



NAELATM News

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R. Shawn Majette
“Best Elder Law Magician”

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- What Happens to a “Pending” Claim When a Veteran Dies?

The Magician

By Edward E. Zetlin, Esq.

I first met Shawn Majette, this month's featured member, in the late 1980s when Garey Eakes, an early NAELA President, told me, "There is a private attorney in Richmond who is practicing Elder Law but doesn't know it. He does know more about Medicaid and public benefits than any of us." Since that moment I have observed Shawn with bemused wonder.

A Unique Perspective

As awed as I am by Shawn's résumé, it is his perspective on client representation, rooted in his many years performing as a magician, that I find most inspiring. His magic training allows him to view the elderly and incapacitated

Edward Zetlin practices elder and disability law with Needham, Mitnick & Pollack in Falls Church, Va. He is an adjunct Professor of Law at American University's Washington College of Law where he teaches Elder Law and Trusts and Estates. A past President of Virginia's state NAELA Chapter, Mr. Zetlin formerly served on the NAELA Board of Directors and has been distinguished as a Fellow of NAELA.

through an enchanted prism when necessary. This affords him the ability to understand the fantastic world they inhabit and to craft solutions that allow them to dwell there without harm. Here are a couple examples of what I mean.

The family of an elderly woman consulted Shawn. She had been sending checks to schemers who promised valuable prizes if she entered phony contests. Thousands of dollars had vanished. The family wanted a conservatorship.

Shawn had the family use her money to buy a computer loaded with the *ABC Gambling Game*. With *ABC*, there was a winner every time. As the only player, she always won.

Shawn programmed *ABC* with a telephone number that she was instructed to call when her winnings tallied \$5,000. The number connected to a family member who would arrive at her apartment with money from her account and a deposit slip. Mistaking the family member for a representative from *ABC*, she would take the money and deposit it. Both game and money ran an endless loop. When the schemer called for an entry fee for his contest, she told him she liked her computer game better and hung up.

For clients whose capacity waxes and wanes, Shawn de-

vised The In/Out Trust, which works like a magic trick. In/Out refers to the fact that the trust is funded with money that goes in, but does not come out. It also refers to the trust beneficiary who is in and out of capacity. The Trust is funded by the sometimes-incapacitated beneficiary who, of course, has capacity when he approves the trust.

It is completely revocable, unless the trustee believes the beneficiary lacks capacity to revoke in which case there is a period of time (30/60/90 days) in which the trust becomes irrevocable. During that time, the trust pays attorney fees for the trustee to fight detrimental actions taken by the beneficiary. By the time the period has run, the drugs have worked and the beneficiary has come to his senses.

As a commitment Judge, Shawn often receives pre-dawn emergency calls. At three o'clock one morning, Shawn received a call from a doctor who informed him that his patient had severed his nose from his face, but refused to have it sewn back on and wanted to leave the hospital. Too drunk to feel pain, the patient proclaimed, "It was just a scratch."

Shawn understood. In the patient's world, he was not an incapacitated drunk, but a sober person who dwelled in

About Shawn Majette

Shawn has been a NAELA member since 1989, serving as President of the Academy's Virginia Chapter. A prolific speaker on elder and mental health law topics, Shawn has lectured for NAELA, the National Geriatric Care Managers Association, and the Virginia State Bar. He has presented annual Elder Law seminars for Virginia's Continuing Legal Education programs since 1991.

Shawn has held numerous appointments to Virginia General Assembly advisory committees, drafting statutes related to mental health and Elder Law issues. His updates to NAELA Chapter members on developments in the Virginia General Assembly on elder and mental health law are invaluable.

Shawn currently directs the Elder Law section of Thompson McMullan, a Richmond law firm.

Shawn, having served as a Special Justice for Mental Health commitment cases for over 23 years, has written this month's featured article: "Involuntary Civil Commitment and the Inescapable Wetness of Light." An earlier article by Shawn writing on this subject — "Civil Commitment and Surrogate Medical Consent in Virginia" — serves as a handbook for deciphering this complex area of law. It can be found on his unique website: mysite.verizon.net/shawn.majette.



Shawn Majette works on a presentation in his Richmond, Va., office.

the Land of the Whisky Tree, which occasionally collides with innocent men. Shawn refused to allow the hospital discharge thus permitting the nose to be reattached. "It is raining," he said, "if I let you out now you could drown."

Racing Along

It is difficult, at times, to keep up with Shawn's mind, which is nimble and quick, like a magician's hands. Indeed, in his school days, he supported himself as a magician.

Shawn's latest trick is driving a motorcycle. He loves the freedom it provides but his long-suffering legal assistant Mary-Beth complains, "It's frightening to think he's on the road because when he's just driving a car he's doing four different things besides driving."

More Accolades

Richmond Magazine routinely recognizes Shawn Majette as a "Top Lawyer." *The Best Lawyers in America* counts him in as one of their own. Shawn has requested "Best Elder Lawyer Magician." He deserves it, so I am now officially awarding it.

I suspect, however, that Shawn considers his greatest achievement to be his family, consisting of his wife Dee and three daughters, Libby, Sarah, and Erin, all of whom have charmed him for years. Likewise Shawn has charmed his colleagues and friends for years. Like magic. ■