



Aviv Bliwas

20 Erford Road, Suite 304

Lemoyne, PA 17043

Ph: 717.761.4864

Fax: 717.761.4879

www.bliwas.com

aviv@bliwas.com

Meet Liz Brown, Executive Assistant

Greetings Aviv's Newsletter Recipients! At this point some of you may have received a phone call or email from my name, but still may not know anything about me. I was actually born and raised outside of Duncannon, PA, on approximately 100 acres of beautiful fields and woods. At the fearless age of 19, I moved to NYC to live the city life. During my time there I had a brief stint running a storefront Free Store (sort of like "Freecycle" where all items are gently used and 100% free – no questions asked!), became very active politically, worked at a music club, was a vegan baker, worked in a library and eventually went on to graduate Magna Cum Laude from Hunter College with a Bachelor's Degree in Political Science and a certificate in Public Service. After working for a NYC Council Member, a NY State Senator and then helping lead a membership based workforce development coalition, I relocated, after 12 years away, back to the country this past October to be with family and immerse myself in nature again. I greatly enjoy writing science fiction short stories, am a horror movie aficionado, and am venturing into growing hops outside of the old farmhouse that my husband and I moved into on our family's homestead. Please feel free to reach out to me with sci-fi story ideas, horror movie trivia questions and/or tips for growing hops in Central PA! I look forward to meeting many of you in the near future!

LAW OFFICES OF AVIV S. BLIWas, LLC

MEDICAID PLANNING, ELDER LAW and ESTATE PLANNING

20 Erford Road, Suite 304

Lemoyne, PA 17043

March/April 2016 • 2nd Edition

Protecting Families

PRSR STD
U.S. POSTAGE
PAID
HARRISBURG, PA
PERMIT NO.792



Liz in front of a big dinosaur.

What's New with Us

Well as you can see, I've got a new full time employee who's actually been here since October 2015, but I'm now getting around to formally introducing her to you guys. As you can tell from her bio, she's an interesting character who you'll enjoy talking to if you have the chance.

The half-marathon is complete! I finished! And I finished faster than over 2,000 other people (I wasn't last, yay). And I haven't run since, but I soon will take that back up again, albeit shorter runs.

On the travel front, check out the January edition of Harrisburg magazine, I was interviewed about my trip to Cuba as part of an article about bucket list destinations. It's also available on their website <http://www.harrisburgmagazine.com/January-2016/5-Bucket-List-Trips/>. I even beat the President there, as you may have noticed. Next up is the trip to Iceland in May, right before Memorial Day.

I've got a lot on my plate coming up. On April 13 Patrick Kennedy is coming to the area to talk about his book *A Common Struggle* which deals with issues of mental illness and addiction. That event is sponsored by Harrisburg Jewish Family Services if you are interested in attending. Liz and I will both be going so you will see us there. In the 1st week of May I'm volunteering during "Ask a Lawyer" week sponsored by the Dauphin County Bar Association at Strawberry Square. If you've been dying to get some free legal advice, that is the time; they will have lawyers from all different specialties available. I've also been working with a group of other experts planning a workshop on elder abuse that will be taking place sometime in the fall geared towards professionals to help them recognize the signs and where to go for resources. Liz and I have started planning a giant appreciation event for all of you, also to take place in the fall, details to come when we know more ourselves. So all in all, we are keeping busy.



I completed the Princess Run!

Estate Recovery

I often take my inspiration for my articles from a recent problem or issue that we've faced. This month, I've been fighting the good fight with the Pennsylvania Department of Human Services over some cases of estate recovery.

What the heck is estate recovery?

Estate recovery is the law that says if someone over 55 received Medicaid benefits to pay for long term care, the government is entitled to recoup the money it paid on their behalf from their estate. For now, Pennsylvania's enforcement of estate recovery is limited to property in the Medicaid recipient's probate estate that was titled only in their name. There is the possibility that they may expand this in the future, but this is the current state of things in Pennsylvania. With proper planning, estate recovery can be minimized or even avoided altogether.

But even when you know that you have planned properly and the state will not recover anything, if you are the Executor of a Will or the Personal Representative (the equivalent of an Executor only without a Will) and you know the person was receiving Medicaid benefits, you must file the paperwork with the State and prove to their satisfaction that there is no estate recovery obligation. If you don't do this, and it is later found that there was an obligation, the Executor or Personal Representative can be personally liable if they cannot get the money back.

So there's a form to fill out, then some more forms to fill out (welcome to my world), all of which is explained by the state on their website at: <http://www.dhs.pa.gov/citizens/estaterecoveryprogram/>.

Now here's where my office comes in. As part of our full-service package, we deal with the state government on estate recovery issues on behalf of our clients. Usually, it's a simple matter of providing the documentation that it should be waived, getting the letter from the government so stating, and everyone moving on with their lives. But other times it's a little more complicated, because we are requesting the government waive estate recovery under some exemptions allowed under the law. About half the time it goes smoothly and half the time it does not.

Well recently, we really started getting feisty with the state on a couple cases that had been languishing away (for 2 years!) that had not gone smoothly for no reason at all. We had provided documentation. We had requested a decision. And all we got was radio silence. So we followed up, we made phone calls, we sent emails. We got more silence. We finally got a bit tougher in recent months and called in reinforcements. We reached out to Senator Patricia Vance's office for some constituent help. We asked her to please ask why things were taking so long, and could they please issue a decision. And she did. And it helped. But one of the cases still had no final decision. So we asked the Senator to inquire again. And at the same time, I actually emailed the Chief Counsel's office and warned them that if I did not get a decision I was going to sue the agency in Commonwealth Court in a *Writ of Mandamus* action, which is basically when you request the Court to order someone or some entity to do what they are required by law to do.

The next day I got a call with a verbal decision (which I will now proceed to appeal because I think it was the legally wrong decision, but at least I finally got an appealable decision!).

So the moral of the newsletter, kids, is plan to avoid estate recovery if at all possible.

How to minimize or avoid estate recovery

- 1 One of the easiest and best ways that does not cause problems elsewhere is to add beneficiary designations to bank accounts (sometimes called TOD or POD).
- 2 Adding joint owners (beware of gifting problems, do not attempt this without consulting an attorney)
- 3 Keep the Medicaid recipients account below \$2400, in which case the Department will waive their claim.
- 4 Re-titling property (again, beware and do not undertake without the advice of a lawyer)

When all else fails and you have to deal with the state on estate recovery issues, prepare yourselves for hoops to jump through, waiting and patience. But if that fails, get ready to fight and enlist allies. Even as an attorney, I needed an ally on these recent cases and ultimately had to threaten court action to get the government to do what they were supposed to.