



UNHAPPY WITH THE TERMS OF A TRUST? DECANTING THE PROBLEM AWAY

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In this presentation, Daniel P. Fitzgerald and Susan Huffard, trusts and estates attorneys in Cummings & Lockwood's Greenwich, Connecticut office, discuss how to draft trusts with flexibility and built-in asset protection features, as well as how to use decanting to "fix" problematic trusts to address changes in circumstances when old trusts are not flexible enough. Also included is an update on the status of decanting laws in Connecticut and a review of a recent Connecticut Supreme Court case on this subject. (32:01)

Presentation Outline

1. Types of Three Party Trusts
 - a. Grantor
 - b. Trustee
 - c. Beneficiary
2. Why Establish a Trust?
 - a. Asset Management
 - b. Tax Planning
 - c. Asset Protection
3. Spendthrift Trusts
4. Support Trusts
5. Discretionary Trusts - Ascertainable Standards
6. Discretionary Trusts - Absolute Discretion
7. Decanting
8. Decanting Authority
 - a. Trust Terms
 - b. State Statutes
 - c. State Case Law
 - d. Common Law or UTC States
9. Tax Consequences of Decanting
 - a. IRS Guidance for Income Tax Consequences of Decanting
 - b. Gift and Estate Tax Issues

c. GST Tax Issues

10. Ferri v. Powell-Ferri

a. Massachusetts Supreme Court Decision

b. Connecticut Supreme Court Decision

c. Case Considerations

11. Irrevocable Self-Settled Trusts

12. Self-Settled Asset Protection Trusts

13. Jurisdiction over a DAPT?

