

**“Making the Best of a Bad Situation:
Why You Can Always Qualify for MassHealth”**

Presented by:
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FRANK & MARY




PETER, PAUL & MARY, JR.

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FRANK AND MARY’S GOALS

- Live in the house until they die
- Be buried in the back yard



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FRANK AND MARY

Assets: (Both 80 yrs. Old)

| | |
|-------------------|------------------|
| Home | \$300,000 |
| IRA (his) | \$150,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$ 75,000</u> |
| Total: | \$625,000 |

Income (Soc. Sec.):

| | |
|-------|-----------|
| Frank | - \$2,000 |
| Mary | - \$1,000 |



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MARY



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Nursing Home

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FRANK & MARY'S ASSET PROTECTION PLAN


- Transfer home to Frank
- Transfer all other assets to Frank
- Frank buys annuity for assets over \$119,220



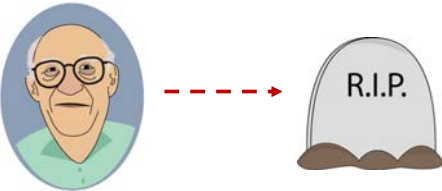
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FRANK & MARY'S ASSET PROTECTION PLAN

- Wills and Asset Protection Trusts
- Powers of Attorney



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MARY

Assets:

| | |
|-------------------|------------------|
| Home | \$300,000 |
| IRA (his) | \$150,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$ 75,000</u> |
| Total: | \$625,000 |

Income (Soc. Sec.): \$2,000




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NOW WHAT?

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Private Pay: \$12,000 per mo.
MassHealth: \$7,000 per mo.
MassHealth Savings: **\$5,000** per mo.

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THE WORST – MARY ON PRIVATE PAY

“Burn Rate”
= Private Pay – Income




\$12,000 - \$2,000 = 10,000 per mo.

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THE WORST – MARY ON PRIVATE PAY

- Assets: \$325,000
- Exhausted in 32.5 mos. with Lien

OR




- Sell Home
- Exhausted in 62.5 mos. (5 Yrs.)

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MASSHEALTH ELIGIBILITY

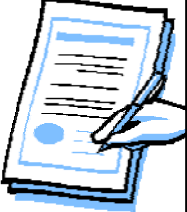
- Home – Not Countable
- Other Assets - \$2,000
- Income (- \$72.80) Paid to Nursing Home
- MassHealth Pays the Nursing Home the difference with a Lien for Recovery



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ASSET RESTRUCTURING


- The Annuity
- The Promissory Note
- The d4c Pooled Trust



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THE ANNUITY

- Equal Monthly Payments
- Actuarial Life Expectancy
- MassHealth Lien
 - remaining payments




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MARY

Assets:

| | |
|-------------------|------------------|
| Home | \$300,000 |
| IRA (his) | \$150,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$75,000</u> |
| Total: | \$625,000 |




Income (Soc. Sec.): \$2,000

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THE ANNUITY


- Funds to Buy: \$325,000
- Mary's Life Exp:
108 mos. (9 yrs.)
- Minimum Payment per mo.:
 $\$325,000/108 = \$3,000 (+/-)$



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THE ANNUITY


- MH Rate: \$7,000 p/m
- **"Burn Rate":** MH Rate – Inc. =
\$5,000 p/m
- Exhausted in 65 mos. (10.5 yrs.)
- Extra \$ to Kids



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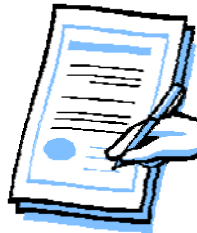
THE PROMISSORY NOTE

Similar to Annuity

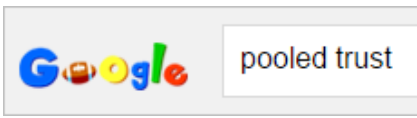


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THE D4C POOLED TRUST



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- ⊕ Massachusetts
 - Berkshire County ARC Master Special Needs Pooled Trust
 - Guardian Community Trust
 - JFCS Disabilities Trust
 - Massachusetts Pooled Trust
 - PLAN of Massachusetts and Rhode Island

<http://planofma-ri.org/>

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THE D4C POOLED TRUST

Can Pay for Anything:

- Better Furniture
- Better Food
- Trips
- Home Maintenance



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THE D4C POOLED TRUST


% Payment to d4c at death
20% after 2 years

MH Lien on Remainder

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THE D4C POOLED TRUST


- MH Rate: \$7,000 p/m

 **“Burn Rate”**: MH Rate – Inc. =
\$5,000 p/m

- Funds after d4c payment
\$260,000 (80% of \$325,000)
- Exhausted in 52 mos. (4.3 yrs.)


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BLENDED RESTRUCTURING

- Annuity Payment = 
“Burn Rate”
- Use d4c for Remainder


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BLENDED RESTRUCTURING

- **“Burn Rate”** payment of \$5,000 p/m for 4 years 
- Annuity cost \$240,000
- D4c for \$85,000 (325,000 - 240,000)
- D4c payment at death only \$17,000 (20% of \$85,000)

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CONSIDERATIONS

- Mary's Estimated Life Expectancy 
- Estimated d4c Needs


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MARY

Assets:

| | |
|-------------------|------------------|
| Home | \$300,000 |
| Bank Accts. (Jt.) | <u>\$ 75,000</u> |
| Total: | \$375,000 |

Income (Soc. Sec.): \$2,000



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THE D4C POOLED TRUST

Can Pay for Anything:

- Better Furniture
- Better Food
- Trips
- Home Maintenance



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LOOK BACK RULE

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THE WORST – MARY ON PRIVATE PAY

“Burn Rate”
= Private Pay – Income




\$12,000 - \$2,000 = 10,000 per mo.

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60 x \$10,000 =

\$600,000




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MARY

Assets:


| | |
|-------------------|--------------------|
| Home | \$500,000 |
| IRA (his) | \$450,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$ 75,000</u> |
| Total: | \$1,125,000 |

Income (Soc. Sec.): \$2,000



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**\$1,125,000 - \$600,000
= \$525,000**



Safe After 5 Years

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- Private Pay **"Burn Rate"**: \$10,000 p/m (\$600,000)
- MassHealth **"Burn Rate"**: \$5,000 p/m (\$300,000)
- Difference After 5 Yrs: \$300,000




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MARY

Assets:

| | |
|-------------------|------------------|
| Home | \$300,000 |
| IRA (his) | \$150,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$75,000</u> |
| Total: | \$625,000 |




Income (Soc. Sec.): \$4,000

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LONG TERM CARE INSURANCE

\$200 per day (\$6,000 per mo.)



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BURN RATE




- Private Pay: \$12,000 p/m
- Income + LTCI: \$10,000 p/m
- **"Burn Rate"**: \$2,000 p/m
- **"Burned"** after 60 mos.: \$120,000

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MARY

Assets:

| | |
|-------------------|------------------|
| Home | \$300,000 |
| IRA (his) | \$150,000 |
| Annuity (Jt.) | \$100,000 |
| Bank Accts. (Jt.) | <u>\$75,000</u> |
| Total: | \$625,000 |



Income (Soc. Sec.): \$4,000

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**\$625,000 - \$120,000 =
\$505,000**



Safe After 5 Years

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OTHER PLANNING OPTIONS

- **Caregiver Child**
 - Payment to Child
 - Gift of House after 2 yrs.
- **Long Term Care Insurance**



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LONG TERM CARE INSURANCE

Prior to March 15, 1999

- \$50.00 per Day
- 730 Days
- Elimination Period <=100 Days
- Directly from Home
- At Least **1 Day Left (January 2013)**
- ✓ Do Not Intend to Return Home



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LONG TERM CARE INSURANCE

On or After 03/15/1999


- **\$125.00** per Day
- 730 Days
- Elimination Period <=365 Days
- Directly from Home
- At Least **1 Day Left (January 2013)**
- ✓ Do Not Intend to Return Home



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FRANK & MARY'S ASSET PROTECTION PLAN

- **Wills and Asset Protection Trusts**
- **Powers of Attorney**



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FIND US ON YOUTUBE



Elder Law with Frank And Mary

<http://www.youtube.com/elderlawfrankandmary>

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PLANNING GOAL



Peace of Mind

ATTORNEY BIOGRAPHY



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Practice Groups and Specialty Areas

Elder Law
Trusts and Estates
Estate Planning
Probate and Trust Administration
Land Use

Art has been practicing law in Massachusetts for over 30 years. He focuses his practice on elder law, estate planning, probate and trust administration, and land use matters. Art counsels senior citizens and their loved ones regarding elder law and special needs planning, asset protection, and Medicaid planning. He works with individuals in all areas of estate planning, including wills, trusts, durable powers of attorney, health care proxies and living wills.

In addition, Art represents clients in various areas of land use law, including appearing before local planning boards, zoning boards of appeals and conservation commissions.

Prior to joining Mirick O'Connell, Art was a sole practitioner in Marlborough, MA.

Representative Matters

- Restructured assets for a married couple so that, following the death of spouse, most spousal assets were immediately protected for nursing home purposes
- Assisted a parent in qualifying for MassHealth while protecting home for benefit of child who had cared for the parent before the parent entered a nursing home
- Created overlay districts in Hudson and Marlborough and obtained special permits and other local permits necessary for the construction of 100 plus unit retirement communities
- Obtained a comprehensive permit to allow the construction of a 52-house subdivision that had been created in the 1960's, where all permits had expired and subdivision could no longer be built under local zoning by-law

Publications/Presentations

Art frequently provides educational programs on elder law issues to local Councils on Aging.

Education

JD, Boston University Law School
AB, *cum laude*, Princeton University

Bar and Court Admissions

Massachusetts

Professional/Community Affiliations

Marlborough Hospital, trustee

Marlborough Economic Development Corporation, chair

Massachusetts Bar Association