

MICHIGAN LAWYERS WEEKLY

A sidebar with ... Michelle C. Harrell

By: Douglas Levy in News Stories May 11, 2015

For years, Michelle C. Harrell made commercial litigation her practice specialty. But she said a family trauma five years ago opened her eyes to a new area of legal service: special-needs trusts and estate planning.

Her son Adam, then 16, collapsed. He was diagnosed with hydrocephalus, commonly termed "water on the brain," and the condition expanded his skull.

"He's fought hard in five years to recover what he's lost, and he's at a baseline now as to where he's going to be," said Harrell, of Maddin, Hauser, Roth & Heller PC in Southfield.

In going through not just Adam's but her own trials and tribulations, Harrell said the process gave her new knowledge of trusts, which she decided to apply to her business acumen.



What was your personal experience with trusts before all of this, and what did you have to do afterward?

Like a lot of other people, I had a basic will and I made it many years ago when the kids were small and just forgot about it. I thought, "Well, I've done what I need to do. I have a will, and we won't have to worry about all those intestacy laws, blood relations and all of that." I thought I had done the basics, at least.

But when Adam has his medical problem, as a result of a lawsuit we filed [with the pediatrician on claims of not diagnosing the condition earlier; a settlement was reached], he had some resources that we had to take care of. And I started realizing you need a much more complete estate plan, especially if it's someone like me who not just has the issues with Adam, but also we have a large blended family.

So it became very important that my husband and I have a frank conversation about what our intentions were, which he hadn't really talked about because there's so much else going on, just as with everyone else's lives. And you don't like to think about your mortality.

I had to go through preparing a trust, and once you start preparing for you and your spouse, you start thinking about, "What about my parents?" Because I realize that with Adam being in their family tree, if they left money to him without it being protected in part of his special-needs trust, they can undo everything that I had to done to protect him. It gets kind of complicated, but if you sit down and do some planning, it's not difficult. You just have to think of all the different branches on the tree, so to speak.

It's really something that gives people a lot of peace of mind that they just don't realize they need or want until they have it. But Adam's case really put me on a rocket sled to learning and getting it done.

What are some of the complexities you learned about?

[What to do] if you have a special needs child and they're getting

public benefits. He was getting Social Security, and the high school always counsels you to apply for all these things. But contrary to popular belief, they're really not easy to get.

When he applied, Adam was very disabled. He could not walk very far. His cognitive abilities were really impaired. And we didn't want to lose that benefit. But the threshold for disqualification is \$2,000. You can imagine a medical-malpractice settlement would have disqualified him from receiving benefits until he exhausted all of those funds.

At that point, the attorneys representing him said, "You need a special needs trust. It will protect his assets and protect him. You can set up an entire structure in that document." But my estate plan had to be fixed, too, because if I were to pass away, whatever I left to him would also disqualify him. It really brought everything to a kind of a crescendo.

What unique aspects are there for estate planning for special-needs children?

There's a whole practice around Social Security benefits, like if you've been turned down. But I'm the person who deals with after you receive the benefits, because when I applied and Adam started receiving them, I thought, "Well, here's a monthly payment to him, great." But then, what do I do with it?

There are very specific limitations on what you can do with that money. For every person who's disabled, you can designate an alternate payee, which is often times the parent or someone who is helping the person with their day-to-day requirements, but an alternate payee has to be very careful as far as what they do with that money. There are specific things you cannot do, and you can become personally liable for whatever is misspent. There are reporting requirements. It's not a small thing.

So I help parents navigate that quagmire, and a lot of it was from my own pain and suffering; the learning curve was really steep. But our firm has some fantastic estate planning folks who were able to help me quickly learn the ropes.

What advice can you offer to anyone looking to expand their

practice as you have?

Don't be afraid to reach out for resources around you. The attorney community in our area is comprised of extremely helpful, caring individuals, especially the Oakland County Bar Association. If you find yourself in entirely new subject matter, the first thing I would do is start looking at those resources and pick up the phone. I found a lot of support that way, both inside the firm and outside of it. They really will encircle you with assistance of all kinds. Also, be patient with yourself when learning a new area. It's strange to learn an entirely new subject matter when you're not in law school anymore.

What do you do with the Hydrocephalus Association?

They're a national organization but there's also a Michigan chapter. We became very active when Adam was involved right at the start. Part of it was because I had to learn what hydrocephalus even was, and what treatments are available for it. It's severely underfunded as far as medical advancements go; they still doing the same shunt technology they did in the '60s. The organization is very supportive, and doctors contribute a lot of information to that community. And every year I help organize the group's local fundraiser walk. I've also written some things for them about parent's perspective for young adults with hydrocephalus.

How do you best enjoy your "me time" when you're afforded it?

I really enjoying just going around in Detroit right now. I go to the Detroit Institute of Arts. I just disconnect from the Internet and from mounds of paper and the adversarial system that is litigation, and just got out and experience completely new things. My oldest son runs the Detroit Bus Company and I sit in on the city tours. I'm a big reader, as well.

What's the best advice you've received in law?

It came from one of my prior bosses when I was a young lawyer: "Don't sell yourself short." It has a lot of applications, but I remind myself of that when negotiating or thinking of stepping up to an opportunity, whether it's professional or personal or volunteer-related.