

LEGACY

Centuries Strong FUTURE FOCUSED

A NEWSLETTER FROM THE TRUST & ESTATE DEPARTMENT OF FLETCHER TILTON



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MESSAGE FROM FRED MISILO

Chair, Trust & Estate Department



FREDERICK M. MISILO, JR., ESQ.

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I am delighted to welcome you to the revival of our Legacy newsletter in April 2025. This publication represents our continued commitment to providing valuable insights on trust and estate matters that impact you and your loved ones.

This edition of Legacy showcases the depth and breadth of our department's expertise with insightful articles covering timely topics. Rachael Poirier contributes a compelling essay on the importance of proactive estate planning based on her unique perspective as a former Trust Administrator. And our team presents a fascinating analysis of the evolving legal landscape around pet custody disputes, highlighting a recent Massachusetts case and practical considerations for unmarried couples.

We're also proud to introduce our newest team members Kelly Akana, and William Bloom, who bring exceptional credentials and diverse experiences to our Trust and Estate Department. Additionally, we follow an attorney's journey from Administrative Assistant to Attorney, exemplifying Fletcher Tilton's commitment to professional growth and excellence.

On a personal note, I am honored to share that I have accepted the position of Chair of The Arc US Foundation Board. This role aligns with my longstanding commitment to advocating for individuals with intellectual and developmental disabilities. I look forward to furthering this important work while continuing to lead our Trust and Estate Department.

I hope you find this edition of Legacy informative and useful. As always, please contact me or any of our attorneys with questions or requests for more information.

A handwritten signature in black ink that reads "Fred M. Misilo". The signature is fluid and cursive.

Fred Misilo, Chair

Fletcher Tilton Trust & Estate Department



INCREASED MASSACHUSETTS ESTATE TAX EXEMPTION

Massachusetts has doubled its estate tax exemption from \$1 Million to \$2 Million and has significantly revised estate tax rules. Key changes include:

- **Higher Exemption Threshold** – Estates below the new exemption amount of \$2 Million are no longer subject to Massachusetts estate tax.
- **Partial Taxation of Larger Estates** – Under the prior law, estates exceeding the \$1 Million exemption threshold were taxed on their full value. Now, only the portion of the estate that exceeds the new \$2 Million threshold is subject to estate tax.
- **Non-Massachusetts Real Estate Now Exempt** – M.G.L. Ch. 65C, Sec. 2A, was amended on September 19, 2024 confirming that non-Massachusetts real estate is now excluded from the Massachusetts estate tax calculation.

PENDING SUNSET OF 2017 TCJA ESTATE & GIFT TAX LIMITS

The federal estate and gift tax exemption amounts that were temporarily increased by the Tax Cuts and Jobs Act (TCJA) in 2017 are set to revert to their lower, pre-2017 levels unless Congress intervenes. Key considerations include:

- **Impending Reduction in Exemption** – The current exemption, exceeding \$13 million per individual, is scheduled to drop to approximately \$5.5 million per person (adjusted for inflation). This change will expose more estates to federal estate tax.
- **Window for Tax-Free Transfers** – The current high exemption amount presents an opportunity for individuals who plan to transfer significant wealth before these provisions expire.
- **Higher Tax Rates for Large Estates** – Estates that exceed the federal estate tax exemption may face a tax rate of up to 40% on the taxable estate.

THE SECURE ACT & RETIREMENT PLANS

The SECURE Act introduced significant changes to retirement savings and inheritance rules. The most recent updates impact required distributions, retirement contributions, and inherited accounts. Key items to consider include:

- **Elimination of the “Stretch” IRA for Most Beneficiaries** – Non-spouse beneficiaries Elimination of the “Stretch” IRA for Most Beneficiaries – Non-spouse beneficiaries of inherited IRAs must now withdraw the entire balance within 10 years. This is a dramatic change from the prior rules. The change limits a non-spouse’s ability to stretch withdrawals over their lifetime, requiring updated tax planning strategies.
- **Later Required Minimum Distributions (RMDs)** – The age at which individuals must start taking RMDs from retirement accounts has

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increased from 72 to 73, allowing longer tax-deferred growth.

- **Penalty-Free Withdrawals for Certain Expenses** – The SECURE Act expanded penalty-free withdrawals for qualified birth and adoption expenses.
- **Expanded Eligibility for Roth Contributions** – More individuals can now contribute to Roth IRAs, and employers are now permitted to make matching contributions to Roth accounts.

- **Changes for Small Business Retirement Plans** – The SECURE Act offers incentives for small businesses to establish retirement plans, including tax credits for startup costs and expanded access for employees.
- **Additional Catch-Up Contributions** – Some workers aged 60-63 may now be eligible to make increased “catch-up” contributions to retirement accounts, allowing them to accelerate savings before retirement. **FT**

KNOW HOW | Solid Foundation of an Estate Plan

by Rachael M. Poirier, Esq. / 508-459-8076 / rpoirier@fletcherilton.com



Life gets busy for everyone. Far too often, many people do not think about their estate plan until much later than they should. Creating a set of foundational estate planning documents will ensure that your property is transferred upon your death in the most time and tax-efficient manner possible and prevent you from needing to have a court appointed guardian and/or conservator appointed for you should you become incapacitated.

The essential foundational documents of an estate plan are listed below.

LAST WILL AND TESTAMENT

A last will and testament outlines how you would like your property distributed after your death. You nominate a Personal Representative who is appointed by the Probate Court to oversee settling your estate. If you have a minor child or a child with a disability, you are able to nominate a guardian to be appointed by the Probate Court. You may also write a tangible personal property memorandum to direct specific items to specified individuals or organizations.

REVOCABLE LIVING TRUST

A revocable living trust serves as a property management tool for your property while you are living. If you become incapacitated, the named successor trustee can easily step in and manage your property for you which would eliminate





the need for a court appointed conservator to do so. A revocable living trust also eliminates the need for Probate Court involvement in managing your property thereby saving time and money following your passing. For married couples with assets over the Massachusetts individual estate tax threshold of \$2,000,000, a properly drafted revocable living trust can, depending on the total value of the couple's combined assets, either eliminate or significantly reduce estate tax liability.

DURABLE POWER OF ATTORNEY

A durable power of attorney allows you to appoint an individual to manage your financial and business affairs. The person you appoint is called an attorney in fact. The creation of this document eliminates the need for a court appointed guardian and/or conservator if you become incapacitated.

HEALTH CARE PROXY

A health care proxy allows you to name a health care agent to make medical decisions on your behalf should you become unable to communicate or make health care decisions.

HIPAA RELEASE

The Health Insurance Portability and Accountability Act of 1996 ("HIPAA") protects access to one's personal health information. You can release this information to a personal representative through a HIPAA should they need access to it.

In addition to these foundational documents, there are other estate planning strategies to be considered such as asset protection for long term care costs, planning for a family member with a disability and excluding the death benefit of life insurance from being subject to estate tax liability.

If you don't have an estate plan or have one that hasn't been reviewed by an experienced trust and estate attorney in the last five years, you should consult with a trust and estate attorney to provide you with recommendations as to how to protect your assets and your loved ones. Having a basic foundational estate plan in place, and updating it regularly, will give you peace of mind to get back to that busy lifestyle. **FT**

PET CUSTODY | When couples split up, married or unmarried, who gets to keep the pet?

by Anne E. Grenier | 508-459-8069 | agrenier@fletcherilton.com



Traditionally in Massachusetts courts, pets are considered property under the law and have been treated as such during a divorce. If one spouse owned the pet prior to the

marriage, that person will most likely retain ownership. If a spouse received the pet as a gift, he or she will probably be allowed to keep it. However, in recent years animals are being treated more as sentient beings. Under Massachusetts law, pets can be included in restraining orders and can be the beneficiaries of trusts set up to provide for them.

When two unmarried people cohabitate, who gets the dog can be unclear. In *Lyman v. Lanser*, 103 Mass. App. Ct. (2024), a former boyfriend sued his ex-girlfriend, seeking specific performance of an oral agreement. The unmarried couple adopted a Pomeranian puppy named Teddy Bear. The parties agreed to share the pet if they subsequently broke up. The adoption paperwork only had the boyfriend's name listed; however, the parties split the cost of buying Teddy Bear. After three years of sharing the responsibilities for the dog, the parties broke up. The girlfriend moved out of the shared residence and the parties communicated with one another regarding their plan to continue sharing responsibilities for Teddy Bear on an equal basis. This went on for approximately six months, when the ex-girlfriend moved into a different apartment and the parties agreed to

suspend their sharing arrangement so that Teddy Bear could adjust to his new surroundings. The ex-girlfriend cut off all communications with her ex-boyfriend and stopped his visits with Teddy Bear. The ex-boyfriend then filed suit for breach of contract. The Court found the parties' pet was considered "unique chattel" in that damages in the form of market value were insufficient as a remedy due to the emotional attachment to the pet. Therefore, the only adequate remedy is specific performance to enforce an implied contract that was formed by the parties' actions. The Court ordered the parties to share Teddy Bear.

Fletcher Tilton recently represented a client in a similar situation. The parties discussed adopting a dog. The girlfriend signed the adoption papers, but the boyfriend paid the adoption fees. The parties shared responsibilities but there was disagreement as to the expenses incurred for the dog. The boyfriend paid most of the expenses for the dog in the same proportion as the parties shared the other household expenses. The boyfriend paid approximately 70 percent of the household expenses, as he was the higher wage earner. The parties broke up and the girlfriend moved out of the shared home and took the pet with her. The parties did not share custody of the dog after the girlfriend moved out. The boyfriend filed for breach of an oral contract in Superior Court. The girlfriend filed a Petition to Partition in Probate Court to divide the home they purchased together, as they could not agree on how they were to divide the shared asset. In dividing

a property's equity, the Court will consider other factors apart from the owner's interest, such as if an owner contributed more than their ownership share for the properties' expenses, maintenance or improvements. Based on the contributions to the expenses of the property, the client stood to receive approximately 30 percent of the equity. Litigation can be expensive, especially in this case as there were two matters being litigated, one in Probate Court and another in Superior Court. Recognizing that litigating both matters

living together and how to divide joint property should there be a breakup. What is in a cohabitation agreement? Cohabitation agreements outline how to split expenses like mortgage, rent, utilities, maintenance, repairs and groceries; how to manage assets that each bring into the relationship; how to manage new assets; how to divide assets if the relationship ends; and how to handle property disputes. Massachusetts courts treat cohabitation agreements similarly to business contracts, and the agreements are enforceable in courts.



would have resulted in the client losing a great deal of equity in her home, Fletcher Tilton negotiated a global settlement that resulted in the client obtaining 60 percent of the proceeds of the sale of the home in exchange for giving up custody of the pet. Although upset about losing the companionship of the pet, the client walked away with a nest egg she can invest. She also adopted another dog.

All of this could have been avoided if the parties had entered into a cohabitation agreement. A cohabitation agreement is a written contract made by unmarried couples that outlines their rights and responsibilities while

Cohabitation agreements do not give partners marital rights. There is no right to divide separate property, no palimony, no right to inherit from the estate, and no compensation for lost wages if one partner sacrifices a career to maintain the home. A cohabitation agreement is a contract that outlines how an unmarried couple will financially conduct themselves during the relationship and should the relationship end. You should always consult a lawyer before entering into a cohabitation agreement because the division of the financial responsibilities may result in one party losing equity in shared property. **FT**



RACHAEL M. POIRIER, ESQ.

FROM TRUST OFFICER TO ATTORNEY: A FLETCHER TILTON SUCCESS STORY

Fletcher Tilton is proud to spotlight Attorney **Rachael Poirier**, whose professional journey within our firm exemplifies our commitment to developing exceptional legal talent.

Ms. Poirier's relationship with Fletcher Tilton began before she attended law school, when she served as a Trust Officer in our Trust Administration group. In this role, she gained valuable hands-on experience administering

revocable living trusts, supplemental needs trusts, and life insurance trusts—developing a practical understanding of trust management that informs her legal practice today.

After excelling in this position, Ms. Poirier pursued her legal education at Suffolk University Law School, completing their accelerated J.D. program while building upon her strong academic foundation from Worcester Polytechnic Institute, where she had graduated with high distinction and received the prestigious Salisbury Award.

Now, as an Attorney in our Trust and Estate Department, Ms. Poirier brings her unique perspective and experience to a wide range of Estate Planning, Trust Administration, and Estate Administration matters. She also represents clients in guardianship and conservatorship proceedings in the Probate and Family Courts of Massachusetts.

"Rachael's path from Trust Officer to Attorney gives her exceptional insight into the practical aspects of trust administration," notes Fred Misilo, Chair of the Trust and Estate Department. "Her firsthand knowledge of how trusts operate on a day-to-day basis allows her to craft estate plans that are not only legally sound but also administratively efficient."

Ms. Poirier's story highlights Fletcher Tilton's commitment to professional development and our recognition of the value that diverse career paths bring to our legal practice. Her combined experience in trust administration and legal representation enables her to provide comprehensive advice that addresses both the immediate and long-term needs of our clients. Ms. Poirier enjoys spending her free time with her two year old daughter and husband, as well as helping out at her family's apple orchard in Lunenburg, MA. **FT**



WELCOMING A NEW ATTORNEY TO OUR TEAM: **KELLY A. AKANA, ESQ.**

Fletcher Tilton is pleased to welcome **Kelly A. Akana** to our Trust and Estate Department. As an Associate, Mrs. Akana focuses on estate planning and estate administration, while also representing clients in guardianship and conservatorship proceedings in Massachusetts Probate and Family Courts.

Mrs. Akana brings a strong academic background to the firm, having graduated summa cum laude from Le Moyne College

through their accelerated 3+3 Law Program. She earned her law degree cum laude from Albany Law School, where she demonstrated her commitment to client advocacy by participating in the school's pro bono in-house litigation clinic with the Family Violence Litigation Department.

Her experience working closely with survivors of domestic violence and families seeking child custody and protective orders has equipped her with valuable skills in navigating sensitive family matters, making her a compassionate and effective advocate for our clients in estate planning and probate proceedings.

Beyond her legal practice, Mrs. Akana demonstrates her leadership and community commitment as a coach for the Auburn High School girls' ice hockey team, bringing the same dedication and strategic thinking to mentoring young athletes that she offers to her clients at Fletcher Tilton. **FT**



FRED MISILO, JR., ESQ. RECEIVES KEY TO THE CITY OF WORCESTER

Fletcher Tilton PC is proud to announce that attorney Frederick "Fred" Misilo received the Key to the City of Worcester in recognition of his exceptional service to the special needs community and seniors. The prestigious honor was presented by Mayor Joseph Petty during a ceremony held at the Fallon Health PACE Center on Grove Street.

During the presentation, Mayor Petty commended Misilo for his dedicated service to individuals with special needs and highlighted his recent accomplishments, including his role as Board Chair of the Arc US Foundation and his receipt of the Worcester Business Journal's Champions of Health award. The mayor specifically recognized Misilo's commitment to community education through the free special needs trust administration seminars he offers annually.

The ceremony was held at the Fallon Health Pace Center on Grove Street in Worcester. Misilo has served as the Chair of the Board of Directors of Fallon Health

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FIRM NEWS

since 2018 and joined the Board in 2012. PACE (Program of All-Inclusive Care for the Elderly) is a national model of care that provides older adults and their care givers innovative health care and support. The PACE model is based on the belief and experience that older adults with chronic care are better served living in their homes and communities, whenever possible.

As a distinguished attorney at Fletcher Tilton, Misilo has built his career around championing the rights of individuals with disabilities through his expertise in special needs planning, guardianship, advocacy, and estate planning. His work has helped countless families navigate complex challenges and secure better futures for their loved ones.

Fletcher Tilton congratulates Fred on this well-deserved recognition of his contributions to the Worcester community and his ongoing commitment to serving those with special needs. **FT**



WILLIAM R. BLOOM JOINS FLETCHER TILTON

Fletcher Tilton welcomes William R. Bloom, a respected Westborough attorney with nearly 50 years of legal experience. Prior to joining our firm in 2024, Mr. Bloom successfully operated his own practice where he built a strong reputation serving individuals, families, and small businesses throughout the region.

Mr. Bloom's practice encompasses business and corporate law, estate planning, trust and estate administration, and commercial and residential real estate transactions. His extensive experience in contract negotiations, zoning matters, and business financing makes him an invaluable resource for our business clients.

A Life Fellow of the Massachusetts Bar Foundation and a fifty-year member of both the Massachusetts and Worcester County Bar Associations, Mr. Bloom has demonstrated an unwavering commitment to legal excellence and community service. His deep roots in the Westborough community include both elected and appointed positions on a number of town committees.

Mr. Bloom is married to his childhood sweetheart of 53 years. Karen was a long-time teacher who touched the lives of so many elementary and middle school children. Mr. Bloom often comments that he can't go anywhere without some young or middle-aged adult approaching him to speak about the profound influence Mrs. Bloom had on their lives. Mr. Bloom has 2 children, Jacey Greece, a doctor of Epidemiology, and Barry, an attorney and business professional. Mr. Bloom and Karen have four grandchildren.

We are honored to have his wealth of knowledge and community connections enhance our firm's services. **FT**

AWARDS & RECOGNITION

FLETCHER TILTON RECOGNIZED

- 2025 MA Lawyers Weekly
Go To Employment Lawyer – **Joseph T. Bartulis, Jr., Esq.**
- 2024 MA Lawyers Weekly
Go To Litigation Lawyer – **Michael E. Brangwynne, Esq.**
- 2024 MA Lawyers Weekly
Go To Tax Lawyer – **Michael P. Duffy, Esq.**
- 2024 MA Lawyers Weekly
Go To Lawyer for Business Transactions – **Tricia L. Koss, Esq.**
- 2024 Worcester Business Journal
WBJ Power 100 – **Mark L. Donahue, Esq.**
- 2024 Worcester Business Journal
Champions of Healthcare – **Frederick M. Misilo, Jr., Esq.**
- 2024 Worcester Business Journal
Hall of Fame – **Warner S. Fletcher, Esq.**
- 2024 & 2025 Named **Best Law Firm** by *Best Lawyers*
- 2024 *Best Lawyers*: Ones to Watch – **Michael P. Duffy, Esq.**
- 2024 *Best Lawyers in America* – 7 attorneys named



UPCOMING WEBINARS

ESTATE PLANNING with attorney Michael Lahti

Tuesday, April 15 , 2025	10:00AM – 11:30AM	Live Webinar
Tuesday, May 6 , 2025	10:00AM – 11:30AM	Live Webinar
Tuesday, June 3 , 2025	10:00AM – 11:30AM	Live Webinar

For details and registration, visit FletcherTilton.com/webinars

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