



MARGRAVE
CELMINS

THE CONFERENCE ROOM



Margrave Celmins, P.C. Scottsdale, AZ
September 2017 Quarterly Newsletter



Balloon Spooktacular: photo courtesy of Salt River Fields <http://srfballoonfestivals.com>

Here's a fun, safe way to celebrate Halloween. From 5:00PM to 10:00 PM on Friday, October 27th and Saturday October 28th, Salt River Fields will host an event featuring 20+ hot air balloons, live music, a pumpkin patch and a free KidsZone, 4,000 lbs. of candy for trick-or-treaters each night, tethered balloon rides (for a fee) and fireworks. Local high school students man the Spook Trail, with surprises around every corner. The event also features a nightly costume contest with prizes for kids, adults and groups.

And you can shop the Spooktacular Marketplace for arts, crafts and merchandise from local shops, or sip and savor beverages and holiday-themed foods from dozens of on-site vendors. There is a fee: \$15 for adults and \$10 for children 3-12 years old; two and under are free. But for less than you would spend at a movie theater, you can have five hours of family fun.

We are happy to announce that Patrick J. Van Zanen is rejoining the firm on September 7th having been with us previously from 2006 through 2009. His primary areas of practice will be commercial litigation and commercial transactions.

Be sure to read Laura Trujillo's article on Credit Claims Against a Decedent. Laura is also our attorney spotlight this month in recognition of her certification by the Arizona Bar Association as an Estate and Trust Law Specialist. And there are photos from a spring trip by Michael Margrave with some of his friends on his rail car, Promontory Point.

Patty Copeland, Editor
pcopeland@mclawfirm.com

LAURA TRUJILLO CERTIFIED AS AN ESTATE AND TRUST LAW SPECIALIST

Margrave Celmins is proud to announce that Laura Morrison Trujillo has been certified by the State Bar of Arizona Board of Legal Specialization as an Estate and Trust Law Specialist.

Michael Margrave said, "We've been fortunate to have Laura with us for more than eight years. While she has focused on estate, probate and trust law, she also does work with employment and labor law issues. With her certification, she will be more valuable than ever to our estate and trust clients as they can be assured that she is up-to-date on the latest federal and state laws concerning their estate planning issues."



Ms. Trujillo has been practicing law in Arizona since 2006 and has an estate planning, probate and business practice. For any questions about her practice and to learn more about Ms. Trujillo, please refer to her attorney bio page on the firm's website <http://mclawfirm.com/attorneys/laura-morrison-trujillo>, contact her via email at

ltrujillo@mclawfirm.com
or call her at 480-994-2000.



CREDITOR CLAIMS AGAINST A DECEDENT

One of the most common questions asked regarding an estate is “Am I liable for the decedent’s debts?” The short answer is No. Normally, a person is not responsible for a deceased individual’s debts. Below is an overview of how debts of a decedent are to be paid under Arizona law and when a person may be liable to pay the debts of a decedent.

1. What debts must be paid by the Estate?

All valid claims against the estate must be paid. If an estate does not have sufficient assets to pay all claims in full (an insolvent estate), payment must be made based on the priority of the creditor claim as provided under Arizona law. Such priority is as follows:

- Expenses of administration;
- Funeral expenses;
- Federal income taxes;
- Expenses of last illness;
- State income taxes;
- All other debts.

If there are multiple creditor claims that have the same level of priority and the estate is insolvent, the claims must be prorated among the creditors who have priority of payment.

2. Are Non-Probate Assets Liable to Pay Decedent’s Debts?

If it is determined the estate is insolvent, the next question is whether the beneficiaries of the decedent’s non-probate assets are responsible for the payment of the debts.

- A. Surviving Spouse. If the decedent was married, the surviving spouse may be

responsible to pay the Estate's debts. For a separate debt of the deceased spouse, up to one-half of the community property (representing the deceased spouse's one-half) may be used to pay the debt, along with the separate property of the deceased spouse. For a community debt, all of the community property, and potentially even the separate property of both spouses, is available to pay the debt. Remember, a community debt is a debt incurred during the marriage and benefitted the family directly or was used to care for family property. A separate debt is a debt incurred prior to the marriage or any debt not incurred for the benefit of the family.

B. **Beneficiaries of Non-Probate Assets.** A creditor can request payment from persons who inherited an asset outside the probate process, such as a paid-on-death beneficiary designation of a bank account. However, the creditor would have to deliver a written demand to the Estate's personal representative. The personal representative may then request that the beneficiary return the entire amount received from the bank account to the Estate. If the beneficiary refuses, the personal representative or creditor may be able to obtain a judgment against the beneficiary.

C. **Guarantor of Decedent's Debt.** Normally no else is responsible for payment of the decedent's debts. However, there is exception to this rule. If another person agreed in writing to be responsible for payment of the debt, such as a guarantor or co-signer, then that person continues to be liable for the entire payment. This is especially common for student loan debts or auto loans, as we've seen in the news.

3. What assets are exempt from creditors?

If it is determined the estate is insolvent, the next question is whether the beneficiaries of the decedent's non-probate assets are responsible for the payment of the debts.

A. **Statutory Allowances and Exemption.** There are certain statutory allowances and exemption for the surviving spouse and minor children of the decedent. These allowances and exemption take priority over all creditors except the expenses of administration.

B. **Retirement Accounts.** The Decedent's 401(k) or 403(b) retirement account may be transferred outside the reach of the deceased person's creditors. Individual retirement accounts ("IRAs") paid to Arizona resident beneficiaries are also exempt under Arizona law.

C. **Life Insurance.** Death benefits from life insurance policies are protected as well from creditors under Arizona law.

Normally, the payment of creditors is a simple administrative matter. However, determining the validity of creditor claims and the payment of such claims may become complicated when the Estate is insufficient to pay the decedent's debts. It is recommended that a person obtain advice from a licensed attorney before paying or entering into any agreements to pay a decedent's debts.

Laura M. Trujillo

ltrujillo@mclawfirm.com



Michael Margrave with chef Willie James, who had served as chef



Michael Margrave with fellow AAPRCO directors and officers:



Tom Lanahan, AAPRCO board member and officer, and Michael Margrave, having lunch on return trip to Chicago



Michael Margrave standing before his rail car, Promontory Point, in Kansas city prior to trip to Chicago

Legal Resources

Instead of hunting around on Google looking for these sites, just log on to

<http://mclawfirm.com/legal-resources>

Contact The Firm

8171 E Indian Bend Rd Suite 101, Scottsdale, AZ 85250

Ph: (480) 994-2000

Fax: (480) 994-2008

Monday – Friday 8:30 a.m. – 5:00 p.m.

Margrave Celmins, P.C.

Our Privacy Policy

We recognize the importance of our clients' trust, and keeping our clients' information confidential is a high priority. We do not disclose any personal information about our clients. Lawyers have been and continue to be bound by professional standards of confidentiality. We will never share, sell or rent individual personal information with anyone. Information submitted to us is only available to employees managing this information for purposes of contacting you or sending you emails based on your request for information, and to contracted service providers relating to our communications with you. You may unsubscribe if you no longer wish to receive our newsletter.

About Our Law Firm

Margrave Celmins is a member of LawPact[®], which is an association of independent, business-oriented law firms in the U.S. and overseas. Currently, there are **50 member firms**. This is a terrific resource for clients who have legal matters in other states and abroad. There are **32 states and 24 countries** represented by member firms throughout Canada, Mexico, Central and South America, as well as Europe and India.

DISCLAIMER

This newsletter is for informational purposes only. Legal advice is provided only through a formal, written attorney/client relationship agreement.

This email was sent to *|EMAIL|*
why did I get this? [unsubscribe from this list](#) [update subscription preferences](#)
|LIST:ADDRESSLINE|

|REWARDS|