

THE LAW OFFICES
OF
Joseph A. Marra

ESTATE PLANNING & CORONAVIRUS:

WHEN IGNORING
THE PROBLEM
NO LONGER
WORKS!



The Importance of Estate Planning
During COVID-19

The impact of the Coronavirus in the United States, and particularly in the New York Metropolitan area, has been swift and severe. It has quickly and dramatically affected the way we live, the way we interact, the way we shop and it has greatly affected our ability to travel.

It has also greatly impacted our court system – so much so that if you have an estate planning issue or if you have not done any estate planning you ought to have some concerns.

Since 1988, The Law Offices of Joseph A. Marra, has been dedicated to protecting our clients' legal rights and alleviating our clients' concerns. Located in Yonkers and Somers, New York, we represent our clients' best interests in matters of not only estate planning and elder law but also personal injury, wills, trusts and estates, real estate, small business, divorce and other practice areas.

We are committed to defending your rights and freedoms, and will work with you to develop an effective path toward achieving the results you desire at a reasonable cost.

Many are wondering how they should respond to the Corona virus pandemic, particularly when it comes to Estate Planning issues.

People are asking questions like:

- What are the basic estate planning legal documents that I need?
- How do I get these documents signed during the Coronavirus Outbreak?
- Do I need a Last Will and Testament or a Trust, or do I need both?

These are all very valid questions. At The Law Offices of Joseph A. Marra, we have the knowledge and experience to answer all of your questions. Even though many of us are staying home, life doesn't stop. There are concerns that must be dealt with and the welfare of our families must be protected.

We are known for handling each client and their respective cases with the utmost urgency and empathy. We will address your legal issues and help you avoid the stress that can come with uncertainty about how your assets will pass on after your death.

We created this guide to help you get the answers you need regarding the Coronavirus Outbreak and its effect on estate planning. You are going to learn what steps you can take to protect your family and your assets and if you should address estate planning issues now or wait until later.

Remember, by not taking action you are in fact making a decision that could have unintended consequences.



BUT FIRST, HERE ARE SOME FACTS ABOUT CORONA VIRUS:

What is Coronavirus?

Coronavirus, or COVID-19, is a newly identified type of virus that has caused a recent outbreak of respiratory illnesses. Coronavirus was first discovered in December of 2019 in Wuhan, China.

What does COVID-19 stand for?

The 'CO' stands for 'corona,' the 'VI' stands for 'virus,' and the 'D' stands for disease. This disease was formerly known as the "2019 novel coronavirus" or "2019-nCoV". Now it is widely called COVID-19. There are actually many types of human coronaviruses in existence, including some that commonly cause mild upper-respiratory tract illnesses.

What are the symptoms of Coronavirus?

People with Coronavirus may experience: tiredness, a dry cough, fever, and difficulty breathing (severe cases), a loss of one's sense of smell and intestinal issues.

Who is affected by Coronavirus?

Anyone can catch Coronavirus but individuals who struggle with health issues like hypertension, diabetes and respiratory issues, particularly those over 60, are particularly at risk.

Who is affected by Coronavirus?

The CDC estimates that there were 39 to 56 million flu illnesses and 24,000 to 62,000 flu deaths from Oct. 1, 2019, to April 4, 2020. (<https://www.cdc.gov/flu/about/burden/preliminary-in-season-estimates.htm>).

By comparison, as of April 21, 2020, 817,952 people had tested positive for the Coronavirus in the United States with 45,279 deaths. (<https://www.worldometers.info/coronavirus/country/us/>). The Coronavirus numbers are expected to continue rising.

The court system in particular, and the economy in general, has already been greatly impacted and could be impacted even more as time goes on. There could be more closings, more delays, more uncertainty. **The Law Offices of Joseph A. Marra, is here to help!**



CORONA VIRUS ESTATE PLANNING TIPS

So without further ado, let's dive into our prescription for those seeking to create an estate plan during this challenging period of time.

Utilize the following tips to determine beyond a shadow of a doubt what would happen legally and financially to you, your loved ones, your money and everything else you care about if something unexpected happens to you.

**TIP
1****IF YOU ARE LOOKING FOR
IMMEDIATE PROTECTION,
CREATE A TRUST**

If nothing else, the Coronavirus Outbreak has shown us that we need to be prepared for the unexpected. When it comes to our lives and our assets that means we need to have a Last Will and Testament **and** a trust.

If you are looking to have protection in place as soon as possible, we recommend a trust. Many of the Surrogates Courts in the State of New York are either closed or are open on a limited basis with limited staff due to COVID-19. This will substantially delay the probating of wills and the administration of estates now and into the future.

It used to be that if your Last Will and Testament was properly drafted and executed, if your family relations were good and if you did not have any minors or disabled individuals as your beneficiaries, probating in New York was relatively easy. In those circumstances, I used to recommend a well-drafted Last Will and Testament. I did not think a Trust was necessary. Times have changed.

The Surrogates Courts in the New York Metropolitan area were backed up before the Corona Virus outbreak, which has only

exacerbated the backlog of cases. The courts will just become more and more backed up and overwhelmed as time goes on. This will substantially delay the probating of your estate.

What used to take weeks and months will now take months and years.

If you have an adequately funded trust your assets can be disposed of upon your passing without court intervention or having to communicate with anyone else other than those who need to know.

In other words, a trust will provide you and your family with immediate protection and will enable you to avoid the delays in the probate process and closings that are affecting the court system during the Coronavirus Outbreak and will continue to affect the court system for months, even years, after the pandemic is over.

A trust is a legal document where you can direct the disposition of your assets upon your passing; but unlike a will it does not need to be admitted to probate and generally does not require court intervention.

**TIP
2****BE CREATIVE ABOUT
DOCUMENT SIGNINGS**

The essential estate planning documents that you will need include a Power of Attorney, Living Will & Healthcare Proxy, an Advanced Directive with Respect To Funeral Arrangements and a Last Will & Testament. If you want to protect your family from court system delays and red tape, a Trust is now equally essential.

One of the biggest challenges that you will face during the Corona virus Outbreak is getting these documents properly signed. For example, will signings in New York require two (2) witnesses, the signer, the attorney and a notary public, who can also be the attorney. That is a minimum of four (4) people who would be in close proximity to each other, often in a small office.

Trusts need to be signed before a Notary. Health Care Proxies need to be signed in front of two (2) witnesses and a Notary. Fortunately, New York now allows remote notarization and the remote witnessing of documents. This can be accomplished with video conferencing (web chat), a scanner and email. New York doesn't allow digital or electronic signatures on wills and related documents. The newly enacted Executive Orders allowing for remote notarization and witnessing provides a creative solution to this problem.

These new remote notarization and witnessing protocols are of particular benefit to the elderly and others who need wills and estate documents signed quickly but cannot risk being exposed to COVID-19.

Talk to our attorneys to see what options are available for you.

TIP 3

CREATE YOUR OWN ESTATE PLAN BEFORE THE STATE MAKES YOU USE ITS PLAN

New York State has already created an estate plan for you. It is called the intestacy statute. If you want control over what happens to your assets after you die, you need to act **now**.

Here are four (4) quick recommendations for your plan to ensure that things go as smoothly as possible for your loved ones after your passing:

1. Have a Trust drafted and transfer all of your assets to it.
2. If you opt not to utilize a trust, put at least \$35,000.00 in a joint account with someone you have unquestioned and implicit faith in to cover necessary expenses before your will is probated.

3. Make sure your living will and healthcare proxy are in PDF format so they can be emailed or faxed to the appropriate healthcare providers both during the Coronavirus Outbreak and thereafter.
4. Make sure that someone is aware of where your original estate planning documents are located as well as your last income tax returns, bank statements, life insurance policies, disability insurance policies and related documents. If you can put all of these documents in one convenient location that would be best.

A Word of Warning: Don't put these documents in a safe deposit box! Right now the banks are basically closed to normal traffic. Even during normal times this is not a good idea. When an owner of a safe deposit box passes, banks are required to seal the box and await a court order to open it, even if there is a co-signer on the box.

The attorneys at The Law Offices of Joseph A. Marra, have extensive experience crafting estate planning solutions that ensure your assets are protected, no matter what the future holds. We can help you avoid unnecessary delays, probate fees, will contests and family bickering.

We can also show you how to:

- Set up a revocable living trust that will seamlessly allow for the transfer of your assets as soon as the Trustee or your choice receives a death certificate. Your trustee can pay bills incurred both during your final illness and after your passing, access and manage all the assets in the trust and distribute the remaining assets according to your wishes without unnecessary court intervention.
- Take advantage of life insurance policies and post mortem financial planning methods to reduce estate taxes.
- Shift assets to your children now so that any future appreciation or growth will be out of your estate and not subject to estate taxes, while you still maintain control. Remember, the New York State Estate tax kicks in at a significantly lower dollar amount than the Federal Estate Tax.
- Form the appropriate business entity (such as LLC, LP, etc.) to protect, transfer and shield assets where appropriate.
- Protect your children against the risk of owning the property they will inherit from you before they are ready. You can decide when they will receive full control over their inheritance.
- Help you to protect your assets in the event you require nursing home care in the future.

- Help you become eligible for government programs such as Medicaid in the event you require nursing home care in the future.



THE BOTTOM LINE ...

If you do not know how those you love would be provided for in the event you become disabled, or if you should prematurely pass away, or if you want to control the disposition of your assets should something happen to you ... then the first step is to take action **now** and not wait – you need to have a plan in place.

Remember, if you don't create your own plan then your estate will be subject to the estate plan imposed upon you by the State of New York.

We can help you navigate the complexities of estate planning during this unprecedented time in American history. We will:

- Work closely with you to ensure your needs are met and your concerns addressed.
- Rely on our extensive experience in estate planning to help you get the best outcome possible for you and your loved ones.
- Diligently strive to protect your rights.



THE NEXT STEP ...

As the number of Coronavirus cases and deaths rise we are reminded of the importance of having an estate plan. If you don't have an estate plan or you have one that is out of date,

if something happens to you your assets could pass to people you do not wish them to pass to, or to those who are not yet responsible to handle a sudden influx of wealth, not to mention an unnecessary, prolonged and public court process.

Don't let that happen!

Talk to the attorneys at The Law Offices of Joseph A. Marra, by calling 914-964-6806 or emailing us at marralaw@marralaw.com.

Remember, the key to weathering any storm is to first get the right information and then take the best course of action moving forward – that's what we are here for!

Contact us today to schedule a phone or virtual consultation and to learn much more about how we can help you with estate planning.

Don't worry about your health or safety as appointments can be completed by phone or video call – face to face interaction is not necessary.

GET THE LEGAL ADVICE YOU NEED TO TAKE THE RIGHT NEXT STEPS!

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OF
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◆
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