

the Legal Reformer

HALT'S MEMBERSHIP NEWSLETTER • July–September 2008

HALT Releases Small Estates Best Practices

Every state has some streamlined system for distributing small estates through summary probate and out-of-court affidavit procedures that transfer property directly to beneficiaries.

But over half limit these procedures to estates of \$40,000 or less, and a patchwork of other restrictions across the country often forces people into full blown probate for very modest bequests.

“HALT’s *Small Estate Best Practices* provide a roadmap to proven reforms that cut the red tape of probate and help consumers handle modest estates quickly and easily,” stated HALT Executive Director Jim Turner.

A dozen states have set their limit at \$100,000 or more, with Oregon leading the nation at \$200,000. HALT believes the dollar limit should be substantially higher to keep pace with current property values and the rate of inflation.



Provide an affidavit procedure with a limit of \$500,000 so more estates can be settled quickly and efficiently.

Provide a summary procedure with a limit of \$500,000 so more estates that need minimal court supervision can take advantage of streamlined procedures.

Offer plain-language forms and information for settling a small estate online so ordinary people can understand and use small estate procedures.

Open up the process so all beneficiaries can use it, not just surviving spouses or immediate family members.

Establish court self-help centers so consumers with questions have access to resources and staff.

Continued on page 2

At HALT’s Urging, California Will Post Misconduct Charges Online

In a victory for California’s legal consumers, the California State Bar’s Board of Governors voted to post lawyers’ pending disciplinary information online for legal consumers to view. Previously, this information was available to the public, but cost 50 cents a page to order.

HALT, consumer advocates and reform-minded lawyers supported the bar’s proposal to increase discipline transparency while many in the legal community resisted it, arguing that legal consumers were incapable of evaluating disciplinary information. Six nonlawyer members of the Board of Governors who viewed the proposal as an issue of consumer protection helped lead the way to an 18-4

final vote in favor of the proposal.

“Since our charges are public when they are filed, there is no logical reason we shouldn’t make those charges more easily available to the public,” said State Bar Chief Trial Counsel Scott Drexel.

California is already ahead of many states that do not allow the public to access any pending disciplinary information. Other states—Arkansas, Colorado, Louisiana, Missouri, Montana, Kentucky and Hawaii—keep all records confidential unless an attorney is publicly disciplined. In these states, legal consumers are left completely in the dark about whether the lawyer they are considering hiring has pending charges. ■

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Best Practices, Cont. from page 1

Make small estate procedures available for all kinds of property so personal and other types of property are included.

Allow small estate procedures for more than just intestate estates so the process is open to all small estates, not just those with no will involved.

Reduce waiting periods to 30 days so unnecessary delays are eliminated in distributing assets.

Allow courts to waive public no-

stice for summary probate so the process is truly expedited.

Present the law about small estates in plain language so consumers can understand the advantages of simplified procedures.

To read a fuller explanation of each of these practices and why courts responsible for settling small estates should implement them, please visit our Web site at www.halt.org.

Chris Shelton contributed to this story

HALT Supports Malpractice Disclosure in Colorado

In comments to the Colorado Supreme Court, HALT advocated a proposed change to the Rules of Professional Conduct that would require lawyers to disclose whether they maintain legal malpractice insurance. Under the proposed rule, attorneys would annually inform the court of their insurance status and provide updates within 30 days of any changes. The court would then make that information publicly available on its Web site. At present, Colorado does not require any form of disclosure.

Pointing out that, “making insurance status public helps inform clients and encourages all lawyers to exercise prudence by purchasing malpractice insurance,” HALT urged the Colorado Supreme Court to provide further protection by requiring attorneys to maintain a minimum level of malpractice insurance.

Colorado requires other service providers to carry professional liability

insurance. For example, under Colorado law all mortgage estate brokers must maintain errors and omissions insurance. Likewise, chiropractors, podiatrists and psychologists in professional service corporations must carry a requisite level of professional liability insurance in order to practice.

Nationally, about 30 percent of lawyers fail to maintain malpractice insurance. Since clients stand little hope of collecting money from an uninsured lawyer even after a successful lawsuit, many cases of attorney negligence leave clients with no options for recourse. In states such as Virginia and South Dakota, which have instituted disclosure requirements, 90 percent or more of lawyers are now insured. Colorado’s proposed rule, if adopted, would likely provide a similar increase in protection to legal consumers. ■



Visit
HALT's
Web site
WWW.HALT.ORG

Legal Reform News

TEXAS LAWYERS CLOSE SELF-HELP LEGAL CENTER

In July, a self-help legal center in Texas' Bexar County saw its end when the Commissioners Court voted to close it. Although it had been approved only in January, local lawyers were up in arms after the commissioners approved an \$11 court litigation fee to finance the center.

Local lawyers argued that the county would incur liability issues, although similar centers in other counties have not experienced problems. They also feared loss of business and the possibility that even those who can afford lawyers would opt for free assistance from the county.

The center would have provided documents and some guidance—though not legal advice—to people who cannot afford lawyers and are trying to handle cases on their own.

NEW YORK INCREASES SMALL ESTATE DOLLAR LIMIT

New York Governor David Paterson signed legislation on July 21 that raised the upper limit on the size of small estates from \$20,000 to \$30,000. Small estates bypass the regular, cumbersome probate process, and instead qualify for a simplified procedure.

The new limit keeps pace with inflation since 1996, when it was last adjusted. However, much more could be done to relieve small estates of the burden of probate. About a dozen states have limits of \$100,000 or more, three times the limit in New York.

FLORIDA COURT FEES JUMP

To help make up for a deficit in Florida's court and prison budget, Governor Charlie Crist signed new increases in court fees that took effect July 1. The law imposes new court

fees and increases for criminal offenses and other court-related procedures. In the past, a litigant could contest a divorce petition for free; now, it will cost \$403. People convicted of drunk driving will pay up to \$1,000 more and speeders will pay at least \$17.50 more for each infraction. Overall, the state expects to raise \$121 million more in fees from court users.

Bob Dillinger, a public defender in Pinellas County, thinks the fee hike is a bad idea. "They think they can run the criminal justice system on the backs of poor people, but it's not going to work," he said. Although there is a payment plan, no waivers are available, even for those in dire circumstances.



FILE A DIVORCE ONLINE WITH *DIVORCEDELI.COM*

Focusing on customer service, *DivorceDeli.com* is a low cost divorce law firm developed by divorce attorney Steven D. Miller in consultation with the Florida Bar.

Designed like a deli menu, Miller's site offers a variety of the most commonly requested Florida divorce services based on different needs, with rates starting at \$249. A person or couple can seek a divorce with or without children and can choose not to appear in court. *DivorceDeli* also offers other services, including name change and annulment.

The site claims to be an alternative to traditional divorce lawyers who bill by the hour and to self-help centers and paralegals who are not allowed, under unauthorized practice of law rules, to provide legal advice or representation.

CENTER FOR ELDER AND THE COURTS

The National Center for State Courts, a nonprofit organization that seeks to improve the court system, announced last month that it will establish the Center for Elders and the Courts with support from the Retirement Research Foundation. The Elder Center will focus on improving court responses to elder abuse and adult guardianships.

"The long neglected problem of elder abuse, exacerbated by the 'graying' of the 'baby boomer' population, will have a tremendous effect on the nation's health, social and justice resources," stated Center Senior Research Associate Brenda Uekert. "Courts must act now to put mechanisms in place that will improve their awareness of and response to elder abuse."

FLORIDA PRO SE HANDBOOK NOW IN SPANISH AND CREOLE

Last June, the Florida Bar Association's handbook for self-represented litigants in Florida's appellate courts became available in Spanish and French Creole versions, in addition to the English version.

According to the bar, there was a strong demand for the translations from the Latin American and Haitian communities, as well as from the lawyers who represent them. The translations cost about \$67,000 to complete, and the translated handbooks are being circulated to court clerks, law libraries, prisons and elsewhere.

Compiled by Andria Seo and Chris Shelton

How to Repair Your Credit

By James McGuire

Having trouble getting a loan? The problem could be your credit report. Three companies, Equifax, Experian and TransUnion, gather personal information, including your borrowing and repayment history, and provide that information—in the form of a credit report—to potential future creditors along with your credit score (a number which indicates your credit worthiness).

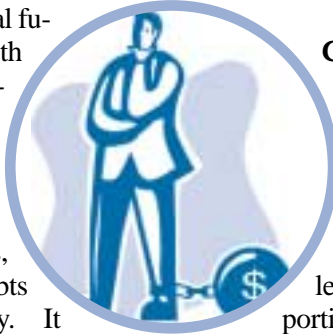
Your credit score can be negatively affected by your own actions, such as failing to pay debts or declaring bankruptcy. It can also be hurt by inaccuracies or administrative mistakes made by the credit reporting company, such as neglecting to update or correct outdated or inaccurate information.

To make sure your credit report is accurate, you need to review it carefully, (see HALT's "How To Get a Copy of Your Credit Report" for information on obtaining a free credit report). If you find mistakes, you need to correct those errors as quickly as possible.

NEGATIVE INFORMATION

Negative entries on your credit report for which you are responsible—including late credit card payments, non-pay-

ments, foreclosures, and bankruptcies typically remains on your report for seven years, though bankruptcies remain for 10 years. That said, some creditors may focus only on more recent years or might take into account improvements in your credit history. It is worth taking the time to talk with individual creditors about their policies.



CORRECTING INACCURATE OR OUTDATED INFORMATION

To dispute an item in your report that you believe is wrong, submit a letter to the consumer reporting company describing the inaccurate information and explaining why it should be altered or removed. With your letter you should include copies—not originals—of any documents supporting your claim as well as a copy of your credit report with the disputed items circled. Send the letter via certified mail to the address provided on your credit report so that you can verify that it has been received.

You can also dispute inaccurate information online through the consumer reporting company's Web site. You should have your report number (found beneath your name at the top of the report) on hand to expedite the process. The Web site will provide in-

structions and preset fields to assist you, and this may be the fastest method of filing a dispute. There are several disadvantages, however, to this method. The Web site does not allow you to submit supporting documents that may strengthen your case, and you will not have a physical record indicating that your claim was received.

If you decided to file your dispute online, the consumer reporting company will investigate your complaint (generally within 30 days) and forward it to the company (i.e., bank or credit card company) that provided the disputed information. When the investigation is complete, you will receive a report of results and, if changes were made, a free copy of your updated credit report. You can also request that an update be sent to everyone who has requested your credit report in the past six months.

If this does not resolve your dispute, you may again submit a written letter to the information provider or consumer reporting company detailing your position and asking that the continued dispute be noted. A notice of the dispute will appear on future credit reports.

For more information on repairing your credit report, view HALT's new "How to Repair Your Credit Report" online at www.halt.org or write to us for a free copy at HALT, 1612 K St., NW, Ste. 510, Washington, DC 20006. ■

Do-It-Yourself Law

Running a small business or managing a household frequently requires dealing with legal forms. Whether buying a home, hiring an employee or writing a will, puzzling through the legal paperwork without assistance can be a frustrating and risky endeavor. Hiring a lawyer for such routine tasks, however, is often unnecessarily expensive.

HALT is pleased to recommend as

"Do-It-Yourself Best Buys" two products that provide legal forms—and assistance in completing them—at a fraction of the cost of hiring a lawyer.

Based on a detailed grading system that assesses accuracy, comprehensiveness, readability, ease of use, flagging



of problems, disclaimers and quality of forms, we found Broderbund's *Home and Business Lawyer Deluxe 2008* (\$39.99)

and Nolo's *101 Law Forms for Personal Use* (\$29.99) to be high-quality products at affordable prices. You can read our reviews online at www.halt.org. ■

Don't Delay, Write Your Will

Unless you think the court can do a better job than you in deciding who gets your property, who will act as the personal representative of your estate and who will be your children's guardian, you need to write a will. Even though it is a fairly simple process, too many Americans still die without one.

If your estate is worth less than the federal estate tax limit of \$3.5 million beginning in 2009, the easiest and cheapest option is to write it yourself. Interactive software programs like *Quicken WillMaker Plus* and *Kiplinger's WillPower* allow you to follow simple instructions and answer questions to produce state-specific, customized wills at an affordable cost. Online will-writing services such as *LegalZoom.com* and *BuildaWill.com* also let you

create legally valid wills at the click of a button.

If you prefer more hands-on help, consider working with a legal document assistant or independent paralegal who can assist you at a fraction of the price of a lawyer. But, if you have more complicated estate-planning requirements and decide to hire a lawyer, be sure to shop around. Since estate-planning needs vary greatly, it is difficult to estimate the cost of a lawyer. Typically you can expect to pay \$1,500 or more for a complete estate plan, which can include trusts and advance directives.

One more tip: If you think federal

estate taxes (or state estate taxes) could be assessed, you can reduce your tax liability by giving away some of your money or other assets during your lifetime. Under the annual gift tax exclusion, an individual can leave up to and including \$12,000 a year; and a husband and wife can together make a gift of up to and including \$22,000 a year to each of any number of people, tax free.

To learn more about how to write a will, get HALT's free article, "Writing Your Will" online at www.halt.org, or write to us for a copy at HALT, 1612 K St., NW, Ste. 510, Washington, DC 20006. ■



Ways You Can Help Support Legal Reform

HALT's legal reform and consumer empowerment efforts would not be possible without the generous support of our members. Your support allows us to win battles in the fight to improve access and increase accountability in America's civil justice system, in these important ways:

- With a donation of \$100, HALT can send 50 Action Alerts to members in states where the legislature is considering an increase to the small claims jurisdictional dollar limit, encouraging them to contact their local representatives.
- A donation of \$250 will allow HALT to distribute 50 copies of our newly revised book *Using a Lawyer: And What To Do If Things Go Wrong*.
- A donation of \$500 will allow HALT staff to conduct a comprehensive evaluation of one state's mecha-



nism for protecting the public against abuses of judicial power as part of our national Judicial Integrity Project.

- With a donation of \$1,000, HALT will be able to produce a new **Citizens Legal Guide**, explaining the streamlined procedures of small estate

probate, which will be available to members and the public free of charge through HALT's Legal Information Clearinghouse.

You can donate to HALT by visiting our Web site at www.halt.org, calling us toll free at (888) 367-4258, or sending a check, money order or credit card payment to HALT. We appreciate your support! ■

HALT Pushes for Increased Client Protections in Massachusetts

On June 23, HALT urged the Massachusetts Supreme Judicial Court to approve disciplinary rule changes that would cover out-of-state lawyers providing legal services in Massachusetts.

Because each state has its own ethics rules, lawyers involved in dealings outside of their state may en-

counter difficulty determining which state's rules apply. To clear up confusion, HALT supports giving Massachusetts' disciplinary agency authority over all lawyers practicing or providing services in the state. Doing so ensures that Massachusetts residents who seek help from an out-of-state lawyer will be better protected. ■

An Interview with Judge Monty Ahalt

HALT interviewed retired Prince George's County Circuit Court Judge Monty Ahalt. He is the founder of VirtualCourthouse.com, a Web site offering online dispute resolution services.

By Andria Seo

HALT: Why a virtual courthouse?

Ahalt: The short answer is the public needs a dispute resolution process that is both reflective of cost relative to value and does not involve an enormous amount of time in terms of waiting for access to a decision.

HALT: How does it work?

Ahalt: You go online, and you initiate your claim and you select a group of neutrals. The other side is notified that you have done that and wish them to participate. Then they agree or suggest other neutrals. Once you agree on a neutral, then the claimant presents his or her case. The neutral determines whether the parties want a face-to-face meeting or an online activity. The case is presented by the claimant, and the respondent presents their case. The neutral then either appears at the hearing and hears the parties and considers the evidence they filed online already, or just considers the evidence filed online.

HALT: Can individual consumers initiate cases?

Ahalt: We have had about a handful of unrepresented individuals file claims. But that's largely due to the fact that we haven't really marketed the service in that fashion. We will soon begin marketing *VirtualCourthouse.com* to the larger consumer market. We're confident that the process is intuitive, easy to understand by a non-legally educated individual.

HALT: What kind of cases do you handle?

Ahalt: The ones that have worked so far are personal injury disputes, con-

tract disputes, landlord and tenant disputes, small business disputes, real estate disputes. Having said that, the system is designed to handle any subject matter dispute. Obviously as the evidence becomes more complex, and the number of parties increase, generally speaking Virtual Courthouse is less applicable.

HALT: How receptive are lawyers and insurers?

Ahalt: Our acceptance rate is about 60 percent. There's a whole host of reasons why there isn't acceptance. First, the other side does not wish for any reason to participate in an alternative dispute resolution process. They want to either negotiate or they want to resolve the case in court. There are multiple different reasons why they would do that. A litigant may think that a jury will give them a better result than a single neutral.

HALT: Why do you think insurers should participate?

Ahalt: Cost. An insurance company closes its case without incurring the expense of going to court and the lawyer makes his client satisfied by getting a quicker recovery.

HALT: How do you respond to the criticism of online dispute resolution that face-to-face contact is important for mediation and arbitration?

Ahalt: One size does not fit all. The nature of the dispute usually dictates the necessity for a face-to-face meeting. For instance, if the neutral has to evaluate a scar on an injured person the opportunity to see the scar is really important. On the other hand, if the dispute is over the interpretation of a written contract, then a face-to-face meeting will add very little.



Judge Monty Ahalt

HALT: How long does it take to settle an online case versus the traditional court?

Ahalt: Average settlement is about 45 days with the Virtual Courthouse. In a small claims type of court, a non-jury court, typically trial dates go anywhere from six months to a year. In a jury court, the average is more like 18 to 36 months. The time is reduced, and if you're represented by a lawyer, the amount of time the lawyer has to spend is significantly less. So the cost is significantly less. I have described the process as 'the old way is \$3,000 or \$4,000 and two years, the new way is \$400 and 45 days.'

HALT: Is online dispute resolution the wave of the future?

Ahalt: As lawyers, institutions and people begin to embrace a change in the way they resolve disputes, online dispute resolution will become a necessary step before filing a suit in court. ■

HALT's 2008 Summer Interns

Four interns joined HALT for the summer. Ryan Latham is a third year law student at Baylor Law School in Texas, Chris Shelton is a junior at Yale University, James Maguire will be entering Harvard Law School in the fall and Andria Seo is a senior at the University of California, Berkeley. ■



Ryan Latham, Chris Shelton, James Maguire and Andria Seo

HALT Supports Expanded *Pro Se* Services in North Carolina

By Ryan Latham

In July, HALT filed comments with the North Carolina Bar's Ethics Committee urging the bar to accept a proposed opinion that would allow lawyers to help *pro se*, or self-represented, litigants without actually representing the litigant or disclosing his or her help to the court.

Currently, lawyers are allowed to limit the scope of their representation of a client when it is "reasonable," but it has not been made clear whether or not helping a *pro se* litigant falls under this standard. Allowing lawyers to

provide limited services, as opposed to full representation, would greatly benefit legal consumers.

"As long as legal services are prohibitively expensive for many Americans, the number of individuals choosing self-representation will also increase. Allowing lawyers to help *pro se* litigants is one way that the courts can ease the increasing burden of untrained litigants in their courthouses," HALT said in its comments.

While the number of litigants representing themselves continues to grow in civil matters, courts have generally

been slow to address their needs or provide guidance. These problems will only worsen unless creative alternatives are adopted.

HALT supports North Carolina's move towards greater freedom for legal consumers to choose what level of legal representation is right for them. By allowing *pro se* litigants to confer with lawyers about points of law they might not understand, the North Carolina Bar would ease the burden of *pro se* litigants on the courts and make the judicial process more navigable, efficient and cost effective. ■



HALT in the Media

- *The New York Law Journal* published HALT Executive Director Jim Turner's letter "Retainers Should Mean What They Say" about a loophole in New York's fee arbitration system (July 24, 2008).
- *The Recorder's* story "Calif. Bar OKs Posting Discipline Charges Online" featured HALT's successful comments to the California Bar regarding a proposal to post lawyer misconduct charges online (July 14, 2008).
- *The Tennessean* interviewed HALT Executive Director Jim Turner on the lack of transparency in lawyer discipline in its article "Complaints on Lawyers Often Stay Undisclosed" (August 21, 2008).
- *Legal Newslines* interviewed HALT Program Director Theresa Meehan Rudy on lawyer referral Web sites (August 8, 2008).
- *The West Virginia Record* highlighted our Judicial Accountability Best Practices in "HALT Lists Best Judicial Discipline Practices, Top States" (July 10, 2008).

Our recently released Judicial Accountability Report Card has also continued to receive press attention:

- *Opelika-Auburn News*: "Alabama's Judicial Salaries Raise Red Flags" (August 5, 2008).
- *Connecticut Law Tribune*: "Connecticut Holds Judges Accountable" (July 21, 2008).
- *Tuscaloosa News*: "State Judicial Oversight Called 'Toothless'" (July 7, 2008).
- *The Gadsden Times*: "Group Gives State D-plus for Judicial Oversight" (July 5, 2008).
- *Durham Herald-Sun*: "Open Complaints on Judges to View" (June 29, 2008).
- *Birmingham News*: "Alabama Gets D+ in Judicial Ethics" (June 23, 2008).
- *Charleston Post & Courier*: "Group Gives SC a C- in Holding Judges Accountable" (June 10, 2008).
- *Massachusetts Lawyers Weekly*: "Judicial Accountability in Massachusetts: (Barely) Making the Grade" (June 10, 2008). ■

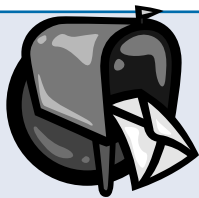
HALT Guide Explains Attorney Fees

Consumers spend billions of dollars each year on legal fees. While some are satisfied customers who are getting competent legal help at reasonable prices, many others are shocked by exorbitant legal fees and would rather leave a legal problem unresolved than pay for services they cannot afford. As a legal consumer, your best defense against paying more than you should is to educate yourself about legal fees before signing on the dotted line.

HALT's new **Citizens Legal Guide**, *Understanding Attorney Fees* explains how lawyers charge for their services and what you can do to keep legal costs down. The guide is available for free on our Web site, www.halt.org, or you can request copies by calling us toll-free at (888) 367-4258. ■



From the Mailbox



Dear HALT,

I'm suing my landlord in court. If I have questions or need some direction, are there lawyers who will help without trying to take over the whole case? Are they even allowed to do that?

Solo in Soho

Dear Solo,

Yes, lawyers are allowed to help *pro se* litigants (those who decide to represent themselves in court). Lawyers who coach *pro se* litigants will advise, coach, direct and charge for their services on an hourly fee basis. Not all lawyers will agree to work with *pro se* litigants, however, so you need to shop around. To learn more, get HALT's **Citizens Legal Guide**, *Understanding Attorney Fees*. It explains the most common billing arrangements used by lawyers and specific ways you can keep your legal costs down. Call for a free copy at (888) 367-4258 or download it at www.halt.org. ■

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