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ASSET PROTECTION
Using Trusts in New York

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David J. DePinto practices in the areas of trusts, estate planning, asset protection, charitable entities, business and succession planning for closely held businesses, estate and gift taxation, income taxation, elder law, guardianship, probate and administration of trusts and estates, estate litigation and also provides representation to Guardians, Trustees and other fiduciaries.

Mr. DePinto received his LLM Master of Laws degree from NYU Law School, his JD degree from Brooklyn Law School and his Master of Science degree in Taxation, with academic honors, from Long Island University CW Post and his BBA degree from Hofstra University. He is a NYS Certified Public Accountant (CPA) and a (CELA) Certified Elder Lawyer certified by the National Elder Law Foundation as accredited by the American BAR Association. He is the recipient of the Edith Blum Foundation Award for Excellence in Taxation and the professor's Award for Academic Achievement in Taxation. He was recently named to the 2013-2019 list of Super Lawyers®.

He was an adjunct professor in the Masters Program at Long Island University. He has spoken for the New York State BAR Association on complex trust and Estate Planning topics and regularly lectures before the Nassau and Suffolk BAR Association centers for continuing Legal Education, and their committees and sub committees. He is frequently asked to speak on trust topics for (NBI) the National Business Institute and other providers of legal education. He was technical editor for the publication "Fundamentals of Trust Accounting Income and Principal under the Revised NYS Laws" (ABA Publication 2013). Known in the community for his expertise on trusts and related matters, he acts as counsel to many large and small law firms, providing advice and guidance in his areas of concentration.

Asset Protection Using Trusts in New York

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Who are we protecting assets from? Spouses and divorce, medical costs, debt, personal guarantees, indemnity, bankruptcy, bonding, paternity, support obligations, collection agencies, Federal and State government agencies, clawbacks, liability, uninsured acts, accidents, negligence, malpractice, dram shop, vicarious liability, sexual harassment, discrimination, slander, libel, torts etc.

When it gets boiled down to its essential elements all threats to a person's assets are either:

A. Creditor with a Judgement – Lawsuit, Spouse, Lender
B. Trustee in Bankruptcy – Debtor seeks discharge
C. Tax Warrant – IRS, or other Government Agency

Pure Discretion Trusts – Trustee has complete and absolute discretion to distribute the trust assets or not to make a distribution at all. They can exclude any other beneficiary to favor another.

In NY a beneficiary has <u>no property rights</u> in a pure discretion trust because the beneficiary has no right to compel the trustee to make any distributions to them. A creditor cannot demand the trustee to make payment from a discretionary trust because a creditor has the same rights that the beneficiary has. A creditor can only institute a proceeding to satisfy a judgment against the beneficiary once the trustee makes a distribution to the beneficiary.

Statute: CPLR §5205(c) – in general, all trust property held in a trust created by someone other than the beneficiary is beyond the reach of the beneficiary's creditors.

Case Law: "when there is a discretionary trust, the law is clear that a creditor of a beneficiary who is not the settlor, cannot compel the trustee to pay any part of the income or principal to the beneficiary." *Vanderbilt Credit Corp. v. Chase Manhattan Bank* 100 Ad 2d. 544 (1984) and Hamilton v. Drogo, 241 NY 401 (1926)

Use the terms "sole, unfettered, non-reviewable and absolute" when drafting the trustee's powers to pay or withhold distributions in a pure discretion trust. *In re Ledyard's Estate*, 21 N.Y.S.2d 860 (1939).

Self-Settled trusts – Everyone asks can I protect my assets by putting them in a trust for myself with me as the trustee and the beneficiary too?

NY Rule – generally the answer is no - but that depends on your lawyer's knowledge, expertise and skills

EPTL 7-3.1 is clear – "A disposition in trust for the use of the creator is void against the existing or subsequent creditors of the creator"

This has been the law and public policy of NYS since the late 1700's which was promulgated at a time when unpaid debt was shameful and creditors rights were strictly enforced – recall debtors prison. At least 21 other states have moved away from this archaic principle and allow self-settled trusts to protect assets of the creator.

Spendthrift Clauses - A clause that prevents a trust beneficiary from assigning, pledging or transferring their interest in a trust to a third party. Use them in all trusts[1] because trust principal may be freely assigned unless prohibited by the terms of the trust. *Matter of Vought,* 25 NY 2d 163 (1969)

Case Law: *Vanderbilt Credit Corp. v. Chase Manhattan Bank* 100 Ad 2d. 544 (1984)

Facts – G created an irrevocable trust under NY law and named her brother as trustee. The trust terms stated that the trustee was to pay the income to G and T had pure discretion to invade principal for G's benefit. After trust was funded G's creditor attempted to enforce a judgment and brought an action to attach the trust

[1] Omit the spendthrift clause in a GRAT if the intention is sell the remainder interest to a trust in order to avoid an ETIP period for allocating GST tax.

assets to satisfy the debt. The court cited EPTL §7-3.1 holding that both the income and the principal were available to the creditor.

Creditor gets what beneficiary gets rule - The Court in Vanderbilt noted that when a person creates a trust for his own benefit, the creditors can reach the maximum amount which the trustee <u>could have</u> paid to the beneficiary. This is true even though the trustee has pure discretion to pay principal and no previous course of conduct of trust distributions were necessary.

Trust Income and Creditors Rights:

Mandatory income in a third party trust – e.g. the trustee **shall** pay to the beneficiary all of the net income. This cannot be attached by creditors because under EPTL§7-1.5(a) an income interest cannot be assigned to a creditor of the beneficiary.

2 exceptions:

1. CPLR §5205(d) – 10% of income can be attached by Judgment because it's mandatory and not discretionary
2. Support Obligation - EPTL §7-1.5(d) for anyone the beneficiary is legally obligated to support.

Discretionary interests to income – e.g. The trustee **may** pay to the beneficiary all of the net income. Unlike a principal interest an income interest in trust cannot be assigned or transferred unless the trust actually allows it. CPLR §5205(c).

Income interest retained by Grantor in a self-settled trust is not protected – EPTL§7-3.1 - e.g. G gifts her building into trust for her issue and retains the right to keep the rental income. Example would be a GRAT for estate tax planning. The annuity interest retained by G is fully available to G's creditors as it was before the trust was created.

Using the words "may" or "shall" are irrelevant in a self-settled retained income trust like a Medicaid trust. The income is budgeted for NAMI regardless of the trustee's discretion to pay or not to pay.

Make sure you have a clause to accumulate any undistributed income to principal if it's a discretionary income interest since any amounts above support and maintenance will be deemed available for creditors without it.

Asset Protection rules applied the most commonly used Trusts:

Revocable Trusts – To Avoid Probate – Settlor is the beneficiary of both income and principal

No creditor Protection – Why:

1. It is a Self-Settled Trust - EPTL §7-3.1
2. EPTL §10-6.6 – says so
3. What the beneficiary can get, so can the creditor

Irrevocable Self-Settled Trust – Pure discretion to pay principal in an unrelated trustee - G creates trust for the benefit of himself and children and names an independent trustee to decide in their sole discretion who gets the trust distributions.

No Creditor Protection – Why:

1. It is a Self-Settled Trust - EPTL §7-3.1
2. *Vanderbilt Credit Corp. v. Chase Manhattan Bank* 100 Ad 2d. 544 (1984)

Income Only Medicaid Trust – To start the 5-year lookback period for Medicaid; Protect Home and other non-exempt assets from the costs of long-term care and chronic illness.

Partial Creditor Protection – Why:

1. It is a self-settled Trust income only to Grantor so no protection as to trust income - EPTL §7-3.1
2. It is protected as to principal for obtaining government benefits (5-year Medicaid and 3 years VA)
3. Principal is protected with regard to creditors of the Grantors because the children are the beneficiaries so it is not self-settled with regard to principal. It is, of course subject to fraudulent transfer's statute for known or foreseeable creditors under the DCL §276.

Is the Medicaid trust principal safe from the children's creditors during the parent lifetimes? I have seen divorces, bankruptcy and creditors seek to make claims against children of clients who have set up Medicaid trusts. The trust assets are generally protected from the child's creditors but there are a few exceptions you must be aware of when drafting:

1. **Child as sole trustee of Medicaid Trust** – Because Medicaid trusts are typically created by a parent for the benefit of a child (or children) I see many trusts that name a single child as sole trustee with discretion to pay trust principal to themselves as a beneficiary. This structure typically creates a general power of appointment in the trustee/beneficiary child with regard to the entire principal and under NY law this makes all the trust assets subject to the claims of the power holder's creditors. EPTL§10-7.2.

What to do:

- Limit to HEMS – EPTL §10-10-1 and EPTL §10-7.2 exceptions where a power that is exercisable solely for the trustee/beneficiary's support, maintenance, health and education is not subject to claims of the beneficiary's creditors as long as it stays in the trust - but this locks up the bulk of the principal in the trust until the parent's deaths. It also allows the creditor to seek court relief to compel the support and maintenance distributions if the trustee/beneficiary refuses to do so.
- Add a co-trustee – or make provision for a co-trustee to be added in order to make distributions to a trustee who is also a trust beneficiary.

- Refer specifically to EPTL §10-10-1 and carve out the means by which you wish the trustee/beneficary to act when distributions are to be made.

Bankruptcy of Child Beneficiary – What if a child who is a beneficiary of a Medicaid trust claims bankruptcy while the parents (Grantors) are alive? I have had this occur more than one occasion. They all either settled or the bankruptcy trustee did not pursue the trust. However, in one matter that involved a Medicaid trust that I drafted that held a few million dollars of real property resulted in a decision by U.S. Bankruptcy Judge Alan Trust was rendered regarding the beneficiary's interest that did not vest until death and was subject to a limited power of appointment by the mother. Judge Trust cites the bankruptcy law 11 U.S.C. §541(a)(1)as it applies to such interests in trust and the analysis seems quite unsettling. The remainder interest in the child was considered a future estate and deemed part the bankruptcy estate. The court cited *In Re Colsih, 289 B.R. 523, 539 (Bankr. E.D.N.Y. 2002)* noting that a contingent remainder interest in a trust constitutes property of the bankruptcy estate. *In re Collins*, No. 8-15-70892-AST, 2018 WL 878877 (Bankr. E.D.N.Y. Jan. 8, 2018). The case settled based on the fact that the mother still had the power of appointment and was planning on exercising it.

QTIP/Marital Trust – For second and later marriages to protect assets for children of first marriage. Sole beneficiary is spouse and income is mandatory paid out to spouse at least annually – IRC § 2056(b)(5)

Bifurcated creditor Protection – Why:

1. Yes to Principal - It is a third party trust – CPLR§5205(c) and Vanderbilt
2. 90% as to income - EPTL §7-1.5(a) Income interest can't be assigned but CPLR §5205(d) – 10% of income can be attached by Judgment because it's not discretionary

Child trust under a will – 25/30/35 staggered distributions. Discretionary income and principal.

Full Creditor Protection – Why:

1. Principal prior to force out ages - It is a third party trust – CPLR§5205(c) and Vanderbilt
2. Discretionary income - EPTL §7-1.5(a) Income interest can't be assigned

Consider using a holdback clause in all staggered trusts that states that the trustee has discretion to withhold any required distribution if there is reason to do so at such time.

First Party Supplemental Needs Trust – to protect a disabled persons own funds from being a disqualified resource for Medicaid and SSI. (typically lawsuit proceeds or an inheritance).

Partial Creditor Protection – Why:

1. It is a Self-Settled Trust income only to Grantor so no protection from ordinary creditors of the grantor - EPTL §7-3.1
2. It is protected as to principal and income for obtaining government benefits under federal and state law. (CFR §1096(p)(D)(4)(a) and EPTL §7-1.12)

Third Party Supplemental Needs Trust – to protect assets passing by gift or inheritance to a disabled person from being a disqualifying resource for Medicaid and SSI.

Full Creditor Protection – Why:

1. Restrictive terms and fully discretionary as to both income and principal by its nature.
2. It is protected as to principal and income for obtaining government benefits Matter of Escher[2]; EPTL §7-1.12)

[22] 94 Misc. 2d. 952 (Surr.Ct. Bronx Co., 1978): aff'd 75 AD 2d 531 (1^{st} Dept., 1980; aff'd 52 NY 2d 1006 (1981).

3. Must be a testamentary (only created in a will) SNT if created for the benefit of a spouse. Cannot be created at death of the first spouse in a living trust or it will not be protected and will be an available resource for Medicaid.

Exception and Super creditors

Internal Revenue Service: The IRS has very broad powers to collect tax debts but it is not unlimited. The IRS cannot attach a lien to a pure discretionary trust if the taxpayer does not have a property interest in the trust under state law. That also doesn't mean that they won't try. In *CCM 200614006* the IRS went after a spendthrift trust and concluded that the Service amy levy against a spendthrift trust against a taxpayer who has a vested future interest in established portions of the trust principal.

However, I have seen very little enforcement by the IRS against a third party discretionary trust that has a delinquent taxpayer as a beneficiary but it does happen.

IRS and HEMS trusts – If there is support language in the trust the IRS can clearly levy the trust assets. This is true whether it be mandatory or discretionary HEMS, because an identifiable property right exists in the trust and as such the IRS can attach a Federal tax lien to. *Magavern v United States*[3] and *TAM 0017665*.

Furthermore, the IRS can reach a trust with a HEMS clause because taxes are considered support. *US vs. Taylor*[4].

[3] F 2d 797 (2d Cir.), Cert denied, 434 US 826 (1977)
[4] 254 F. Supp. 752 (N.D. Cal., 1986).

Child and Spousal Support Obligations – New Yok law requires that income of a divorcing spouse be taken into account for determining spousal maintenance and child support[5]. That includes income from trust of which a spouse is a beneficiary even if that trust was established by a third party[6] Income from a pure discretion trust can be imputed to a spouse if there has been a pattern of practice of income distributions in the past. However, contingent future interests in trust principal should not be considered for setting maintenance or support.

Levies and Judgments of Support under CPLR §5241 are enforceable against a trustee for a matrimonial or child support debtor in default with a trust income interest and that amount will exceed 10% - an execution generally of 50%-60% may be served upon the trustee. These provisions seem to only apply to income and not to pure discretionary trust principal.

Protecting the Residence from Creditors using trusts

The bankruptcy code has a homestead exemption in New York for equity up to $170,825 for Nassau, Suffolk, New York, Kings, Queens, Bronx, and Richmond (other counties have different amounts). Husband and wife may double that amount under CPLR 5206(a). After that, the home is subject to attachment if owned and titled other than tenants by the entirety.

The challenge with putting a personal residence in an irrevocable trust is the trust is always considered self-settled unless the intent is to not reside there. I have been using Qualified Personal Residence Trusts (QPRTs) for decades as an asset protection vehicle but never had any formal authority that they would withstand a claim by a creditor. In 2012, the case of *In re Yerushalmi*[7] finally gave the support that was needed to back up this powerful tool to protect personal residences in New York.

[5] NYDRL §240
[6] Alvares-Correa v. Alvaes-Correa, 285 A.D.2D 123 (App. Div. First Department, 2001)
[7] 2012 WL 5839938 (Bkrtcy. E.D.N.Y., Slip Copy, Nov 19, 2012)

Facts and analysis[8]:

"In 1995, Husband (our Debtor) and Wife funded a QPRT with their residence. The QPRT had a term of 23 years. Husband and Wife were the Trustees of the QPRT, but not the beneficiaries -- the beneficiaries were their children, including a son with special needs.

The Court was unfamiliar with QPRTs, but described the form of trust this way:

> It is this Court's understanding that an individual—a grantor—might transfer real property to a QPRT in order to reduce the size of their taxable estate. ** * If structured properly, the QPRT will freeze the value of the grantor's residence at the time he or she creates the trust and result in estate tax savings if the property increases in value. During the term of the QPRT, the grantor retains the exclusive rent-free use, possession and enjoyment of the residence and pays all ordinary and recurring expenses such as real estate taxes, insurance and minor repairs. At the expiration of the trust term the grantor must relinquish possession of the residence or pay rent to the trust.
>
> In order to realize the tax benefits of the QPRT, the grantor must outlive the term of the trust. If the grantor dies before the trust term expires, the value of the property at the date of death will be included in the grantor's estate and be subject to estate taxes. If the grantor outlives the term of the trust, the property passes to the beneficiary, in this case the . . . Family Trust, at the end of the term. At that point, the grantor may lease the residence back from the beneficiary at fair market rent, thereby allowing the grantor to continue living in the house.

In 1998, Husband became embroiled in a partnership dispute with one of his law partners, which resulted in litigation lasting over a decade. Thirteen unlucky years later, in 2011, after an appeal and a remand to re-calculate damages, an enforceable judgment for $600,000 was finally entered against Husband in the partnership dispute.

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[8] Asset Protection Newsletter #219 (January 29, 2013) at http://Leimbergservices.com

Husband's bad luck got worse. In 2002, he and his Wife divorced. The following year, Husband was ordered to pay all the expenses of the residence including mortgage payments, taxes, utilities, insurance and the like.

And worse. In 2007, Husband filed for bankruptcy, and listed the residence on his bankruptcy schedules as having a value of $5.2 million with an outstanding mortgage of $407,000.

And worse. The Bankruptcy Trustee filed an adversary action against Husband and Wife in 2009, against Husband individually and against both Husband and Wife as Trustees of the QPRT. This action sought to unwind, as a fraudulent transfer, both the original conveyance of the residence to the QPRT and Husband's subsequent payments of the numerous expenses of the property.

The Statute of Limitations for a fraudulent transfer action having long since run, the Husband filed a motion to dismiss those claims. Smelling inevitable defeat, the Trustee withdrew the fraudulent transfer claims entirely.

As so frequently happens in post-judgment enforcement litigation, if one thing doesn't work for the creditor, the creditor just tries something else. Thus, the Trustee amended his Complaint to seek a declaratory judgment that the QPRT was the alter ego of the Husband and therefore the assets of the QPRT were property of the Bankruptcy Estate.

The Bankruptcy Trustee's alter ego claim was based on these allegations:

- the Debtor controlled and dominated all aspects of the QPRT' since its creation;
- the real property owned by the QPRT was purchased with the Debtor's own funds;
- the QPRT never established its own checking account;
- the QPRT did not maintain books and records;
- the Debtor's wife, . . . acted at all times as the nominee of the Debtor with respect to the QPRT;

- the Debtor used his control of the [QPRT] to conceal his assets and to engage in fraudulent conveyances to shield funds from the reach of his creditors

Husband moved to dismiss the alter ego claim on the grounds that the Bankruptcy Trustee lacked standing to bring such a claim, but for technical reasons related to the Bankruptcy Code that are not germane to our discussion here, the Court rejected that defense and held that the Trustee did indeed have standing to pursue the alter ego.

Husband also moved to dismiss the alter ego claim by arguing that the Statute of Limitations had long run on the alter ego claim. But the Court correctly pointed out that there effectively is no Statute of Limitations for the property of the bankruptcy estate to be marshaled by the Bankruptcy Trustee, and thus rejected that defense as well.

That takes us to the merits of the alter ego action.

The Court noted that under New York law "estate planning trusts generally are susceptible to attack if used for a fraudulent purpose." However, the Court refused to find such a fraudulent purpose as to this QPRT:

> The facts of this case do not show that this Debtor exercised complete domination over the trust, or even if he did, that he used that domination to commit a fraud or wrong.

The important facts, in the view of the Court, were that the residence:

> was transferred into the QPRT in 1996 at a time when the Debtor had significant assets and disposable income. * * * The Trustee has not presented the Court with evidence of any litigation or threatened litigation which may have prompted the Debtor to improperly shield his assets from creditors at the time the QPRT was formed.

The Bankruptcy Trust, however, had also argued that the Husband's actions after the QPRT was formed -- such as living in the house and paying expenses -- were evidence that the QPRT was simply Husband's alter ego. But the Court rejected this as well:

> While it is true the Debtor retained the use and enjoyment of the [] Residence after it was transferred to the QPRT and continued to pay all expenses associated with the [] Residence, those facts are consistent with the requirements of a valid QPRT. The grantor of a qualified personal residence trust retains the right to live at the residence rent free but has to pay all costs associated with the residence for the duration of the trust term—in this case until 2018.

And thus the Court concluded:

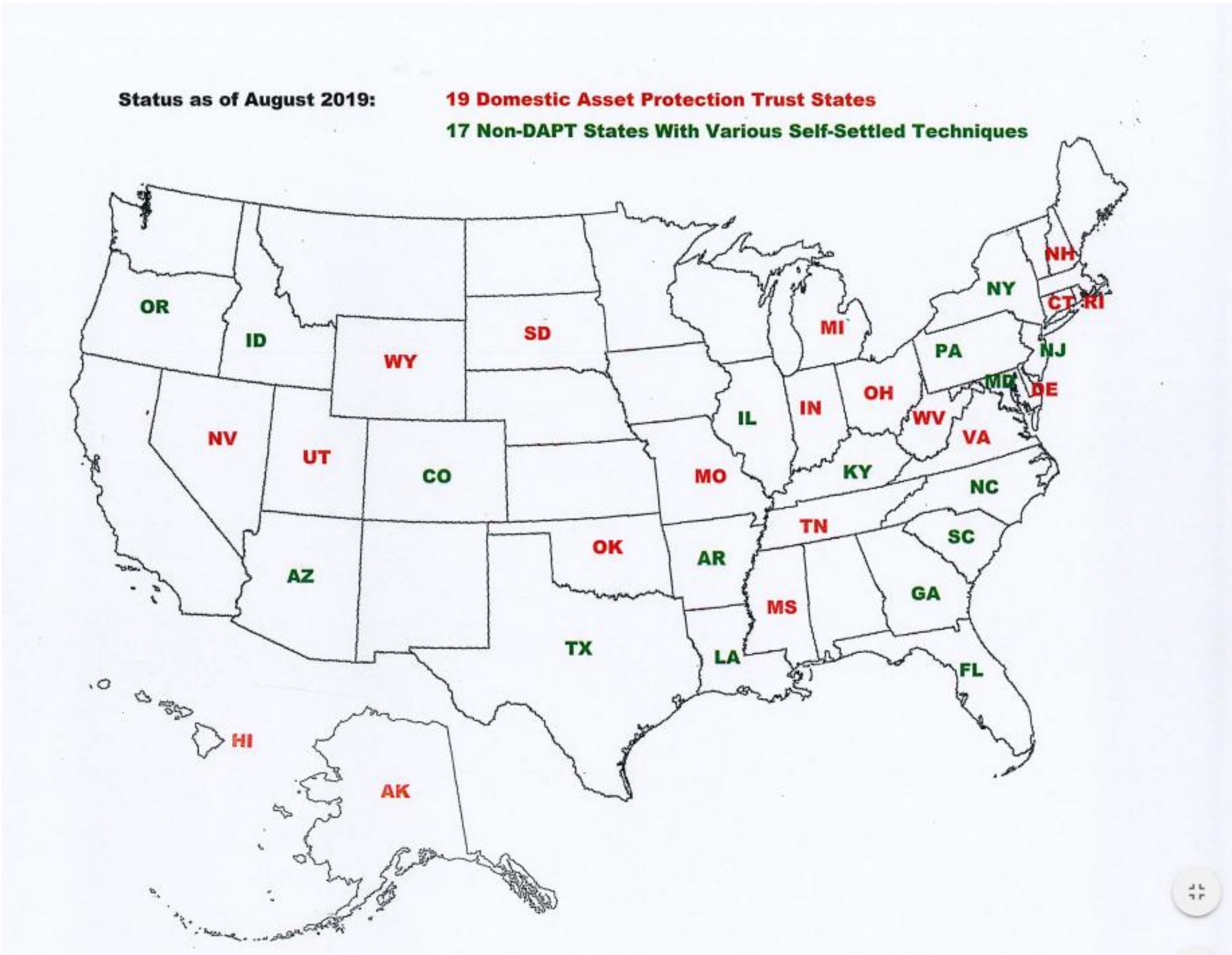
> Based on the undisputed facts, the Court finds the Debtor did not engage in any conduct or enter into any transaction that would be inconsistent with the QPRT's ownership of the property, and the Trustee has failed to prove that the Debtor exercised complete domination over the trust, or even if he did, that he used that domination to commit a fraud or wrong.

Upon that finding, the Court granted summary judgment against the Bankruptcy Trustee, and he lost and the QPRT stood up to his attack."

Even more serendipitous was that this was an Eastern District of NY case that governs the five counties of Richmond, Kings, Queens, Nassau and Suffolk.

Out of State Domestic Asset Protection Trusts (DAPT)

Currently about 19 states allow self-settled asset protection trusts with Indiana being the most recent which is effective as of July 1, 2019 and Connecticut enacted a statute effective January 1, 2020. New York is not among that group. In 1997 Alaska was the first state to enact this legislation with a 4-year fraudulent transfer statute, which was designed for its own residents. In 1999, Nevada passed §166 with only a 2-year statute and Delaware followed shortly after with a 4-year statute.



Drafting DAPT - remember the 3 F's – FFF

1. Formalities – Every state with DAPT has them in the statute

Nevada §166 has 4 stringent requirements:

- At least one trustee must be a Nevada resident – Grantor cannot be the trustee but can be an "investment" co-trustee.
- Trust must be in writing
- Trust must be Irrevocable
- Distributions must be discretionary to G

2. Flexibility – in it terms

- Use trust protectors to add, remove or change trustees,
- Use protectors to add and remove trust beneficiaries
- Use broad decanting trust to trust clauses
- Use merger and split off clauses
- Add change of situs clause
- Allow a toggle clause for grantor trusts to switch off
- Allow the trustee to amend administrative clauses
- Add an anti-duress clause

3. Flight –
   Allow the situs to be moved offshore in the case of an attack

Comparison of the two most popular DAPT state laws		
	SOL on Fraud	Exception Creditors
Delaware	4 years[9]	Alimony & Child Support[10]

[9] 12 Del. C. § 3572(b)
[10] 12 Del. C. § 3573(1)

Nevada	2 Years[11]	None – per statute

Control and the Out of State Trustee

Clients will always have fears and concerns about a corporate out of state trustee controlling their money. We suggest that an LLC be formed for investment purposes and funded with the assets. The DAPT will own the LLC interests and the grantor can be the sole LLC manager. The LLC should be organized in the same state as the trust unless it owns real property in NY then it must be organized in NYS. The trustee can be a directed or "situs" trustee to meet the in state trustee requirements of the statute.

[11] Nev. Rev. Stat. Ann. § 166.170(1)(a)(1)

Alternatives to self-settled DAPT

Now that the gift tax exemptions are $11.4mm ($22.8mm for couples) the use of an out of state SLAT for asset protection is a wise alternative. The grantor would not be a trust beneficiary so it would not be self-settled but it would be sitused in a state that has stronger protections for the grantor.

Consider a clause that defines spouse as anyone the grantor is married to at the time.

Also consider using a protector to add the grantor later on as a beneficiary. This usually done by defining in the trust potential persons to be beneficiaries as anyone related by blood or marriage to a current trust beneficiary.

Another option is to do an LLC with two trusts as owners; one a DAPT and the other a SLAT in varying percentages. In the case the self-settled trust is attacked the SLAT will remain unaffected. The out of state LLC will provide another layer of charging order protection

Note: QPRTs are sanctioned in the Nevada statute as an APT §166.040(f) and there is also a provision to allow the home to be taken out of the trust for financing and then transferred back in without creating a new SOL for fraud.

Three concerns with using DAPTS:

1. In 2005 the Bankruptcy act addressed this issue of proliferating APTs by enacting §548(e) that killed any hope of protecting assets from creditors in bankruptcy without an extremely old and cold trust.
2. Full Faith and Credit Clause of the US Constitution Article IV, §1. It a DAPT set up in another state violates the public policy of the resident state (like NY's 240-year-old policy of no self-settled trusts), it can be set aside for the non-domiciled grantor of the trust.
3. Which State law will apply – will the law of the DAPT apply to a non-domiciliary, nonresident grantor or will the fraudulent transfer statute of New York law apply?

Cases and Current Developments:

Dahl v Dahl – Utah honored choice of law and court kept the divorcing spouse from accessing any of the funds in the husbands Utah APT. Dahl v. Dahl, No. 2:11-CV-949-TC, 2013 WL 603785, at *1 (D. Utah Feb. 19, 2013), aff'd on other grounds sub nom. Dahl v. Charles F. Dahl, M.D., P.C. Defined Ben. Pension Tr., 744 F.3d 623 (10th Cir. 2014)

Klabacka V. Nelson – Nevada Supreme Court upheld a Nevada asset protection trust in a divorce case. At the lower court level one spouse attempted to access the others self settled trust for equitable division. They were both Nevada residents. *Klabacka v. Neslon, No 66772 (May 25, 2017).*

In the Matter of the Cleopatra Cameron Gift Trust – South Dakota appellate court denied the Full Faith and Credit to a California child support order asserted against the APT. The court determined that the remedies of the plaintiff in attacking the trust should be based on South Dakota law not California law. This case or other like it will soon be heading to the U.S. Supreme Court. Matter of Cleopatra Cameron Gift Tr., Dated May 26, 1998, 2019 S.D. 35, 931 N.W.2d 244