

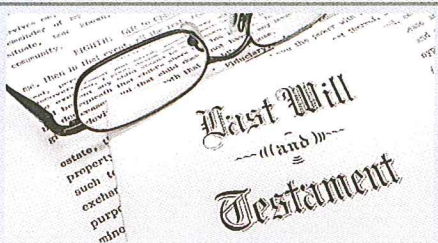


MATTIONI

COUNSELORS AT LAW

# Newsletter

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## As of 2018, New Jersey May No Longer Be One of the Worst Places to Die

*By: Jennifer Popelack, Esquire*

Many people are aware of the fact that Florida is one of the best states to have as your final residence because Florida has no death taxes. Therefore, if a Florida resident dies with an estate below the federal exemption amount (currently \$5.49 million per individual), the estate would have no death tax implications whatsoever, as Florida has no estate tax or inheritance tax requirement on its deceased residents. This has often been cited as one of the reasons many senior citizens choose to move to Florida after they retire.

In contrast, New Jersey has frequently been cited as one of the worst places to die in the country. The reason is that New Jersey imposes both an inheritance tax and an estate tax on its deceased residents. Maryland is the only other state that

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imposes both taxes on its decedents.

The amount of inheritance tax owed in New Jersey is based on the relationship of the beneficiaries of the estate to the decedent. Luckily, transfers to a spouse, parent, grandparent, child and grandchildren (lineal descendants) are exempt from inheritance tax. Because most residents leave their estate to their spouse and/or lineal descendants, not many people need to be concerned with inheritance tax implications in New Jersey.

Unlike the inheritance tax which taxes based on the relationship of the beneficiary to the deceased, New Jersey Estate Tax is based on the value of the estate itself. Prior to 2017, estate tax would be owed on any amount of an estate that exceeded \$675,000. In other words, if John Smith passed away with an estate valued at \$1,000,000, the amount over \$675,000 (\$325,000) would be subject to estate tax. This is a ridiculously low exemption amount considering that most residents that die owning a home and modest to substantial assets will easily exceed this amount.

The good news for New Jersey residents is that a recent change in the law has increased the New Jersey Estate Tax exemption from \$675,000 to \$2,000,000 for estates of decedents dying in 2017. Starting January 1, 2018, New Jersey will no longer impose estate tax on residents.

This recent change has brought New Jersey from one of the worst places to die to, perhaps, one of the best. If a New Jersey resident passes away after January 1, 2018 with a gross estate under \$5.49 million (the federal exemption amount), they would have no death tax implications assuming they leave their estate to their spouse and/or lineal descendants. They would owe no New Jersey inheritance tax because their beneficiaries are exempt, they would owe no New Jersey estate tax because it is

### Our Attorneys:

### Presentations, Seminars and Honors



Sarah Alderfer, attorney at Mattioni, Ltd, will be kicking off the National Bar Institute (NBI) CLE session on Advanced Eminent Domain Valuation. Sarah, who works in the law firm's real estate, zoning and property practice, will be presenting on Wednesday, April 19 at the Courtyard by Marriott Philadelphia City Avenue.

You can contact Sarah directly at [salderfer@mattioni.com](mailto:salderfer@mattioni.com)

She will be discussing topics including recent developments and current trends as well as federal, state and local regulations updates and changes.

This program is designed for attorneys. Others who may benefit include government officials, condemning agencies, appraisers, engineers, surveyors, property managers, right of way professionals and

no longer in effect as of January 1, 2018, and they would owe no federal estate tax as their estate would not exceed the federal exemption amount of \$5.49 million. One can only hope that this change will lead to less residents fleeing the state after they retire, as has so often been the case in the past.

*This article provides a broad and general overview of recent changes to New Jersey death tax laws. It does not provide legal advice. Anyone seeking to establish or revise his or her estate plan as a result of these changes is encouraged to seek advice from an appropriate professional as every situation is different.*

*Jennifer Popelack, Esquire is a Senior Associate of the law firm Mattioni, Ltd., where she focuses her practices in the areas of estate planning, estate administration, real estate and corporate litigation. If you would like more information about this article, please contact Jennifer at [jpopelack@mattioni.com](mailto:jpopelack@mattioni.com)*



### [Pennsylvania's Medical Marijuana Law Update](#)

*By: Kira Rold, Esquire*

Almost one year ago on April 17, 2016, Governor Tom Wolf signed Pennsylvania's Medical Marijuana Program into law. The program enables patients with a serious medical condition to receive medical marijuana from a registered physician as part of the patient's treatment program. Under the Program, seventeen total conditions constitute a "serious medical condition," including but not limited to: cancer, HIV/AIDS, amyotrophic lateral sclerosis, Parkinson's disease, multiple sclerosis, epilepsy, Huntington's disease, Crohn's disease, post-traumatic stress disorder, and autism. After receiving certification from a registered physician, the Pennsylvania Department of Health will issue the patient and/or the patient's caregiver an identification card enabling them to acquire

real estate professionals.

SARAH ALDERFER is an attorney with Mattioni, Ltd., where her practice areas include real estate law, estate planning and administration, business and corporate law, including taxation. She is also involved in a variety of civil litigation matters handling landlord-tenant disputes, personal injury claims and defense, and equity cases. Ms. Alderfer is admitted to practice in Pennsylvania and before the U.S. District Court, Eastern District of Pennsylvania. She obtained her B.A. degree from Johns Hopkins University; J.D. degree from Temple University, Beasley School of Law; and L.L.M. degree in taxation from Temple University, Beasley School of Law.

If you would like more information on the seminar or would like to register, all details can be found here:

[www.nbi-sems.com/Details.aspx/R-75299ER%7C?ctname=SPKEM](http://www.nbi-sems.com/Details.aspx/R-75299ER%7C?ctname=SPKEM)

medical marijuana from a designated dispensary.

Because the Program is not expected to be fully implemented until 2018, the program's first step began by creating Safe Harbor temporary guidelines and an application process for parents of children with uncontrollable seizures to obtain medical marijuana for their child on a more immediate basis. Other interim provisions include temporary regulations for laboratories and growers/processors and dispensaries. The Program reached its second milestone on January 17, 2017 when the Pennsylvania Department of Health released permit applications for medical marijuana grower/processors and dispensaries. Secretary of Health Dr. Karen Murphy explained that "there will be up to twelve permits issued for grower/processors across Pennsylvania's six medical marijuana regions and up to twenty-seven permits issued for dispensaries." The application period closed on March 20, 2017 and permits are not expected to be issued until June 2017 at the earliest.

State officials have said 900 entities have contacted the department to express interest in getting into the medical marijuana business in Pennsylvania. Industry experts anticipate the medical marijuana market to be a growing source of revenue and economic stimulation for Pennsylvania. Further, the Program imposes a 5% tax on the gross receipts of a grower/processor received from the sale of medical marijuana by a grower/processor to a dispensary. The tax may not be passed on to the patient or caregiver. A portion of the proceeds of this tax will be used to offset the cost of medical marijuana and identification cards for patients and caregivers who cannot afford the treatment. A portion of the tax will also be used by the Department of Health for research related to the use of medical marijuana and its effectiveness in treating the currently enumerated serious medical conditions and other medical conditions.

## MEET OUR ATTORNEYS

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While the medical marijuana program has made substantial progress since its passing last year, the state of recreational marijuana remains largely unaddressed on the state level in Pennsylvania. Some cities, including Philadelphia and Pittsburgh, have decriminalized the possession of a small amount of marijuana. In Philadelphia, possession of 30 grams or less is a civil offense carrying a \$25 fine, with a \$100 fine for smoking in public.

Twenty-six states and the District of Columbia have legalized marijuana in a broad form, either through medical marijuana programs or local decriminalization. Seven states and the District of Columbia have legalized marijuana for recreational use. If Pennsylvania's Medical Marijuana Program is implemented successfully, it will be interesting to see how marijuana law in the Commonwealth develops over the coming years.

*Kira primarily focuses her practice on Admiralty and Maritime and Commercial Litigation. She works with the Maritime Group in handling transportation, warehousing, and insurance matters. Her practice also involves civil litigation, real estate, and small business planning. She represents and advises clients in both litigation and transactional matters. If you have any questions about this article, please contact Kira at [krold@mattioni.com](mailto:krold@mattioni.com)*



### [Common Mistakes with Confession of Judgment Clauses in Commercial Leases](#)

*By: Sarah Alderfer, Esquire*

Confession of judgment clauses are a powerful tool that landlords can include in commercial leases to limit their

## PRACTICE AREAS

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exposure in the event of a tenant's default. Landlords frequently use confession of judgment clauses to limit litigation expenses. A confession of judgment clause allows for a landlord to quickly obtain a judgment for money or other amounts owed and possession of the property. Once a landlord confesses judgment, the burden shifts from the landlord to prove a default to the tenant to disprove the default.

However, to obtain a valid confessed judgment, the lease itself must contain a confession of judgment clause (also called a warrant of attorney) that strictly complies with the rules regarding confession of judgment. When including a confession of judgment clauses in a lease, landlords should avoid these three common mistakes.

#### **1. Failing to Set the Clause Apart from the Lease**

The confession of judgment clause is only valid if there is a knowing, voluntary, and intelligent waiver of rights. It should be clear from viewing the lease that it contains a confession of judgment clause. It should also be clear that the tenant was aware of and agreed to the confession of judgment clause.

The confession of judgment clause should be easily recognizable in the lease. The clause should appear in all capital letters and in bold typeface. The clause should appear all on one page and the section containing the clause should be separately initialed or signed by the tenant.

#### **2. Failing to Allow for Successive Judgments**

A confession of judgment clause can be used to enter successive judgments only if the clause itself authorizes multiple uses. In the case where a tenant's default continues, the landlord cannot confess judgment against the tenant a second time unless it is allowed by the confessed judgment clause. A tenant in default who still occupies the premises may continue to accrue further unpaid rent and other charges due



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under the lease. Therefore, it is important to provide the authority to confess judgment shall not be exhausted by one use of the confession of judgment clause.

### 3. Failing to Restate the Clause in Successive Documents

A confession of judgment cause only is effective against the tenant who signs it, and is not valid against a sub-lessee unless the confession of judgment clause is restated in the sublease. Likewise, a confession of judgment clause is not valid when a lease is amended and the confession of judgment clause is not restated in the lease amendment. Accordingly, any subleases or lease amendments should include a restated confession of judgment clause.

Confession of judgment clauses are a powerful tool to assist landlords in dealing with default against commercial tenants. To get the full benefit of confession of judgment clauses, landlord must carefully comply with the rules. In order to protect themselves, landlords should be careful to avoid these common mistakes. Landlords should also check to make sure their lease forms comply with the rules surrounding confession of judgment.

*These articles provide general information and do not provide legal advice. Anyone with questions or concerns about the topics addressed should contact an appropriate professional.*

*If you would like more information on this article, please contact Sarah at [salderfer@mattioni.com](mailto:salderfer@mattioni.com)*

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