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Attorney says pandemic brought sharper focus on estate planning



Katherine Cauley, partner, Hodgson Russ LLP

HODGSON RUSS LLP

By [Patrick Connelly](#) – Reporter , Buffalo Business First
a day ago

In the highly personal realm of trust and estate planning, [Katherine Cauley](#), partner and practice group leader at Hodgson Russ LLP, said the shift to working with clients by phone or video conference has brought a different feel to conversations.

“I have found that my colleagues and clients have been incredibly flexible, resilient and determined to find creative solutions,” she said.

Has the pandemic shifted priorities for your clients in your trusts and estates practice?

I've seen what I would characterize as a sharpening of focus and a prioritizing of legacy objectives. The pandemic has created a sense of urgency, not only to get a plan in place, but to achieve what had been secondary goals, like creating trusts for grandchildren, funding 529 Plans and creating charitable foundations.

Estate planning is often tax-driven, and tax efficiency continues to be an integral part of the planning process. But stewardship, philanthropy, and family harmony are also front and center. The questions I am getting are focused on leaving wealth efficiently, but also in a way that encourages social responsibility, morality and family unity. Mostly, people just want to know that their families will be OK, in every sense, if anything happens to them.

Have there been any challenges in estate planning posed by the pandemic?

Estate planning is, as you can imagine, highly personal. Discussions about family dynamics and legacy objectives can be emotional and sometimes difficult. The pandemic has made in-person meetings impossible in many cases and delicate conversations are more difficult over the phone.

The pandemic has also made it more challenging to get documents signed. In New York, wills must be witnessed by two people, and wills are often accompanied by an affidavit that requires notarization. By Gov. Andrew Cuomo's executive order, this may all be done virtually now, but there are strict protocols that must be followed.

Moreover, we have a robust cross-border trusts and estates practice. The biggest challenge there is the inability to cross the border. Fortunately, technology has given us multiple virtual options, such as Zoom and FaceTime, and easy attorney and client access to those platforms has been a huge help.

What are a few things people should take into consideration as to how the pandemic may have an impact on their planning?

When people think about estate planning, they think of wills and trusts. And, of course, wills and trusts are a big part of it. But powers of attorney and health-care proxies should not be overlooked.

Covid-19 has resulted in an unprecedented number of deaths, but has also caused prolonged periods of disability and hospitalization. Now more than ever it is important to have a health-care proxy to make critical health-care decisions for you if you are unable to do so yourself. Additionally, having powers of attorney for management of financial and business matters is advisable. This is particularly relevant for business

owners who are the primary decision makers for their company, but care should be taken in the selection of an agent and the authority given.

For example, one power of attorney that names an individual who is closely involved with the company may be appropriate for continuity of the business, whereas a second power of attorney that names a family member may be appropriate for personal finances. Estate planning for business owners requires careful attention to planning documents that may impact the company.

What advice would you have for someone who hasn't prioritized estate planning?

My best advice is don't wait for a crisis. Every estate, big or small, is important and merits careful consideration. Further, an estate plan is an evolving thing. It changes and develops over time in relation to changes in personal circumstances. I encourage my clients to review their plans every few years.

Planning is particularly important for business owners. The family business is likely the single most valuable asset in the estate. Planning for continuity of management is inextricably linked to preserving value for the family.