

McALISTER, McALISTER & NICKLAS



A PROFESSIONAL LIMITED LIABILITY COMPANY

ESTATE PLANNING • BUSINESS LAW • LITIGATION AND DISPUTE RESOLUTION

ESTATE & TRUST LITIGATION • PROBATE • OIL & GAS • EMPLOYMENT LAW

TRUST ADMINISTRATION • NON-PROFIT AND CHARITABLE LAW

REAL ESTATE • GUARDIANSHIPS

PLANS FAIL FOR LACK
OF COUNSEL, BUT WITH MANY
ADVISERS THEY SUCCEED.

PROVERBS 15:22

Over *35* Years of Providing
Counsel & Guidance
to Businesses and Individuals

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Merry Christmas,

We are continually thankful for your friendship and the opportunity to serve you with legal advice on matters of personal importance to your families and businesses. In the midst of all the continued uncertainty of 2021, we hope this message finds you safe and healthy. This newsletter contains articles on a variety of topics which may be pertinent to your present situation. If we can help you with any of these issues, please contact us.

Our website contains an overview of our practice areas, background information on each of our attorneys, and topical articles. We also offer an informational email newsletter to clients with news about recent developments in the law and our firm. You can find a link to our Facebook page and a sign-up form for our e-newsletter on the contact page of our website. www.mcalisterlaw.com

We have added a new attorney, Jason Blose. Jason's experience and expertise is a real asset to our firm and a benefit to our clients with business or oil and gas legal issues.

This past year we took on the exciting challenge of remodeling our office space of 32 years. Lloyd and Karla moved their law practice into the second-floor space of the Kirkpatrick Bank Building in November 1988. In 1992 we were able to also lease a portion of the third floor for additional offices as our firm grew. The bank recently informed us additional space on the second floor was available, so we have completely transformed our space on the second floor. After the challenges of COVID, our team was again stretched as we shared office space and only one conference room for six months while the contractor completely remodeled our second-floor space. We are officially on the second floor as of November 1 and our team is sharing space on the second floor while the third floor renovation is completed.

Lloyd McAlister and Cara Nicklas were once again chosen as Super Lawyers in Oklahoma. Lloyd in the Estate Planning and Probate practice area and Cara in the Estate and Trust Litigation practice area. Ashley Ray was honored as one of the NextGen Under Thirty leaders in the legal community. Cody Jones and Ashley were both selected as top attorneys in Wills and Trust and Cara was chosen as a top attorney in Employment Law by 405 magazine. Additionally, Cody was accepted into Class II of the Heart of America Fellows Institute of the American College of Trust and Estate Counsel, which involves many hours of training on complex estate planning issues. Our firm has once again been chosen as a top tier Trust and Estate Planning law firm in the Oklahoma City metropolitan area by the U.S. News and World Report. We are the only Edmond firm recognized for this honor. It is our privilege to provide big firm quality and small firm customer service to our clients. This is our 36th year of serving the community of Edmond. When we complete our remodeling we will have a reception to celebrate this milestone with you.

We pray our past service to you has met your expectations, just as we are committed to serving your best interest going forward. We wish you a joyful holiday season filled with the love of family and friends.

Your friends at McAlister, McAlister & Nicklas

The Lord bless you and keep you; the Lord make His face shine upon you and be gracious to you;
the Lord turn His face toward you and give you peace. *Numbers 6:24-26*



Cody Jones, Cara Nicklas, Kyle McAllister, Lloyd McAlister, Jason Blose, Karla McAlister, Ashley Ray

McALISTER, McALISTER & NICKLAS COVID PROTOCOLS

We are scheduling meetings in our offices in such a way as to minimize personal interactions of guests in our office space. We have set up protocols for any of our employees who may be infected or exposed to COVID to work from home until it is medically appropriate for them to return to our office. Virtual meetings can be easily arranged.

We request you reschedule any “in office” appointments and not come to our office if you or anyone in your household has experienced any cold or flu like symptoms within the

last week prior to the appointment or if you have been exposed to someone with COVID.

We clean our reception area, conference rooms and other common areas in our office after each appointment and have implemented other enhanced cleaning procedures to help reduce the risk of exposure to infections.

We appreciate your cooperation and understanding.

Our People

Legal Staff

- | | | | |
|-------------------|-----------------------------|-------------------------------------|----------------------------|
| • Lloyd McAlister | lmcaster@mcalisterlaw.com | • Jason Blose | jblose@mcalisterlaw.com |
| • Karla McAlister | kmcalister@mcalisterlaw.com | • Kyle McAllister | kyle@mcalisterlaw.com |
| • Cara Nicklas | cnicklas@mcalisterlaw.com | • Ashley Ray | aray@mcalisterlaw.com |
| • Cody Jones | cjones@mcalisterlaw.com | • Lateresa Crawford-Legal Assistant | lcrawford@mcalisterlaw.com |

Support Staff

- | | | | |
|-------------------|---------------|----------------|-------------------|
| • Lisa Churchwell | • Martha Rice | • Alison LeMay | • Grant McAlister |
|-------------------|---------------|----------------|-------------------|



Welcome Jason Blose & Family

We are thrilled to introduce you to Jason Blose and his lovely wife, Rebecca and their seven amazing children, five boys and two girls. Jason and Rebecca met in college while studying abroad. They attend Faith Bible Church in Edmond. Jason, by his own estimation, is an avid and mediocre cyclist (and runner, at times), and enjoys camping adventures with his family. They recently settled on an Oklahoma homestead and are the proud owners of a few dozen chickens and a couple of goats as well as a tractor.

Jason joined our firm last December. Prior to joining the firm, Jason served for over eleven years in various in-house roles at Chesapeake Energy Corporation, most recently as the Managing Attorney for Chesapeake's Mid-Continent and Rockies Business Units, and previously as an attorney and Division Counsel for Chesapeake's Eastern Division. While at Chesapeake, Jason managed a team of attorneys and staff supporting Chesapeake's drilling operations in Oklahoma and throughout the country (OK, TX, KS, WY, CO, ND, PA, OH, WV, NY, KY).

In his various roles at Chesapeake, Jason managed or handled thousands of oil and gas and commercial claims and lawsuits, ranging from class actions to royalty underpayment claims to contract and IP disputes, and oversaw the company's Oklahoma Corporation Commission, bankruptcy, and collections dockets.

Jason also provided counsel to the company in or personally handled several billion dollars of acquisitions and divestitures of assets, including producing and non-producing properties. He also represented the company in negotiation of a host of commercial agreements, including MSA's and gathering agreements.

Jason, born and raised in Treichlers, Pennsylvania, graduated summa cum laude from Lafayette College in 2006. He graduated in 2009 from the Penn State University, Dickinson School of Law. During law school Jason served as a Blackstone Fellow at the Alliance Defense Fund, now the Alliance Defending Freedom, and clerked for Justice Michael Eakin of the Pennsylvania Supreme Court. He is admitted to practice in Oklahoma, the USDC for the Western District of Oklahoma (including bankruptcy), and Pennsylvania (Texas admission pending).

Jason's primary areas of practice are general business and commercial law issues, business formations, transactions and dispute resolution as well as oil and gas specific transactions and dispute resolution. We are thrilled to welcome Jason and his family to our team. We know his skills and knowledge will be of great benefit to our clients.

House Bill 2548: the Oklahoma Uniform Power of Attorney Act

by Cody Jones

On November 1, 2021, the new Oklahoma Uniform Power of Attorney Act (the “New POA Act”) went into effect under 58 O.S. § 3001, et seq. The new legislation repeals the Uniform Durable Power of Attorney Act (the “Old POA Act”) which was found at 58 O.S. §1071, et seq. A durable power of attorney and/or health care power of attorney validly executed under the Old POA Act prior to November 1, 2021, remains valid even after the repeal of the Old POA Act. Nevertheless, you should be aware of such changes in the law if circumstances create potential confusion or a desire to update your documents.

The New POA Act provides remedies for incapacitated persons against an agent who abuses his or her authority under the power of attorney document – a welcome change in the law. It also provides standing for the principal’s guardian, spouse, parent, descendant, or certain other individuals to petition a court to review an agent’s conduct if the principal lacks capacity to file such petition.

However, in replacing the Old POA Act, the New POA Act eliminates the previous statutory basis for clients to execute a power of attorney for health care decisions. The New POA Act expressly does not authorize a person (referred to as the “principal”) to delegate to an agent the power to make healthcare decisions for them. It does authorize the agent to access the principal’s health care information under HIPAA and communicate with the principal’s health care providers. An advance directive under the Oklahoma Advance Directive Act is still available for a person to make end-of-life decisions regarding life sustaining treatment and, specifically, administration of nutrition and/or hydration intravenously, in narrowly defined healthcare conditions (terminal condition, persistently unconscious condition, end stage condition). And, the Advance Directive

Act allows for the appointment of a health care proxy (essentially an agent; same concept different label) with the delegated authority to make medical treatment decisions.

The new law has created confusion concerning what authority can be delegated to an agent in a power of attorney signed after October 31, 2021. It is our understanding the state legislature is working to remedy this confusion. Until they do so, we are adapting the new durable power of attorney form and the existing advance directive form to assist our clients in delegating authority to persons they trust to make decisions for them in the event of our client’s inability to make decisions for themselves due to an incapacitating illness or injury.

Our Practice

The attorneys and staff at McAlister, McAlister & Nicklas provide a broad range of professional services to individual and business clients in the following areas:

Estate Planning

Business Law

Litigation And Dispute Resolution

Estate & Trust Litigation

Probate

Oil & Gas

Employment Law

Trust Administration

Non-Profit And Charitable Law

Real Estate

Guardianships

Confidentiality

If you choose to communicate with members of our firm by email, please use an e-mail account which you alone are authorized to access. If you utilize a public or work-related computer, even with a private e-mail account, you may not have a reasonable expectation of privacy. Please note, if you forward e-mail communication with your attorney to third parties, you may inadvertently waive your attorney client privilege.

Please visit our website at
www.mcalisterlaw.com.

It is mobile friendly and has many features we
hope you will enjoy and share with your friends.

Also look for us on Facebook. 

Estate and Gift Tax Update

by Lloyd McAlister

Responses have been frenzied in 2021 regarding various legislative proposals in Congress for changes in the tax law – legislative proposals which at the time of writing this article seem “dead in the water.” Those proposed changes included: 1) decreasing the estate/gift/generation skipping exclusion amount from \$11+ million to approximately half that amount and 2) changing the historical, so-called “free step up in basis” for assets subject to estate tax upon the deceased owner’s death to what is instead “carryover basis,” meaning the tax basis of the deceased owner would simply “carry over” to the heir/beneficiary with the result that the potential taxable capital gains on the disposition of those assets by the heir/beneficiary would result in a tax that historically would not have been incurred. Anything is still possible, so what I refer to as seemingly “dead in the water” might yet come to life like the creature from the black lagoon as Congress meets in smoke-filled rooms on Capitol Hill between now and year’s end – STAY TUNED!

In that context of massive uncertainty about what Congress might do, **the IRS made its regular announcement of**

inflation adjustments to existing tax law provisions for 2022. Those include: 1) the basic exclusion amount for estate/gift/generation skipping tax increasing to \$12,060,000 per taxpayer (\$11,700,000 in 2021) and 2) the gift tax annual exclusion increasing from \$15,000 to \$16,000.

While planning with what we know now, **include in your thinking this latest news** – not speculation but reality, unless and until changed by Congress! A single taxpayer may have a \$12,060,000 exemption amount for estate/gift/generation skipping tax purposes (that is to the extent it hasn’t been used by prior taxable lifetime transfers), so a couple may have twice that amount to work with (\$24,120,000). And, a single taxpayer can make qualifying gifts up to \$15,000 per donee in 2021 and then, as of 2022, up to \$16,000 per donee. So, potentially \$31,000 is available per donee for year-end gift planning which straddles the calendar year end and beginning, while potentially \$62,000 is available per donee for a married couple for properly structured calendar year end 2021/calendar year beginning 2022 gifts.

A Note from the MM&N Business Team

I like to work on my own equipment – cars, trucks, mowers, tractors, etc. That usually works out fine. I save some money and teach the kids a few things, but I’ve also tried to do a few jobs I wasn’t equipped or didn’t have time to do. They didn’t end well. I damaged equipment and cost myself money and time in the process.

As the primary business, real estate, and oil and gas lawyers at the firm, Kyle McAllister and I help clients navigate potentially tricky issues throughout the lifecycle of a business, from the initial formation of a new

business venture to the company’s dissolution and most everything in between. Kyle and I often discuss how clients could’ve saved their time, money, and reputation if they hired a lawyer to protect their interests from day one, rather than as the “fix-it man” after the fact. If you’re starting a business, buying or selling equity, financing a business or selling a business, bringing in a lawyer upfront rather than DIY-ing an agreement or doing a handshake deal can prevent significant and costly headaches down the road. As they say, an ounce of prevention is worth a pound of cure.

Don’t get us wrong – we like fixing things – but before your next deal, consider whether the upside of saving a few bucks upfront is worth the potential downside of spending tens of thousands on litigation to sort out the details of the deal down the road. If you find yourself in need of some help, you are always welcome to give us a call or send us an email at jblose@mcasterlaw.com or kyle@mcasterlaw.com.

In the meantime, I’ll be working on my truck.

Jason Blose

Year End Planning Check Up!

by Karla McAlister

The year end or beginning of a new year, is an excellent time to get in the habit of checking your important personal paperwork- documents that are legally and financially important for you and your family. So, consider the following checkup of your important documents.

1. Locate your documents! It is amazing how many times we need a document and are not sure where to look for it. If you have experienced that problem, it is a good idea to gather all important records and tell your family or a trusted advisor where to find them.

2. Confirm the documentation you have! Your important records might include: military service and discharge papers; retirement plan papers; insurance policies including the beneficiary designations, documents evidencing ownership of all of your assets, including vehicle titles, financial account statements, deeds for land and minerals, ownership records for assets received by gift or inheritance,

trust papers for any interests you have in existing trusts, and so on. And last but by no means unimportant, your estate planning documents, including your last will and testament, your revocable trust and any amendments, your durable power of attorney, your healthcare power of attorney, your advance directive for healthcare (for end of life decisions) and your consent for your attorney to communication with your fiduciaries.

3. Confirm your documents are current! Have you ever felt time was flying by? The speed of time seems real when we notice how “old” and outdated something has gotten. Do you remember the date you signed your estate planning documents? Have things changed since then? Our clients regularly call on us to meet with them and review their documents in order to assess whether any updating is needed or desirable. Although this may seem inconvenient and does involve time and expense the cost can be small in comparison

to problems and costs that arise from having outdated documents which are no longer adequate or appropriate for a person’s situation.

Triggers to review:

- 1 Wedding bells.
- 2 When you become parents or grandparents.
3. Mid-life planning when your children are old enough to acts as your agents and fiduciaries.
4. Death, incapacity, or other significant change in circumstances of children agents, or trustees.
5. After a divorce.
6. Before you remarry consider a pre-marital agreement.
7. When you retire, especially if you move to another state.
8. When you or your spouse dies or suffers declining health or incapacity.

Mandatory Vaccinations *by Cara Nicklas*

One of the most common COVID-19-related question we are receiving is whether an employer may mandate its employees receive a COVID-19 vaccination. The legal issues related to this question depend on different variables. Answers regarding the legality of mandatory vaccination policies seem to be evolving as the courts continue to address the issues. Generally speaking, a private employer may require its employees receive certain vaccinations as a condition of employment as long as certain exceptions are allowed by the employer. These exceptions are religious exceptions under Title VII of the Civil Rights Act (Title VII) and medical exceptions under

the American with Disabilities Act (ADA).

Whether public employers may mandate vaccinations and whether the President of the United States may use executive powers to mandate employer require its employees be vaccinated is even more uncertain.

Our attorneys will continue to monitor the legal aspects of the COVID-19 vaccine. We are available to assist employers with COVID-related policies and practices. We are also available to assist employees who are navigating threats of losing a job due to vaccine mandates.

MM&N

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McALISTER, McALISTER & NICKLAS

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ATTORNEYS AND COUNSELORS AT LAW

Our Mission

McAlister, McAlister & Nicklas is here to serve God by serving our fellow man. Each person in our office believes God created them uniquely as an individual with a purpose and plan for their life. This is not a condition of employment but rather, as it turns out, a common perspective on life and work.

Specifically, we have the privilege of helping people deal with the details of life, as well as the details of death. It is our desire to provide wise and godly counsel to our clients. We always wish to serve our clients well, both as they want to be served and as we ourselves would want to be served. We know that we cannot and do not please all people at all times, but that is a goal we constantly work toward. We don't impose our beliefs on those we serve. Yet, we pray our work will be performed in such a manner as to be pleasing both to the clients we serve and to the Savior we serve.

Although our vocation is focused on knowing and applying rules of law, we cannot ignore the human factor in our work. As we believe and can attest from personal experience, no human life is without its defects and no human relationships are without their unreconciled differences. It is our desire to see all people reconciled to their maker and to their fellow man. We sincerely desire all our clients' relationships be whole and healthy ones. We desire our relationships be the same.

We hope you enjoy reading this issue of our firm newsletter. Of course, if you have any questions about these matters, please feel free to contact us. With hundreds of clients, it is impossible for us to consider all changes in the law with each client's particular circumstances in mind. However, if you would like for us to do that, simply let us know and we will be very happy to review your file and, if necessary, arrange to discuss these matters with you further by conference. The purpose of this newsletter is to discuss matters of current interest. All information should be verified and supplemented by professional advice on your individual circumstances before any action is taken.