COOPER-GORDON LLP
Spring 2014 Newsletter

Frieda Gordon,Esq.*
(310) 829-7220 (T)
(310) 829-2490 (F)
friedag@cooper-gordon.com

Avery M. Cooper, Esq.*±
(310) 829-9918 (T)
(310) 828-6371 (F)
averyc@cooper-gordon.com

Katherine Su O'Connor, Esq.
katherineo@cooper-gordon.com

Yana Rozovskaya, Paralegal
yanar@cooper-gordon.com

Drorit Bick Raiter, Esq.
droritr@cooper-gordon.com

Christine Donald, Legal Assistant
christined@cooper-gordon.com

Erin Louria Zivic, Esq.
erinz@cooper-gordon.com

Alison Freebairn-Smith, Financial Assistant
alisonf@cooper-gordon.com

2530 Wilshire Blvd., 3rd Flr. Santa Monica, CA 90403

*Certified Family Law Specialists Certified by the California State Bar Board of Legal Specialization

± Licensed to practice law in the State of New York

Welcome. Five months have passed since we published the last Newsletter. Spring is finally here in Southern California. Actually, we seem to have gone from winter to summer, without spring in between; but we are used to being so busy that time passes very quickly. We hope everyone is enjoying the beautiful weather and that we all can look forward to a summer of peace, prosperity and pleasure.

This past winter, a couple of the attorneys at Cooper-Gordon LLP have been out on maternity leave, having given birth, to Katherine O'Connor, a boy, John, and to Erin Louria Zivic, a girl, Eva. While they are not regularly in the office, they are still actively working on their cases for Cooper-Gordon LLP.

Whether your case is complex or simple, a Cooper-Gordon LLP, each client and matter has the benefit of the Partners' combined sixty years of experience along with the associates' attention and cost-effectiveness.

In addition to their practice in Southern California, Cooper-Gordon LLP founding partners Avery and Frieda have been

operating a satellite office in the Central Coast of California. Avery and Frieda have been welcoming new clients from North of Paso Robles through all of San Luis Obispo and Santa Barbara County. Of course, the Southern California offices service people in all seven southern counties. If you wish to set up an appointment to meet one of the partners in a location near you, please contact them at 1-800-561-6322 to set up an initial consultation.

Christine Donald, our trusted and longest serving employee, continues to interface with new clients, assist the attorneys with their litigation and transactional practices and generally keeps the office running smoothly and efficiently. In addition to her busy work life, Christine spends a lot of her free time road cycling and continues to participate in charity cycling tours throughout the year and all over the State of California. We plan on celebrating her birthday in mid- June as her friend and grateful co-workers. She is planning a trip to visit with family in Scotland and England.

Yana Rozovskaya, our paralegal who works primarily for Frieda, continues to be a substantial asset to the firm, as she is the first contact with clients and potential clients, sets all of the appointments and prepares much of the forms, transmittals and other documents for the attorneys who handle Frieda's case load as well as for their own case loads. Recently, Yana traveled with her son to Montreal, Canada, for a wedding. When not busy assisting the attorneys at Cooper-Gordon, Yana enjoys yoga and running and taking her dogs, Tyson and Daisy to a local park near her house.

Avery, has been busy with various matters including estate planning, estate and trust administration and family law matters. He has several major multi-day family law trials set to go forward this Spring. Avery was also recently nominated to serve on the board of the Executive Committee of the Family Law Section of the Los Angeles County Bar Association and most recently has been appointed to serve as delegate from the Los Angeles Bar Association to the State Bar Conference of Delegates at the Conference being held in mid-September in San Diego, California.

Despite Avery's substantial caseload and additional commitments, he consistently assures that his clients' needs are met. Communication is key; and Avery strives to keep his clients informed regarding the status of their cases.

In his spare time, Avery enjoys spending time with his Yellow Labrador dog named Mickey, playing basketball, bicycle riding and collecting and consuming fine wines. He has also been busy with his book club and co-chairing a wine club. Additionally, he travels back and forth to his Central Coast home and office. A trip to Spain and Portugal

is planned for later this year. This autumn, Avery and Frieda are celebrating the marriage of Frieda's daughter outside of New York City, in the Hudson River Valley. They are very excited and happy for their daughter and for participating in a number of pre-nuptial events.

Avery has written an article about the pitfalls of modifying and amending wills and trusts, which is set forth below, as well as in our Articles section.

MODIFICATIONS AND AMENDMENTS TO TRUSTS AND WILLS

As an attorney who has been practicing in the area of Trusts and Estates for over 35 years, I find that one of the most commonplace disputes which leads to sometimes unnecessary litigation and is the source of numerous issues which cause so many problems is the self-caused act of modifying and amending Wills and Trusts.

Legally, Wills cannot be technically "amended" or revised. Rather, all changes made to a Will are accomplished via the preparation of what is customarily referred to as a "codicil." Codicils are written for the express purpose of modifying or making changes to an existing Will.

As is the case with Wills, in California, Codicils can be entirely handwritten or they may be typed up and witnessed. Legally, the signing of Wills requires at least two witnesses. By law, a typed up Will <u>must</u> be witnessed as well as signed by the testator (the person of whose Will it is). However, California Law also provides for Wills to be written (instead of typed) entirely in the handwriting of the Testator. Such Wills are legally referred to as "Holographic" Wills.

Holographic Wills do not require witnesses. In order to be a valid, a holographic Will must be written on plain paper, it must be dated, it must be <u>entirely</u> in the handwriting of the Testator and it must be signed. As written above, holographic Wills do not require witnesses. In fact, the witnessing of such a will might in fact act to disqualify such a will as being "holographic."

The same holds true for a Holographic Codicil. Like Wills, Holographic Codicils must satisfy the same standards but should not be witnessed. On the other hand, if a Codicil is typed up, then witnesses will once again (as is the case with Wills), be required.

Problems arise when instead of preparing and executing a Codicil (Holographic or typed) a Testator attempts to make changes on their existing Will through cross outs, handwritten interlineations and so on.

These "changes" to the Will create problems for numerous reasons. Often times, the changes (while legible to the person who made them) are confusing to later readers. There are also questions as to exactly "who" made those changes and when they were made. Sometimes, Testators attempt to "date" the changes or initial them. Attempting to amend a Will in this manner is obviously very dangerous. It creates conflicts within the Will and many times the changes are confusing and cannot be understood or even read. Most importantly, sometimes the changes will dramatically affect the original intent of the Testator. Thus, it obviously makes sense to see a lawyer before attempting to make any changes to a Will or Codicil.

The situation is the same with respect to Trusts. However, unlike in the case with Wills, Trusts are changed by "amendment." There is no such thing as a "Codicil" to a Trust. Thus, when Trusts are amended, they are amended through a first, second or third, etc., amendment. As is the case with Wills, amendments to Trusts can also be handwritten. Unlike the case with Wills, however, Trusts do not need to be witnessed. However, customarily, Trusts are executed before a Notary Public in order to ensure that the person who actually executed the Trust (or any amendment to the Trust) is in fact the person who created the document in the first place. Persons who execute amendments to their Trust (or original Trust documents) who do not have their signing notarized jeopardize the efficacy of the document and open the document to questioning from a skeptical omitted beneficiary as to whether or not the amendment was actually signed by the creator of the Trust (commonly referred to either as a "Trustor" or as a "Settlor").

When Trusts are amended, the writer of the amendment usually chooses between creating a simple amendment to the Trust or "restating" the Trust. An Amendment format is usually used when there is only a minor change to the Trust. By way of example, the changing of the originally named "successor Trustee" from one person to another person or a minor change in one of the bequests would utilize and require a simple amendment.

Problems arise, however, when amendments become too "long" or too many in number. For example, it often becomes quite difficult to actually read a Trust when there are five or six amendments to it. These amendments will require the reader to go back to each of the prior versions and try to integrate them all in order to make sense of what the fifth or sixth amendment actually means.

In those types of cases (when there are multiple amendments) or, where the amendments are complex, it only makes sense to "re-state" the Trust by ostensibly creating a new Trust, but not terminating the entity, thus superseding the earlier versions of the Trust as well as earlier amendments and consolidating all of them into one document known as a "First Restatement of Trust". In this manner, one need not worry about assets from the original Trust being taken out of trust by operation of law and then having to affirmatively change title of all the assets to be in the name of the Trustee of the new trust. It remains the same trust, as restated on a new date.

In summary, therefore, when making amendments to a Trust instead of interlineating those changes or doing them on a "self-help" basis, it is best to seek an attorney in order to ensure that the changes that are being made are truly what the writer wishes to accomplish and in order to ensure that the Trust, Will and or any of its amendments or codicils will eventually be enforced and followed.

We here at Cooper-Gordon are available to assist you with any amendments, restatements or codicils that you would like to make.

Frieda has been busy managing the firm as well as her own her case load.

She was honored in December at the annual Holiday Party and received the Sterling Award for Outstanding Service to the Organization of the Association of Certified Family Law Specialists. She was a board member for 22 years, holding several executive positions, and is a past president. She created their illustrious newsletter and website and introduced and argued for or against legislation as well as drafted and argued a number of Amicus Briefs before the California Supreme Court and Court of Appeal.

When it comes to work-life balance, Managing and Founding Partner, Frieda Gordon, keeps long hours, but also find the time to meet her personal needs, including spending time with her family and maintaining an active lifestyle. This balance gives her and the other attorneys

an opportunity to recharge and be at their best when it comes to taking care of their clients.

In her spare time, Frieda shares most of Avery's extracurricular pursuits. In addition, she enjoys playing with her 6 and a half year old granddaughter, caring for her 90 year old mother and spending time with her two lovely and talented daughters. Frieda also enjoys gardening, yoga, knitting, studying languages and photography and playing and listening to classical music. Most of all, she enjoys hiking along the Central Coast of California with her dog Mickey.

Frieda and Avery recently hosted an engagement party for Frieda's daughter Julie at Il Cielo in Beverly Hills. It was a wonderful event, especially for those guests who will be unable to travel to the wedding venue in Upstate New York next Autumn.

Frieda has authored an article on Alternative Dispute Resolution, which is separately published under the Articles section of this web site as well as set forth below.

Alternative Dispute Resolution – the Good, the Bad and the Ugly

Many people come to us claiming to want to avoid Court, avoid the high legal costs and emotional expense of the trial experience and utilize ADR, or Alternative Dispute Resolution, to resolve the issues and their case. Many types of cases can properly utilize mediation or arbitration to resolve their issues without a court trial. Family Law and Probate are, in particular, commonly areas of the law in which ADR may be the best method of resolving the issues, especially, since the court system has been so severely curtailed due to the economic problems plaguing the court system in the state.

However, what people tend to forget is that the reasons that brought you to the point of disagreement, are often the reasons that will keep you from resolving your matter easily with an impartial third party, especially if you choose to be unrepresented in such proceeding. Very often the parties are not of equal stature in one sense or another. One might be better able financially to make decision without regard or with little regard to cost. Sometimes the parties are of different

educational backgrounds or expertise in certain important areas. Sometimes, there is great conflict over control over the children or control over the assets. Sometimes, there is domestic violence involved. Sometimes the fighting between siblings or intergenerational disputes are so seriously out of control that the use of a mediator who knows little about those particular problems and cannot advocate for any side, is not only useless, but damaging, both to the spirit and the financial purses of those involved.

It is hard for an attorney who is experienced in mediation, collaborative law and arbitration to advise the client that ADR may not be right for them. This is not just because the attorney may not wish to seem to be advocating vigorously for a forum that would force the parties to litigate to the hilt in an attempt to earn more money from such representation. On the contrary, it is much better for an attorney to have a satisfied client and earn less money knowing that he will be paid than to have a huge bill that the client cannot or will not pay and for which the attorney cannot go after. So, therefore it is in the attorney's best interest to look for the best way to resolve the matter that is the most cost effective and will be the most satisfying to all Parties, because satisfied clients will refer other business and will pay their bill.

Given the above rationale, I want to reiterate that only in rare circumstances is it necessary or important that the Parties attempt mediation rather than simply hire a good lawyer with good negotiating skills who is also trained as a mediator and in collaborative law, who can move the case forward and understand the workings of the court, as well as give legal advice and keep the matter on course towards settlement rather than litigation. If you have interest in looking at the different ways that your matter can be concluded most reasonably, please come in for an initial consultation and we will discuss all options with you once we understand what the circumstances are. We look forward to serving you in the near future.

Additionally, Frieda has recently authored an article on the little-known frustrations and complexities of being Trustee of a relative's trust, set forth below as well as in the Articles Section of our web site.

The Perils and Frustrations of Making an Adult Child a Successor Trustee of Your Trust

Often our clients in the process of preparing their estate plan determine that the best person to carry out their wishes as Trustee of their Trust and Executor of their Will is an adult child of theirs. It seems like a reasonable determination, but often leads to problems once the Testator is deceased. Very often it is much more difficult for the Successor Trustee to handle the tasks, understand the rules and follow through with the fiduciary obligations of a Trustee, than it was for the original Trustee, who only had to continue with his or her life as they had before without accounting to anyone for their actions or failure to act. Thus, when it comes time to being a fiduciary for all of the beneficiaries of the Trust, once the Settlor has passed, the situation can become grim and overwhelming.

Even in a relatively small estate, certain actions are required of a Successor Trustee, such as providing Notice to all the heirs and beneficiaries of the Trust, giving Notice of death of the original Trustee, or a joint tenant and providing the Government with the required statutory notices, as well as and providing the proper bookkeeping and Accountings required of a Successor Trustee. Often, it is unclear as to what needs to be done if certain assets have not actually been transferred to the Trust and if certain Beneficiary Designations have not been changed to accommodate the wishes of the decedent upon completion of the estate plan.

Managing brokerage accounts and understanding how to distribute funds to beneficiaries whether human or otherwise can also be difficult and confusing. Selling real property and making sure the property is properly in the Trust and the proper notices have been recorded can also be complicated and extremely time consuming. Therefore, often times, professional help is necessary, if not preferred. Very commonly, this new Successor Trustee thinks that he or she can handle the affairs of their mother or father's Trust without the need to involve an attorney, which they perceive as being an unnecessary expense. However, rather than it being an unnecessary expense, doing the right thing in the first place will most often save the Trust money and save the relatives and other beneficiaries the aggravation and anxiety of wondering whether their beneficial interests in the Trust assets are being properly looked after.

Having spent many years advocating for the rights of such beneficiaries, it seems clear to me that it is only a foolish Trustee who does not look for an advice of a probate attorney

and a financial advisor and/or accountant, who are equally versed in the tax laws pertinent to probate and estate matters. Certainly, when presented with your new role as Successor Trustee, it would be prudent and most beneficial to, at the very least, make an appointment with a probate specialist, whether an attorney, accountant and/or financial advisor, to go over what needs to be done for that particular estate and what the potential cost would be to the Trust estate. Should you be interested in discussing such issues with one of the member of Cooper-Gordon, please contact us for an initial consultation.

Our Senior Associate, Katherine Su O'Connor, is now taking care of her 5 month old baby boy John. She tries to find the time to spend some quality time with her French Bulldogs, Sarge and Lola. Every free moment not working for Cooper-Gordon LLP, she is spending time with her family. Next Fall she plans to travel with her husband Brian and little John to Massachusetts and Upstate New York to allow their relatives to meet the little one. She continues to stay active as well, running her first half-marathon this Spring since the birth of her son John.

Katherine has been busy assisting the partners with the preparation of a number of estate plans, preparing with the partners for trial, and preparing petitions, motions and other pleadings in our various cases. Look for her newest article in our next newsletter.

When not working on dissolution of marriage or probate cases, our associate Drorit Bick Raiter has been very busy with her 2 year old son Naveh and her husband Shay. This past Spring she and her family went to Israel to spend time with family over the Passover holiday. They had a wonderful time traveling throughout northern Israel and were thrilled to have Naveh spend some quality time with his Israeli relatives. Shay and Drorit are expecting their second child, a boy, in early October.

Dro has writing a very interesting article set forth below as well as in our Articles Section.

FIVE TIPS FOR GETTING THROUGH A DIVORCE

1. Attend Therapy. Divorce is an emotional time and it is not easy to make important decisions about one's family and assets while embroiled in emotional pain. Often, clients seek emotional support from their divorce attorney, who bill them at a rate much higher than a therapist would cost. See a therapist to deal with the emotional issues and allow your divorce attorney to counsel you through the important financial and family decisions which will affect the rest of your life.

2. Prioritize. Decide what issues are most important to you and compromise on the rest. Every issue that you cannot agree on with your spouse comes at a cost to resolve.

3. Be Honest. Be honest with your lawyer. If you cannot trust them with the true details of your home and financial life, find a new attorney. Often, the facts you are most concerned with revealing do not end up making or breaking your case. And if it is something that needs to be dealt with, better to face it right away.

4. Keep it short. The longer your divorce continues without resolution the more expensive it will be. Likewise, writing long rambling letters and emails to your attorney regarding every issue you are dealing with and everything you can think of that is wrong with your spouse or significant other is not an efficient way to resolve your case.

5. Be Ready to Change Your Lifestyle. A lot of clients expect to maintain their standard of living even though they are dividing their household into two. Begin to reimagine and reinvent your life considering the realities of your situation. For assistance, see tip #1.

The Founding Partners of Cooper-Gordon LLP have over sixty years of combined experience in family law matters including dissolutions as well as post-Judgment issues and routinely encounter issues such as raised herein. If you have questions regarding your matter, contact them today to receive a discounted initial consultation.

If you have questions or comments about any of the news provided here or about anything related to family law and/or probate and estates, please send us an email, call or blog us and we will respond right back. As always, it is a pleasure to serve our community.