

MARK A. SPEISER
ADMINISTRATIVE JUDGE
PROBATE DIVISION
CIRCUIT JUDGE
SEVENTEENTH JUDICIAL CIRCUIT OF
FLORIDA



BROWARD COUNTY
COURTHOUSE
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TO: All Attorneys
RE: Special Needs Trusts and Pooled Trusts
DATE: December 30, 2015

Please be advised that the following is the current policy regarding Special Needs Trusts and Pooled Trust, in the Probate Division of the Seventeenth Judicial Circuit:

- I. In cases in which the Special Needs Trust or the Pooled Trust was created prior to the institution of the guardianship proceedings, the guardian is not required to report any income, distributions or losses to the Ward's share on the Annual Accounting. The guardian shall provide a balance sheet for the Special Needs Trust or the Pooled Trust on the Initial Inventory.
- II. In cases in which the Special Needs Trust or the Pooled Trust was created after the institution of the guardianship proceedings, the guardian shall attach to the Annual Accounting a separate statement from the Trustee of the Special Needs Trust or the Pooled Trust that sets forth the income, distributions or losses to the Ward's share of the Trust for the applicable fiscal year. The guardian shall not reflect any Special Needs Trust or Pooled Trust transactions on the Annual Accounting form.

Any request that the Court authorize the transfer of a Ward's assets to a:

- 1) Pooled Trust must be accompanied by a copy of the proposed joinder agreement that specifies whether the Pooled Trust is a retention trust and by a statement that the not-for-profit trustee is submitting to the jurisdiction of the Court, will file an annual trust accounting for the Ward's share of the trust for each fiscal year, and will seek Court approval prior to disbursing any lump sum of \$10,000 or more and before making recurring transfers of funds in the amount of \$5,000 or more on a monthly basis;
- 2) Special Needs Trust must be accompanied by a copy of the proposed trust agreement and by a statement that the trustee submits to the jurisdiction of the Court, agrees to file an annual trust accounting for the Trust for each fiscal year, and will seek Court approval prior to disbursing any lump sum of \$10,000 or more and before making recurring transfers of funds in the amount of \$5,000 or more on a monthly basis.