

Special Needs Alliance provides assistance to families

By Heather Stanton

Published: August 20th, 2008, Foothills News, Page 6

TUCSON Everyone knows of a family member or friend that has special needs. The term may be generic, but it classifies several groups of individuals with a variety of mental or physical ailments who require others to advocate, care, and meet the needs of the individuals who are unable to do so for themselves. As a broad term, special needs can apply to people with autism, Alzheimer's, cerebral palsy, dementia, muscular dystrophy, Down's Syndrome, multiple sclerosis, schizophrenia, mental illness, cystic fibrosis, cancer – the list is as endless as the needs it represents.

While there are many people with special needs, there are also special advocates waiting in the wings to help protect and provide for them. The Special Needs Alliance (SNA) is a national not-for-profit network of 100 attorneys with expertise in the areas of public entitlements, estate, trust, tax, and legal issues involving those with disabilities.

Many of these attorneys know very well the challenges faced by their clients, as many of them are the parents or siblings of individuals with special needs.

Robert Fleming is one of the founding members of the SNA. As an attorney who specializes in Estate and Trust Law and is also a Certified Elder Law Attorney, he assists clients with the complex issues involved in these intricate situations. Because of the various aspects of care his clients need, Fleming also wears the lay hats of a physician, a social worker, and accountant.

"I'm a little more focused and different from some of the other SNA members because our firm (Fleming & Curti) acts as trustee of special needs trusts. We represent trustees and the beneficiaries with disabilities," says Fleming. "We are in the trenches (with clients)."

As a trustee, he has been named as the person to make the appropriate decisions for those with special needs, which is why he wears so many hats. He and his partners are making decisions for their clients as if they were their own family members.

"Our firm manages probably over \$100 million dollars of other people's money," says Fleming. However serving as a trustee is only part of the assistance SNA provides.

The SNA helps identify find public assistance (services and programs), uncover financial resources (for physical therapy, medications, medical treatment, and transportation) and manage funds received as part of a litigation recovery or direct inheritance.

The attorneys can determine availability of state and federal benefits, protect public benefits eligibility, establish Special Needs Trusts, and manage Trust benefits. This involves creating legal documents to address estate planning, living wills, financial planning, living trusts, conservatorship, guardianship, legal settlements, and similar activities.

Fleming has four broad groups of clients. The first group is mostly older people who are planning for transition and may have a child or family member with a disability.

The second group is mostly young adults needing a lifetime of care due to injury or illness (many are young males with head injuries). The third group is the older population with dementia-related illnesses for whom Fleming directly manages care as trustee or guardian/conservator. The final group is made up of young children with birth injuries. The cost of care for a person with special needs can be exorbitant. Fleming uses the example of a fictional 30-year-old male injured while riding a motorcycle. More than likely he will have a head injury and need a lifetime of care. If he sues, and receives a \$3 million dollar settlement for his catastrophic injury, that will only cover a part of his care.

The litigation will take two to three years, during which huge expenses have been incurred on the public system. The lawyers will get a third of the award, and then the public system will need to be

repaid (approximately \$500,000), leaving the young man with \$1.5 million. If that money is properly invested, it should yield \$100,000 in interest income annually, covering only a third of the annual cost of the man's care of \$300,000.

Fleming says, "His life expectancy is 20-25 years and his care is quite expensive . There just isn't enough money to cover his needs."

Fleming says very few lawsuits generate enough money to adequately cover the cost of treatment required by individuals with special needs. Fleming spends a good portion of his time estate planning.

He says, "That's not just special needs estate planning , that's also planning for wealth transfer to the next generation."

Which brings up an interesting point. Fleming has clients that fit the legal term special needs, which can be defined as any person that would qualify for public benefits . He also has clients who don't fit the legal defi nition of special needs but are worried about their family member's ability to handle money.

For more information on the Special Needs Alliance, visit [www.specialneedsalliance .com](http://www.specialneedsalliance.com).

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