Williamsville Office

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Williamsville, NY 14221

Niagara Falls Office

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Niagara Falls, NY 14301

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FREE LEGAL GUIDES

These legal guides are available for free on WNY-Lawyers.com and LegalSurvival.com:

- ✓ *Executor's Legal Survival Guide*
- ✓ *Checkpoint: A Complete Guide to New York DWI Law*
- ✓ *NY Personal Injury Guide*
- ✓ *2019 Nursing Home Medicaid Guide*
- ✓ *Answers to Your New York Probate & Will Contest Questions* ■

PROBATE AVOIDANCE SEMINAR

"15 Ways to Avoid Probate" will be presented at St. Francis Park, 5229 South Park Ave, Hamburg on Monday, March 25, 2019 at 1:00 PM. Drawing on over forty years of estate planning experience, Robert Friedman, Attorney will explain estate and asset protection planning techniques; the risks and benefits of avoiding probate; the best forms of real estate ownership; the most common estate planning mistakes; recent changes in estate and gift tax laws; the duties of trustees and executors; myths about living trusts; when to update your will; and how to prevent will contests. To register for the free seminar, call (716) 649-1205 by March 21, 2019. ■

NURSING HOME MEDICAID SEMINARS

"14 WAYS TO PRESERVE YOUR ASSETS WITH THE MEDICAID LAWS" will be presented at the:

- **Akron-Newstead Senior Center**, 5691 Cummings Road, Akron on Tuesday, February 26, 2019 at 6:00 PM.
- **Amherst Center for Senior Services**, 370 JJ Audubon Parkway, Amherst on Wednesday, March 20, 2019 at 4:00 PM.

Robert Friedman, Attorney will explain how to preserve your assets and plan for incapacity with powers of attorney, health care proxies, living wills, wills, trusts, transferring your home to family members, long term care insurance, prepaid funeral accounts, IRAs, pensions, properly documented gifts, spousal allowances and transfers, caregiver agreements and promissory notes. To register for the free seminars, call 716.631.9999; complete the contact form at WNY-Lawyers.com or email Jessica@LegalSurvival.com. ■

WE HELP AUTO ACCIDENT VICTIMS

Consult anytime with local, compassionate and experienced personal injury attorneys that you know and trust.

- ✓ **Experience:** Mike Ranzenhofer has over 38 years of trial experience representing the victims of automobile accidents, dog bites, slip and fall accidents and defective products.
- ✓ **Availability:** We are available seven days a week by telephone at 716.542.5444 or 585.343.0746, text at 716.983.6370 or by email: mranz@legalsurvival.com . We will meet personally with you at your home, the hospital or at one of our seven local offices.
- ✓ **Free Consultation:** We will advise you of your rights at a free consultation. Our initial conversation costs you nothing even if you choose not to have us represent you.
- ✓ **No Fee Guarantee:** You pay no fee unless you win your case. ■



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NEW VA PENSION RULES

The Department of Veterans Affairs' new regulations that went into effect on October 18, 2018 significantly affect the VA Pension ("VAP"), the Aid & Attendance ("A&A") benefit and other needs-based benefit programs. The VAP benefit is paid to wartime veterans and their surviving single spouses who meet low income and resource thresholds and have either a nonservice connected disability or are at least 65 years old. A&A provides significant additional cash benefits to veterans who already qualify for a VAP benefit and are bedridden, blind, patients in skilled nursing facilities or require the aid of another person in order to perform activities of daily living. Some of the significant changes made by the new rules are:

- A net worth limit to qualify for VAP at \$123,600, the Medicaid maximum community spouse resource allowance (CSRA) at the time the regulations went into effect. That limit will be increased by the same percentage as the Social Security cost of living increase each year. The calculation will include both countable assets and yearly income. Certain income and assets are excluded. For example, the claimant's primary residence and residential lot area not exceeding two acres.
- A new 36 month look-back period with asset transfer penalties of up to 5 years of benefits. ■

DO YOU NEED ANY OF THESE LEGAL SERVICES?

Contact us by email or telephone if you need assistance with:

Accident/Personal Injury (see page 1).

Business advice on protecting company assets, selling or buying a business and minimizing the risk of expensive legal action. Whether you have an established business, or are just starting out, we can help you achieve your goals with succession planning, LLCs, PLLCs, corporations and partnerships.

Criminal/Traffic/DWI Defense: We defend clients against misdemeanor and felony criminal charges including assault, shoplifting and welfare fraud.

Divorce/Custody/Support & Family Law: Grandparent's rights, prenuptial agreements, name changes and guardianships.

Employment: We have obtained unpaid wages and benefits for employees who have been misclassified as independent contractors.

Estate Planning/Medicaid Planning/Elder Law/

Guardianships: We prepare wills, health care proxies, living wills, life estates, trusts, business succession plans and powers of attorney.

Estates: Probate of wills, administration of estates and will contests.

Fire Company/Fire District Law: We provide legal services to fire companies, fire departments and fire districts, including advice on : Fire Company and Nonprofit Corporation Governance; Training; Civil Liability; Freedom of Information Law; Contracts; Reporting Requirements; General Operational Management Matters; Fire Station Construction, Remodeling and Financing; Apparatus Acquisition and Financing; Bylaw Review; Standard Operating Procedures; Disciplinary Matters and Hearings; Personnel Policies; Membership Issues and Ethics Compliance.

Landlord Tenant: Evictions, leases, and building code violation defense. ■

CONTACT US 24 HOURS A DAY

Have an urgent, late night legal question? Have you been injured in an accident? Arrested for DWI? Served with a lawsuit summons? We answer our phones 24 hours a day/seven days a week. Additionally you can reach us using the chat service and contact forms on our websites, WNY-Lawyers.com and LegalSurvival.com ■



ROBERT FRIEDMAN MARKS FORTY YEARS

February 20, 2019 marks Robert Friedman’s fortieth year as an attorney. His father, Fred Friedman, founded Friedman & Ranzenhofer, PC in 1955 in Akron, NY. Over the past forty years, offices have been added in Buffalo, Rochester, Williamsville/Clarence, Orchard Park, Niagara Falls and Batavia. Bob proudly welcomed his son, Justin, as a third-generation associate last June.

Bob is a life-long Western New York resident who earned a B.A in Psychology from S.U.N.Y. Buffalo in 1975 and a Juris Doctor degree from Hamline University School of Law in 1977. He firmly believes that being an active participant in the community is necessary for a successful law practice.

Bob has served on the boards of the Akron Chamber of Commerce, Brothers of Mercy Campus Foundation, Clarence Chamber of Commerce, Clarence Senior Center, Hearts and Hands-Faith in Action, Clarence Rotary Club (Past President) and Western New York Prosecutor’s Association (Treasurer).The Association of Fundraising Professionals WNY Chapter honored him as an outstanding volunteer at its 2015 Distinguished Honoree Program National Philanthropy Day luncheon. He served as legal counsel for Akron-Newstead Senior Citizens, Clarence Rotary Foundation and Crossroads House.

Over the past thirty-three years, he has successfully prosecuted over 30,000 dangerous drivers as a Vehicle & Traffic Prosecutor for the Village of Akron, Town of Clarence and Town of Newstead. He stopped a legal challenge to the constitutionality of the New York seatbelt law. He has also served as Clarence Town Attorney, Clarence IDA Legal Counsel and Special Legal Counsel for the Town of Alden, Village of Alden and Town of Amherst.

Bob has written numerous legal guides, newsletters and a real estate law column for the *Courier Express* and *Buffalo News*. He developed one of the first law firm websites in the country. His books include *The Injury Victims’ Legal Survival Guide*, *The Upstart Small Business Legal Guide*, *How to Survive Legally as a Landlord*, *How to Form Your Own “S” Corporation* and *Avoid Double Taxation*, *Executor’s Legal Survival Guide* and *The Complete Guide to Medicaid in New York*.

Community education courses and seminars have been presented by him on elder law, business law, criminal justice, mortgage foreclosures, property taxes, estate planning, landlord/tenant law, workplace violence prevention and debt collection at Akron-Newstead Senior Center, Amherst Senior Center, Clarence Central Schools, Buffalo Exchangors & Investors Association, Clarence Senior Center, Erie Community College, Frontier Schools, Grand Island Senior Center, Henrietta Senior Center, Kenmore-Tonawanda Union Free School District, Niagara County Community College, Orchard Park Senior Center, Salvation Army Senior Center, Tonawanda Senior Center, Villa Maria College of Buffalo and Williamsville Schools. He also taught the New York State Division of Criminal Justice Services Security Guard Course and the New York State Real Estate Licensing Course.

His reputation in the legal community has earned him a 10 AVVO “SUPERB” TOP RATING and the 2003 WNY Prosecutor of the Year award. ■

12 THINGS YOU NEED TO KNOW ABOUT POWERS OF ATTORNEY continued from page 4

10) **Provisions regarding health care billing and payment** matters allow the agent access to HIPPA-protected medical records.

11) **Acceptance of the form by a third party**, such as a bank, is required. A third party cannot refuse to honor the SMGR, or any POA form properly executed, without reasonable cause. It is unreasonable for a third party to require its own form or to object because of the lapse of time since the execution or between acknowledgement by you and the agent.

12) **The POA should be prepared by an attorney to ensure that:**
(a) Modifications are made to enable the agent to do Medicaid and estate planning. **(b)** It is properly signed, initialed, dated, witnessed and notarized. The form must be signed, dated and notarized, not only by the principal, but also by the

agent. It takes effect when the principal and all agents have signed before a notary, unless it is a springing POA which takes effect upon a future occurrence, such as the signing of a written statement by a physician or licensed psychologist or psychiatrist certifying that you are suffering from diminished capacity that precludes you from conducting your own affairs in a competent manner. **(c)** You receive the correct advice on how to best utilize it in addition to your living trust, health care proxy and living will. **(d)** You appoint the correct agents who will not abuse their authority and powers. **(e)** It is properly prepared so as to not invalidate it. A slight inaccuracy in the document or in the execution of the document may result in third parties, such as banks, not accepting it. **(f)** It is properly stored or recorded, if necessary, with the County Clerk.

Contact us to schedule an appointment to have your POA drafted. ■

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12 THINGS YOU NEED TO KNOW ABOUT POWERS OF ATTORNEY

"We were very appreciative of your office's quick response to our needs to provide our son with a will and power of attorney at a cost and within a time-frame that was manageable for him."

- Client Testimonial

Everyone needs a properly prepared New York statutory power of attorney (POA). It will save you and your family thousands of dollars and expedite the handling of your financial affairs in the event of mental or physical disability. By signing a POA, you can authorize another person or persons known as the "agent" or "attorney-in-fact" to act on your behalf to perform any number of specified acts. POAs are useful to manage your affairs if you subsequently become incapacitated, thus avoiding the need for a more complex and costly guardianship. A POA is not a substitute for a will because it automatically terminates upon your death. You need to know these twelve important things about a POA:

- 1) **If you designate more than one agent**, they must act together unless you initial the statement that they may act separately.
- 2) **The POA does not revoke** any POAs previously executed unless you state so under the "Modifications" section.
- 3) **You may grant authority to your agent with respect to the following subjects:** real estate transactions; chattel and goods transactions; bond, share and commodity transactions; banking transactions; business operating transactions; insurance transactions; estate transactions; claims and litigation; personal and family maintenance; benefits from governmental programs or civil or military service; health care billing and payment matters; records, reports and statements; retirement benefit transactions; tax matters; and full and unqualified authority to your agents to delegate any or all of those powers to any person or persons whom they select.
- 4) **To authorize your agent to make gifts in excess of \$500 annually**, you must initial the gift statement and execute a Statutory Major Gifts Rider

("SMGR") witnessed by two witnesses at the same time as the POA is signed. Specific provisions in the SMGR grant the agent authority to create, revoke, modify and fund living trusts; designate insurance beneficiaries; create joint accounts; and change beneficiaries on retirement benefit plans.

- 5) **If you appoint a monitor**, your agents must provide him or her with a copy of the POA and a record of all transactions done or made on your behalf if requested to do so. Third parties holding records of such transactions must provide the records to the monitors upon request.
- 6) **Your agent is entitled to be reimbursed** from your assets for reasonable expenses incurred on your behalf. You may also wish to compensate your agent from your assets for services rendered on your behalf. If you wish to define "reasonable compensation", you may do so under the "Modifications" section.
- 7) **The agent has specific fiduciary responsibilities**, including a "prudent person standard of care". This includes record keeping with receipts and imposing on the agent the requirement that records be made available within 15 days of a written request by a monitor, co-agent, certain governmental entities, court evaluator, guardian or a representative of your estate. An agent may be liable for conduct or omissions which violate the fiduciary duty. A special proceeding can be instituted to compel an agent to produce a record of receipts and disbursements and for various other purposes.
- 8) **The POA form is "durable"** (i.e. not affected by later incapacity) unless it specifically provides that it is terminated by the incapacity of the principal.
- 9) **If a guardian is later appointed**, the agent must account to the guardian, rather than to you.

continued on page 3 ...

While a great deal of care has been taken to provide accurate and current information, the ideas, suggestions, general principles and conclusions presented in this newsletter are subject to local, state and federal laws and regulations, court cases and any revisions of same. The reader is thus urged to consult legal counsel regarding any points of law – this newsletter should not be used as a substitute for competent legal advice.

The purpose of this newsletter is to give the reader a general understanding of the law – not to provide specific advice. Every effort has been made to achieve accuracy. The law constantly changes and is subject to differing interpretations. Always consult with your attorney and act only on his or her advice. Friedman & Ranzenhofer, P.C. shall not be responsible for any damages resulting from any inaccuracy or omission. This newsletter is designed to provide accurate and authoritative information in regard to the subject matter covered. If legal advice or other expert assistance is required, the services of a competent professional person should be sought. Certain portions of this newsletter may be applicable only to New York State law. Prior results do not guarantee a similar outcome.