



FOR PENNSYLVANIA YOUNG  
LAWYERS, HERE'S WHAT'S...



# AT ISSUE

A PUBLICATION BY AND FOR THE YOUNG LAWYERS DIVISION  
OF THE PENNSYLVANIA BAR ASSOCIATION

## ESTATE PLANNING — A NECESSITY!

By Kurt R. Nilson

Convincing someone that a will is necessary is like trying to convince someone that wearing a seatbelt is necessary. Everyone knows how important seatbelts are, but we also know that you can spend years without suffering any negative consequences from not using one. Probability would even indicate that a fair share of people can go their entire lives without being in a situation where a seatbelt would have made a difference. This type of reinforcement can be difficult to overcome; the habit of going day after day without performing a certain activity cannot easily be replaced by something that requires even a small effort, particularly where there is no immediate or tangible benefit.

This tendency to procrastinate is often exhibited in the context of preparing a will. Some believe that since they didn't have a will yesterday, the day before or even last year, life will continue as it always has. However, as Ben Franklin noted more than 200 years ago, "In this world nothing can be said to be certain, except death and taxes." And we all know that of these two, you can only cheat one of them for any reliable length of time.

Why then, does it seem that so few people take the time to prepare even a simple will? There are a variety of figures available that suggest the number of people who don't have wills at the time of death is somewhere between 55 and 70 percent. One recent study with subject data performed by Bankrate.com in 2007 was based upon a survey of approximately 1,000 people and indicated that 57 percent of the respondents didn't have wills.

The April 2005 issue of *Worth* magazine also contains a study conducted by

PNC Advisors that reveals some surprising statistics: 43 percent of the individuals interviewed who had at least \$10 million in investable assets had not executed wills. In contrast, only 30 percent of those with investable assets between \$500,000 and \$1,000,000 had not prepared wills.

No matter what the statistic, estate planning is one of the few legal services that is applicable to every person. As lawyers, this also makes it likely that many of your current clients could benefit from some form of estate planning. By comparison, not every one of your commercial or real estate clients will also

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need legal services relating to intellectual property law, bankruptcy or even litigation. Despite the truth that someday we will all meet our end, there does not seem to be any reliable way of conveying the importance of an estate plan to those who do not come to you with an interest in the subject.

For many people the concept of estate planning is frequently associated with the transfer of substantial wealth, bringing to mind grand schemes of death tax avoidance built around charitable transfers and complex trusts that span multiple generations. While estate planning can certainly involve these factors, the most common estate plans simply satisfy the maker's wish to have all of

his or her property belong to the surviving spouse outright, followed by any children or grandchildren.

Estate planning misconceptions are exacerbated by a failure to appreciate the strict operation of Pennsylvania's intestacy laws. Although people offer a number of excuses for their failure to plan, the two most common statements seem to be along the lines of "I don't have enough money to worry about" and "My wife gets everything anyway." What most laypeople don't realize is that a surviving spouse will always share an intestate estate valued at more than \$30,000 with the deceased spouse's issue, even when they are also the surviving spouse's issue. Moreover, the surviving spouse also shares the intestate estate with the deceased spouse's parents when there are no living issue.

Since most married couples jointly own all of their property, they usually do not experience any negative effects from intestacy. Of course, there are always certain items that slip through the cracks. Just as it takes time to make a will, it also takes time to change title from one spouse to both spouses, and many people just don't bother. In these instances, the surviving spouse's expenses in both time and money often exceed the costs that would have been incurred in preparing a simple will. This is particularly true in the case of blended families.

Unfortunately, telling people about the commonwealth's estate laws does not seem to have much impact, which may be due to individuals' inability to relate to generalized "spouse and child" examples.

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# ACCREDITATION OF LAW SCHOOL PROPOSAL: A HOT TOPIC AT THE ABA MIDYEAR MEETING

By Scott P. Sigman

The ABA Young Lawyers Division held its 2008 midyear meeting in Los Angeles in conjunction with the ABA midyear meeting. Pennsylvania and Philadelphia were both well-represented in the ABA YLD since the 2008 chair was Justin Goldstein, a Philadelphia attorney who works for The Halpern Group. Goldstein prominently located the Pennsylvania delegation in the front row of the ABA YLD's midyear assembly.

During the assembly, which was held Feb. 9, 2008, a very controversial proposal was presented to the ABA YLD by its immediate past chair, Jay Ray (Texas).

The proposal was to adopt an interpretation of the Standards for Approval of Law Schools concerning law schools' bar passage rates, which in effect would require students graduating from law school to have an "ultimate pass rate of 75 per-

cent" for a law school to remain accredited. Although the proposal was the result of more than a year of debate and a variety of revisions by the Council of the Section of Legal Education and Admissions to the Bar, most members of the ABA YLD were learning of this proposal for the first time. Many ABA YLD members were quick to point out that this "ultimate pass rate of 75 percent" would result in the loss of accreditation for many law schools, including some predominantly minority law schools.

Apparently the use of bar passage rates as a factor in accrediting law schools is not new. According to the ABA, the Standards for Approval of Law Schools have included a review of school bar examination passage rates for more than 20 years. Throughout the 20 years, the Accreditation Committee has been enforcing the bar examination passage standard. Since 1952, the Accreditation Committee has been recognized by the

U.S. Department of Education (DOE) as the accrediting agency for programs that lead to a law degree.

However, the impetus for this new proposal that includes the ultimate pass rate of 75 percent provision originated from the DOE and not from any single committee of the ABA. In fact, the DOE has specifically requested that the ABA draft and enforce a standard that would be "measurable, transparent and applied consistently."

Evidently, what occurred to cause the DOE to request such a provision was that recently two law schools were placed on

*The proposal was to adopt an interpretation of the Standards for Approval of Law Schools concerning law schools' bar passage rates, which in effect would require students graduating from law school to have an "ultimate pass rate of 75 percent" for a law school to remain accredited.*

probation for failing to meet the current standards for bar examination passage rates by their graduates. These two law schools then complained to the DOE that the bar examination passage standards were not clear. The DOE agreed and thus required the standard to be "measurable, transparent and applied consistently," otherwise it would take over the accreditation process.

On Saturday morning, the ABA YLD held debate and a vote on the Law School Accreditation proposal. Ray spoke on behalf of the proposal, while a representative from the National Bar Association spoke against the proposal. A vote was then held that resulted in the proposal being voted down by less than a 20-vote margin out of several hundred votes. The ABA YLD next took the step of voting to bind the ABA YLD delegates to the ABA House of Delegates to vote against the proposal.

Although the ABA YLD delegates voted against the proposal, on Feb. 11, 2008, the ABA House of Delegates voted and a majority of the delegates concurred with the ABA's Legal Education Committee and adopted the interpretation of the Standards for Approval of Law

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## At Issue

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Schools concerning law schools' bar passage rates.

Although the proposal passed, the ABA YLD debate and discussion were important to help flesh out the issues that will be faced in passing such a proposal. This great debate and discussion was only achieved as a result of the meeting being attended by many diverse people from across the country.

Pennsylvania recently had one of its own at the helm of the ABA YLD (Justin Goldstein). In this tradition, Pennsylvania young lawyers should consider two great upcoming opportunities to get involved: The ABA Annual Meeting will be held Aug. 7-12 in New York City, and the ABA YLD Fall Conference will be held Oct. 2-4 in San Diego, Calif.

# DON'T MISS THE 2008 YLD SUMMER MEETING!

The YLD Summer Conference is slated for July 25-27 at Seven Springs Mountain Resort, Champion. Those who attend can earn CLE credit hours and then head outside to take advantage of the summer weather.

Seven Springs offers a variety of outdoor activities, including hiking, mountain biking, horseback riding, swimming, fishing, whitewater rafting, hay rides and more. Enjoy the Alpine Slide, a dry, double-track built directly into the side of the ski slope that descends 1,980 feet on a four-wheeled sled equipped with a hand brake for speed control. Kids can have the day to themselves at "Kid's Adventure Kamp," while parents hit the golf course or the Champion Massage & Spa services.

Don't forget to sign up for the annual YLD golf tournament, which will take place Saturday, July 26. The resort's golf course is perched atop the Laurel Mountains, offering spectacular views of the Laurel Highlands countryside.

Also on Saturday, interested guests can take a bus trip to the Flight 93 National Memorial. On the morning of Sept. 11, 2001, Flight 93 crashed in Somerset County. Phone conversations

revealed that the passengers and crew realized that their plane was part of the planned terrorist attack on the U.S. The memorial honors the passengers and crew and their courageous actions to thwart an attack on our nation's capital.

CLE topics include criminal law, tools for courtroom presentations, when to appeal, maximizing your efficiency at the office and how to "get a clue, get a grip and get a life."

The schedule as available at press time is listed below. For more information, visit the PBA Web site at [www.pabar.org](http://www.pabar.org) or call 1-800-932-0311, Ext. 2223.

## Friday, July 25

**1:30 p.m. – 2:45 p.m.**

YLD Business Meeting

Get an update on what is happening in the YLD, learn about the programs for this year and how you can expand your

practice through Division participation. Bring your ideas about programs you want to see the Division implement and ways the YLD can assist your county with young lawyer programs.

**3:00 p.m. – 4:00 p.m.**

"To Appeal or Not to Appeal" (CLE)

Deciding whether to appeal an adverse ruling involves a multifaceted decision-making process. Join us to explore some of the facets that inform that decision, including the scope and standard of review, the statistical likelihood of success, the length of the appeal, the real costs of an appeal, and an analysis of the special considerations governing allocatur and certiorari.



**4:15 p.m. – 5:15 p.m.**

"Tools for Courtroom Presentations and Litigators" (CLE)

Ellen Freedman presents a seminar designed to enhance awareness of the available tools for attorneys to use to create effective presentations, and to function effectively when out of the office. Some practical "road warrior" tips and tricks will be included to use when Murphy's Law takes effect. Actual samples of exhibits that utilize varying tools will be shown.

**6:00 p.m. – 7:00 p.m.**

New Admittee Welcome Orientation/ Cocktail Reception

**7:00 p.m. – 9:00 p.m.**

Dinner and Featured Speaker: Pennsylvania Supreme Court Justice J. Michael Eakin

**9:00 p.m. – Midnight**  
Hospitality

## Saturday, July 26

**8:00 a.m. – 9:00 a.m.**  
Breakfast

**9:00 a.m. – 11:00 a.m.**

"Criminal Law for the New Criminal Lawyer" (CLE)

Are you a new lawyer who is beginning your legal career as a prosecutor or a criminal defense attorney? Or perhaps you are a new general practice attorney who may have to deal with criminal issues regarding your clients? This course will give you the basics of criminal law in

Pennsylvania so that you can feel comfortable beginning your career in criminal law or just giving some preliminary advice to a family member, friend or client on the subject — at least until you can put them in touch with an attorney who specializes in criminal law.

The distinguished panel will consist of Pennsylvania Supreme Court Justice J. Michael Eakin, Washington County President Judge Debbie O'Dell Seneca, Blair County Chief Public Defender James R. DiFrancesco, Bedford County District Attorney Bill

Higgins, Lancaster County Public Defender Beverly H. Rampaul, and Cambria County Attorney Tim Burns.

**11:15 a.m. – 12:15 p.m.**

"Lawyer 101" (CLE)

There are over 8,700 hours in a year. When you subtract time for sleeping and commuting to and from work, you are left with approximately 5,000 hours ... for work! Law school taught you the power of the almighty billable hour. It also taught you to expect long, arduous hours in the office, working those billable hours. Is this scenario, however, the essence of your hopes and dreams? Join Gerard Cedrone, a successful, experienced litigation attorney, as he shares his strategies for achieving success without losing sight of your dreams. He will

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# ACHIEVING WORK-LIFE BALANCE: WHAT MY AUNT CASEY TAUGHT ME — WHAT MY CHILDREN CONTINUE TO TEACH ME

By *Julianne E. Steinbacher*

I have been truly blessed. I have established a growing elder law and special needs planning law practice while balancing being a mother to three kids and a wife to a patient husband.

Years ago, my Aunt Casey Steinbacher told me “It is not the quantity of time, but the quality of time you spend with your kids that is important.” I believe she was right. In fact, I think she was more than just right. For me it is imperative that I continue to make sure that the time I have with my children is not wasted — that they feel valued by me. I think it is important they know that the time I have with them is dedicated solely to them and that I am not distracted by the demands of my law practice.

How do I do it?

I will admit that it is not a perfect system. Rather, it is a balancing act that occasionally needs to be realigned in order to achieve competing personal and professional goals. My mother and husband periodically gently remind me that I need my time rearranged — at other times my children realign me. I know that at the end of the day my practice will flourish, and my professional goals will be attainable. However, someday my kids will be grown; therefore, I do not want to miss out on being their mom.

There have been reminders that my time as their center of influence is finite. My first reality check came one day seven years ago when I was dropping my oldest daughter, Cortney, off at kindergarten. I got out of the car, helped her out of her car seat, strapped her backpack on, bent forward and gave her a kiss and a hug. She responded, “Mom, not here.” I cried the whole way to work.

Just last week, Cortney wanted to go get pizza with her friends. I drove her to the pizza place because we live in a rural area. I had my two other children with me, and Cortney said to me, “You’re not going to sit with me, are you Mom?” I looked at her and said, “Of course not.” This incident was another stark reminder of the fact that her time with me is dwindling. This knowledge drives me to pri-

oritize my goals, to demand that my office run efficiently and to make sure that nothing in my professional life takes unnecessary time away from my family.

Raising children has also helped me to demand higher professional fees. I have learned that if I do not charge for what my services are worth, I have less time to spend with my children. Viewed from this perspective, I have found it easier to charge my clients appropriately for the value of my professional services. Likewise, while I continue to donate my time to worthy causes, I do not give it away to just anyone who demands it. Consequently, I have found that I have a better client base. Those clients that do not want to pay or do not see any value in the services I provide no longer take up time that could be spent on clients that do see the value. The old 80/20 principle holds very true: If you do not pick your clients well, 20 percent of them will take up 80 percent of your time! Accordingly, my suggestions for balancing one’s professional and family responsibilities are as follows:

First, be the master of your own calendar. To the extent possible, block out chunks of time for specific purposes and stick to them. At my firm, my available appointments are marked out months in advance. Once the available slots are full, no accommodations are made. Everyone must accept that there are only so many hours in a day (and we do have to sleep).

Second, select community activities that tie in with your personal interests and time constraints. Traditionally, I have always donated my time to non-profit boards and community activities. Yet, these activities can eat up a great deal of my time. Thus, when I am now asked to serve on a board, I always thank the person for thinking of me, but the first question I ask is, “When are the meetings?” Many boards meet at lunch or in the morning, and do not take time away from my family. If the meetings, however, are at night, I regretfully decline but may offer to serve on a committee.

Third, learn to say “no.” Say no to clients who take up too much of your time, particularly the needy ones. Say no

to staff that perform at a substandard level. To the extent they do not do their jobs well, they will affect not only your bottom line, but also your time.

Fourth, compartmentalize your life. When at work, work hard. When at home, be fully available to your family. This sounds easy, but it can be hard to achieve. However, if you do not do this, you will not be fair to either responsibility. Moreover, your overall efficiency will dwindle. Multitasking has its advantages, but so does focus.

Fifth, say “yes” to help, including paid help. If a crisis hits and a coworker or a friend offers to help, embrace it with open arms. Do not instinctively respond that you will be okay. Your plate was already full. To add another stressor to your life will only leave you further behind. So graciously accept the offer and return the favor someday or pay it forward to someone else. Even if you are not experiencing a crisis, look at your circumstances and identify the activities you do not enjoy that take up your time. For instance, consider whether you can pay your bills more efficiently using an online payment method or asking someone else to do this. Likewise, consider whether you should hire a cleaning professional to help out at your house or a babysitter to assist with child care responsibilities. In my case, I love it when my cousin comes to my house to watch our kids during the summer. The extra expense is well worth not having to wake my kids up each morning and go through the morning ritual!

Today while I was driving to work, the George Strait song, “You’re Going to Miss This,” came on the radio. I looked at my daughter, who is now 12, sitting beside me in the car, and I thought he is absolutely right — I am going to miss this time. Each day that I have with my kids is precious. Thus, I want to make sure that the time I spend with them is quality time. When I arrived at work this morning, I sat down and immediately marked out summer vacation time on my calendar. I do not plan to miss one precious day of motherhood!

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*Julianne E. Steinbacher is an elder law attorney at Steinbacher, Sholder & Stahl in Williamsport.*

Although I am admittedly biased, I have found that one of the most useful tools for conveying the potential effects of a failure to plan is the Pennsylvania Intestacy Calculator™, accessible at MyStateWill.com. This unique interactive program determines a person's legal heirs in seconds with just a few clicks. In addition to calculating each heir's share of the intestate estate, the Pennsylvania Intestacy Calculator™ also determines the current amount of federal estate tax and Pennsylvania inheritance tax that will be due against the value of an intestate estate.

By entering their own family facts, your clients can actually see how their intestate estate would be distributed. Many attorneys and other professionals from around the country are reporting success in using their state's Intestacy Calculator™ to educate their current and potential clients about the true effects of intestacy. As equally valuable as the results that are generated by these programs are the questions and discussions that often arise.

Sharing stories based on real experiences is another method of capturing a client's attention more effectively than the commonly used "spouse and child" scenarios. Although you may run the risk of the story being inapplicable to a client's individual circumstances, an interesting story may at least capture the person's attention long enough to invite questions about the estate planning process.

For instance, I recently met with a woman named Janet who was in the process of selling three-fourths of her house. Janet had hoped to sell the entire property. In fact, she had recently entered into a contract with some potential buyers who were anxious to own a complete house. Although the clearest source of her predicament was an erroneous deed that now lay on the table between us, it became increasingly clear as we discussed possible solutions that much of Janet's situation was based upon a misunderstanding of Pennsylvania's intestate laws, combined with an unjustified fear of probate.

The basis for Janet's current three-fourths interest started about 25 years earlier when an unmarried, dating couple named Jack and Chrissy decided to buy their first house together. Thinking of the future, Jack and Chrissy took title to the property equally as joint tenants with the right of survivorship.

For unknown reasons, the couple decided to part ways a few years later, and as a part of the process, Chrissy transferred her undivided, one-half interest to Jack by deed. In order to accomplish this, a deed naming Chrissy as the sole grantor and Jack as the sole grantee was prepared.

Chrissy's deed properly conveyed "all that undivided, one-half interest in" the property that she and Jack had purchased together a few years earlier. This deed also correctly recited the source of Chrissy's ownership in the conveyance as being "the same undivided, one-half interest" she had acquired by the most recent deed to both her and Jack. Being the present owner of an undivided one-half interest at the time of this conveyance, Jack's acquisition of Chrissy's undivided one-half interest gave him individual ownership of the entire property they had previously purchased together.

Subsequently, Jack had three children with another woman and then eventually met and married Janet, who moved into her husband's existing house. Although the couple lived in this house for the duration of their marriage, they never took any formal action to transfer equal ownership to Janet.

Finally, after many years had passed, Jack became ill and decided to put his affairs in order. For Jack this meant preparing a deed that transferred full ownership of the house to Janet. Although all the parties' names were appropriately modified to name Jack as the sole grantor with Janet as the sole grantee, Jack's deed was otherwise a mirror image of the most recent deed from Chrissy. In many circumstances, this would not have made a difference, but Chrissy's deed only served to convey her one-half interest to Jack. Being a duplicate of Chrissy's deed, Jack's new deed

also conveyed "all that undivided, one-half interest in" the property where he and Janet lived. This fact was further solidified by the deed's incorrect recital of Jack's source of ownership and identification of the conveyed interests as being "the same undivided, one-half interest" he had acquired by the most recent deed from Chrissy. Without any mention of Jack's remaining interests, and with the specific limitations identifying just that one-half interest acquired from Chrissy, Jack and Janet became equal owners of the entire property as tenants in common.

Jack died intestate shortly afterward, leaving his one-half interest to be divided equally between his surviving spouse, Janet, and his three children from the prior relationship. Believing that all of Jack's property belonged to his wife, the family never opened an estate.

Now, as we sat in my office four years after Jack's death, Janet was interested in moving on and had found a buyer for the entire property of which she was not the sole owner. Having alone lived in, cared for and paid for all of the household expenses for more than four years, Janet was not easily convinced that another individual co-owned the property with her.

As we reviewed Pennsylvania's intestate laws relative to a surviving spouse who is not the parent of all the deceased's living children, Janet assured me that Jack's kids would have no problem giving all the estate's assets to her. She even called me later that day to confirm that all the kids were agreeable to executing a disclaimer, but first had a few questions. As should have been expected, it turned out that one of these questions related to exactly how much money they would be giving away.

By the time all matters were concluded, Jack's estate ended up paying the costs of opening an estate, paying inheritance tax on roughly one-quarter of the home's sale price, as well as attorney's fees. I would also guess that the parties' relationship was altered by the realization that money can sometimes be more important than one's father's widow.

Despite the difficulty of conveying the importance of a will, it is important that we as attorneys keep our clients' best interests in mind by persisting in our efforts to educate them as to the benefits of estate planning.

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# INVESTING 101

By R. Christopher Wiegand

“Do not follow where the path may lead. Go instead where there is no path and leave a trail.” — *Ralph Waldo Emerson*

## An Introduction

Per the *Investment Advisors Act of 1940*, Chartered Financial Analysts® (CFA) are fiduciary advisors of investment management who act in a professional capacity of trust to render investment advice as an investment consultant. CFAs are custodians of each client’s financial well-being, engaged to defend their earnings power and assets, help them make prudent decisions, and strenuously advance their financial interests, whatever they may be.

In my capacity as a CFA, I have elected not to discuss the merits of drafting estate documents for I assume that you, as attorneys, have had an introduction. Nor have I chosen to lecture about the often overlooked, yet critically important, need for adequate insurance. This should also be a part of your DNA. As young individuals who are, I dare say, interested in financial security, I will likewise not lecture you about the self-evident rule of living within your means. Rather, I have decided to tackle the greatly misunderstood and durable topic of investing. Each of you at some time will have a “buck” to invest, and I would hope that you follow a credible investment approach.

Making sound investment decisions is an enormous challenge. Matters of personal finance and, in particular, matters of investing have risen to the level of pop culture. Investing has become trendy and omnipresent due in part to the growth of the 401k-related and mutual fund industries. The media outlets have seized on the widespread interest in investing, resulting in an abundance of misinformation that has polluted our collective investment knowledge and instilled false confidence in the system. Empirically unsupported advice and trite rules of thumb appear in every magazine and on every television channel. Further complicating this matter are the purveyors of simplistic, catchy jingles and questionable opinions — those

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who Warren Buffet refers to, ironically, as “the helpers.” These individuals know far more about marketing than investing, and they rarely add value despite their high costs.

While the financial noise has led the public into thinking good investment results are attainable by anybody with the time and inclination, the facts tell a different story. The truth is that managing money well is extremely difficult. Only a fraction of the *professional* community — the mutual fund managers, brokers, and investment advisors, etc. — consistently deliver exceptional investment returns. Professionals often make the same mistakes as nonprofessionals, incurring avoidable losses rather than risking being out of step with the market. Moreover, their fees alone (typically one percent of assets or greater under a commission-based structure) are often enough to secure net results lower than the market.

In contrast, fee-earning managers adhere to an assortment of legitimate and altogether different investment approaches. But given a choice, I think it is unwise to seek to emulate any of them by trying to implement a similar approach. At the risk of hyperbole, it is similar to taking the scalpel away from the surgeon while lying prone on the operating table. As a young person, if you are determined to seek above-market returns on your hard-earned savings, you should tread carefully.

## Your Best Option

Having pounded away at the challenges, let me now present two good options for significantly improving your chances of obtaining above-market returns.

First, seek out an elite financial manager or consultant and review the individuals’ credentials. First proposed in 1942 by the “father of securities’ analysis” and Warren Buffet’s mentor, Benjamin Graham, the CFA Program is ranked by the *Economist* magazine as the gold standard among investment designations. There are currently more than 76,000 CFA charterholders worldwide. The article “What Every Investor Should Know” ([www.cfainstitute.org/aboutus/investors/articles/index.html](http://www.cfainstitute.org/aboutus/investors/articles/index.html)) contains helpful information regarding the CFA Program.

Your search for a CFA should be expansive. A large number of CFAs are mutual fund managers, investment managers and investment consultants. Consultants are different from managers in that they manage a portfolio by selecting and delegating responsibility to qualified managers. Of course, structure and organization are much less important than the quality of the individual (or team) making your portfolio decisions. Investing is about results.

Other than developing a relationship with your prospective manager and checking their credentials out with the regulatory authorities, I suggest you keep the criteria for selection short. According to the National Bureau of Economic Research, your prospective manager should be able to demonstrate an ability, net of fees, to outperform a broad measure of the stock market (U.S. or global) over an entire business cycle (historically, the average peak to peak business cycle has been five to six years). If the individual has not clearly made the grade, then move on. Some managers will consider your demand unreasonable; you can assume that their results are unimpressive. While past performance is never a guarantee of future success, demanding excellence over a complete business cycle increases the probability of repeat success. You must set the bar high in this industry because there are too many mediocre players.

The phrase “broad measure of the stock market” simply means a broad-based index of the stock market. One example is the S&P 500 Index, which represents the stocks of 500 large, publicly-traded companies. Other examples are the Russell 1000 Index (U.S.) and the Dow Jones Wilshire Global Index (which includes the U.S.). Returns are the most important criterion, so I urge you to be diligent and use these broad stock market benchmarks as measuring sticks. Also, you should make certain that all the returns presented to you are being illustrated net of fees.

## Your Next Best Option

In the event you are unable to identify an experienced financial professional or would simply prefer not to spend time doing so, I suggest that you purchase index funds from reputable financial

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# INVESTING 101

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institutions and hold them indefinitely. In this manner, you will likely achieve returns commensurate with those the capital markets deliver for the holding period. You will not outpace the markets, but you will also not fall woefully short of the markets' performance or expose yourself to crippling mistakes. Your net return will benefit from only having to pay a fraction of what you would pay for active management.

Implementation of this largely passive, "take what I am given" approach is much easier said than done. It can be boring, and requires tremendous restraint and discipline on your part. Your portfolio will move in concert with the markets, which, of course, never move in a linear fashion for an extended time and do register losses periodically, sometimes over consecutive years. But, with one exception noted below, I caution you to not react to fluctuations in value.

In general, it is appropriate to own some combination of the three major conventional asset classes — stocks, bonds and commercial real estate — through use of an "index mutual fund." Indices are packaged as mutual funds or exchange-traded funds (ETFs), which seek to mimic the investment return of an index. In addition to the stock indices

Asset Class:	Annualized Return/Yr (%) <sup>1</sup>	Risk (% Standard Deviation) <sup>2</sup>
Stocks (Russell 1000 Index)	10.5	14.9
Bonds (Lehman U.S. Agg.)	6.5	3.5
Real Estate (NAREIT U.S.)	11.8	15.6

previously listed, consider utilizing funds which encapsulate the following indices:

- Bond Market: Lehman Aggregate Bond Index (U.S.), Lehman Global Aggregate Bond Index
- Commercial Real Estate: FTSE NAREIT US Real Estate Index, Dow Jones Wilshire REIT Index

Determining your allocation percentage to each of the three asset classes is a personal decision. In making this decision, keep the following tenet in mind — higher expected returns are typically achieved by accepting higher levels of risk (as shown in the table above). Thus, if you have the capacity to "invest and forget" then consider taking greater risks in order to increase your expected rate of return. Conversely, if you are only com-

fortable with marginal levels of risk, then allocate accordingly.

Lastly, you should reset your allocation on an annual basis because it will change with fluctuations in market values (e.g., stocks have a good year and now represent 65 percent of your portfolio, up 5 percent from your previous 60 percent preference).

I wish each of you the best in securing your financial independence.

<sup>1</sup> All data represents the last 15 years as of 12-31-07

<sup>2</sup> Standard Deviation — A statistical measure of volatility that captures the degree to which returns vary from their long-term average.

# YLD SUMMER MEETING

CONTINUED FROM PAGE 3

teach you how to become a more efficient, organized, proactive attorney so those 5,000 hours can be divided between work and quality of life. Learn how to structure your day to achieve maximum output, the "two-minute" rule for managing e-mail, how to work effectively with your staff, and how to get the most out of your day and still call it quits before the sun goes down.

## 11:15 a.m. – 12:15 p.m.

"Justice May be Blind, But You Don't Have to be Dumb — Quality of Life" (CLE)

Have you ever found yourself so stressed out at work that you've had to lock yourself in your office and say, "Lord, grant me the serenity to accept the things that I cannot change, the courage to change the things that I can, and the wisdom not to stab opposing counsel in the parking lot?" If so, then you need to put your

scales of justice in balance. Sean Carter draws on his decade of experience to share three-steps to bringing more balance to your life: Get a Clue, Get a Grip, Get a Life.

## 12:30 p.m. – 1:30 p.m.

Lunch with Dustin R. Helm, First Vice President, Wealth Management  
Topic: Life Planning: Family Wealth Management

## 2:00 p.m. – 4:00 p.m.

Golf Tournament

## 2:00 p.m.

Bus trip to Flight 93 National Memorial

## 6:00 p.m. – 7:00 p.m.

Cocktail Reception

## 7:00 p.m. – 9:00 p.m.

Dinner and Speaker: Sean Carter

Prepare yourself for an evening of non-stop laughter as Sean Carter warms up the stage. A graduate of Harvard Law School, and former counsel to GNC, J. Crew and Safelite Auto Glass, Carter left the practice of law to pursue a career as the country's foremost (and perhaps only) Humorist at Law. He is the author of *If It Does Not Fit, Must You Acquit?: Your Humorous Guide to the Law*. His syndicated column has appeared in newspapers in more than 30 states, and he also wrote a weekly column that appeared in the ABA e-Report from 2003 to 2006. As a legal commentator, he has appeared on television programs and talk radio shows across the country. In 2003, the Radio-TV Interview Report dubbed Sean Carter "America's Funniest Lawyer."

9:00 p.m. – Midnight  
Band/Hospitality

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