

BARNES LAW FIRM, P.A.
Attorneys at Law

Harris H. Barnes, III, J.D., LL.M.
S. Gray Edmondson, J.D., LL.M.
Lacey L. Bailey, J.D., LL.M.¹
James W. Janoush, J.D., LL.M.

OF COUNSEL:
Ronald A. Worley, J.D., LL.M.²

¹ Also Admitted in Tennessee and Georgia
² Admitted in California only

5 River Bend Place, Suite A
Flowood, MS 39232-7618
Telephone: (601) 981-6336
Facsimile: (601) 981-7075

Website: www.Barnes-lawfirm.com

Oxford, MS office:
405 South 11th St., Suite 104
Oxford, Mississippi 38655
Telephone: (662) 236-6226

Gulfport, MS office:
Hancock Bank
2510 14th Street
Suite 830
Gulfport, MS 39502
Telephone: (228) 868-0197

Southaven, MS office:
5740 Getwell Road
Bldg. 9, Suite C
Southaven, Mississippi 38672
Telephone: (662) 890-6560

September 9, 2013

HOW LONG DO YOU PLAN TO LIVE?

In a recent article appearing in the July *Trust and Estates Magazine*, the author postulated that America is getting older, and the older are even getting older. Do you plan on living to be 100? Of course, no one knows. We live until our bodies quit. Some of the questions you need to think about are:

- Am I going to have enough money to make it?
- In the event of my incapacity, who is going to manage my assets?
- If I don't have enough money to make it, what am I going to do?
- What provisions should I think of going forward?

Obviously, as we get older, the cost of caring for us increases. I have seen several articles that indicate that 80% of our lifetime medical expenses will occur in the last 20% of our lives. The problem is what if you want to stay home? What if you don't want to go into a "low end" nursing home for the rest of your life? The following are some things to consider:

1) *Medicare* - How is Medicare going to take care of you? With Obamacare, who knows? Thus, you need to be thinking about taking care of yourself.

2) *Social security* - Have you begun to draw on your social security? You are eligible to start at age 62. However, there is a significant decrease in what you will receive, as opposed to waiting to age 66. Once you reach age 66, are you then applying, or are you applying and suspending your benefits and allowing your spouse to receive benefits? If you run the numbers, it makes a significant difference between getting social security at age 62, and getting it at age 70 (around 30%).

3) *Long-term Care Insurance* - You may have already passed the stage to get it, or you may be uninsurable. However, you will never know until you apply. Many companies have quit writing long-term care insurance because they made such wonderful proposals that they could not earn enough money to take care of the costs, and with the population getting older and older, the costs continued to escalate. One benefit is that the long-term care premiums are deductible.

4) *Insurance Policies* - Have you got old insurance policies? Many companies will allow you to do a lifetime settlement, and to go ahead and receive some of your death benefit while you are alive, as opposed to having the beneficiaries receive it at death.

5) *Life Insurance and the terminally ill* - If you or someone that you love is terminally ill, there is also the provision for what is known as a viatical settlement. This is actually the sale of policies by the terminally or chronically ill to someone who buys them at a discount.

6) *Home equity* - If you have a considerable amount of equity in your home, you may want to consider a reverse mortgage. Individuals over the age of 62 may be able to borrow against the equity in a primary residence with no obligation to make any principal or income payments until the home is sold, or the individual dies. Obviously, the debt is limited to the value of the home, regardless of the fact that the value may be less than the debt at the time of death.

7) *Medicaid* - The problem with Medicaid is you almost have to be "broke" to qualify. This also means planning way in advance of when you are going to need Medicaid. The look back rule is now 60 months, and Medicaid will require assets that have been transferred within the 60 months to be consumed before they will provide you with Medicaid support.

8) *Durable Powers of Attorney* - What if you become incapacitated? What if your mind does not follow your body into your 80's, 90's, or 100's? Typically, we have used Durable Powers of Attorney to manage these person's assets. However, many financial institutions and real estate title companies are reluctant to give validity to a Durable Power of Attorney, and thus, we are left having to establish a Conservatorship. At a minimum, you should have a Durable Power of Attorney, for your financial purposes and a separate one for health purposes. You also should be sure that any in-house Power of Attorney forms with your financial institutions have been completed.

9) *Revocable Living Trust* - Financial institutions have been much more willing to accept orders from a successor trustee of a Revocable Living Trust than an agent under a Power of Attorney. Therefore, to avoid the conservatorship and having a Chancery Judge determine how your assets are to be both invested and spent, you should consider using a Revocable Living Trust. The Revocable Living Trust is nothing more than probate substitute, and acts like a Will, except that all of the assets are now owned by the Trust. Thus, to the extent that there is any administration necessary, it will be done by the Trustee, as opposed to a Chancery Judge. You can choose your own trustees from a close family member, or a professional management company, such as a trust company, etc.

All of this takes planning in advance. Once the event has happened, it's generally too late. Thus, if you are concerned about how you are going to handle your life going into your 60's, 70's, 80's and 90's, now is the time to do it. If you can tell me when you are going to die, become disabled, or mentally incapacitated, we can certainly draw up a wonderful plan, however, only GOD has that information, and so far, he has not seen fit to share it with me.

With kindest regards, I am

Very truly yours,

BARNES LAW FIRM, P.A.

A handwritten signature in cursive script, appearing to read "H. Barnes, III".

Harris H. Barnes, III

H11B,III:lg