



## FREQUENTLY ASKED QUESTIONS

### 1. What are your attorneys fees?

We will discuss estimated attorneys fees with you in advance and, for each new client, will provide you with an engagement letter outlining how fees will be charged. We take some matters (personal injury, wrongful death and medical malpractice cases) on a contingency basis, so that attorneys fees are due only if and when we recover, with the client responsible only for court costs and other out-of-pocket expenses if there is no recovery for the client. Other matters (such as commercial litigation and other long-term projects) will require a retainer, will be billed monthly on an hourly basis, or will be billed at closing.

### 2. What if I need legal help your firm does not offer?

We frequently work with, or refer clients to, specialists in other areas of the law, such as bankruptcy, patent/trademark, immigration law and worker's compensation.

### 3. Is Connecticut a community property state in which all property is split equally between the spouses?

No.

### 4. What does joint legal custody mean?

When both parents (custodial and non-custodial) have the right to participate in all major decisions affecting the minor children and may prevent the physical custodian from removing the children from Connecticut.

### 5. How long does it take to get a divorce in Connecticut?

If there are no child custody disputes, an average of six to nine months.

### 6. What should I do if I'm injured in an accident?

Seek medical treatment immediately at the emergency room or at your doctor's office even if you don't think the injury is "serious." If you have been injured in a car accident, notify your insurance company and make sure a police report is filed. If you are injured on someone else's property, report your injury to the property owner. Do not sign any authorizations or give any statements to representatives of the other party's insurance company without the advice of your attorney. Contact us at your earliest convenience to determine if you have a claim for personal injury.

### 7. What should I do if I am arrested?

Do not make any statements to the police. Call your attorney immediately.

### 8. What should I do if stopped by the police for driving under the influence of alcohol or a drug?

Be polite and respectful. If you refuse to take the breathalyzer test, there is an automatic loss of license for six months. If you take the breathalyzer test and are found to be above the legal limit for blood alcohol content (.08 percent), you will automatically lose your license for three months. There is no legal penalty for refusing to take a field sobriety test; however, this refusal may result in your arrest and transportation to the police station to take the breathalyzer test.

### 9. What is the difference between a real estate binder, an offer to purchase and a contract?

After you find a house you want to purchase, the realtor will usually ask you to sign a "binder" or an "offer to purchase." These two forms are actually the same thing and are not binding on the parties unless they say something like, "This binder will become the contract if no formal contract is signed." A real estate contract is the final, binding agreement between a buyer and seller. In the New Milford area, the contract is customarily prepared by the seller's attorney. However, in Litchfield and some other nearby towns, the realtor may present a formal contract for your signature.

### 10. When should I contact an attorney when I am selling or buying property?

If you are listing property for sale, we are happy to review the listing agreement with the realtor. If you are making or accepting an offer, you may contact us to review the proposed offer before it is signed. If you are purchasing property, you should not sign any document purporting to be the final contract until it has been reviewed by your attorney. If you feel you must sign a contract before your attorney has seen it, you should add language stating that the contract is subject to your attorney's review and revision within a certain number of days.

### 11. What is a "living trust"?

It is any trust you make while you are alive. Living trusts fall into two basic groups: (1) revocable trusts, which you can change at any time and (2) irrevocable trusts, which you cannot change or control. The IRS treats the assets of a revocable trust as part of your taxable estate.

### 12. What is a "living will"?

A living will is a document that you sign to advise your family and your doctor that you do not wish to be kept alive (via a feeding tube or other life support devices) if you lapse into a coma from which you will never recover.

**13. How can I avoid probate?**

You can "avoid probate" by having no assets whatsoever in your name only. If your assets consist only of jointly owned assets (such as a house in survivorship), assets with a named beneficiary (such as an IRA or life insurance policy), or assets transferred to a trust, the normal administration of your estate in Probate Court is not be required. Nevertheless, the Probate Court still requires your estate to be administered for Connecticut succession tax purposes only and a Probate Court fee (and, possibly, succession taxes) will be due.

**14. Can I avoid probate if I put everything in a living trust?**

Yes, you can avoid probate by putting everything you own in a revocable trust. However, this can be a cumbersome process with unexpected complications. Furthermore, your estate (which would now consist of the assets in your revocable trust) would still need to be submitted to the Probate Court for Connecticut succession tax purposes only. Also, your estate would still be subject to state and federal estate taxes. You can only truly avoid probate and estate taxes if your assets have been in an irrevocable trust (a trust over which you have no control) for 3 or more years prior to your death.

**Moots Pellegrini Law Firm**

46 Main Street, P.O. Box 1319, New Milford, CT 06776-1319

Telephone 860-355-4191      Fax 860-355-8487