

**ATTORNEYS  
HELPING THE  
ELDERLY AND  
PERSONS WITH  
DISABILITIES**



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**Happy  
Holidays**

**Mission Statement:**

We are a law firm that concentrates on the unique legal needs of people who are elderly, disabled and the families who care for them. We appreciate and understand that each client's legal needs are personal to them. We are prepared to counsel our clients about the many non-legal issues that may arise, including financial, health and long term care concerns. We dedicate ourselves to educating our clients, empowering them to make decisions that are right for them and giving them peace of mind.

**December 2011**

**Volume 3**

**In the Spotlight: Brigid Fernandez**

Brigid Fernandez joined the firm in 2009 and in a very short time has made her presence known in the elder law community. Her unique combination of education and experience makes her a strong advocate for her clients and a valuable associate to the firm.



Brigid has always had a passion for helping people and that passion first led her to become a social worker. She has a Bachelors and Masters Degree in Social Work from the University of Missouri-Columbia and is a Licensed Clinical Social Worker. She worked for nearly twenty years as a Medical Social Worker in an area hospital advocating for the rights of persons dealing with illnesses and disabilities within the healthcare system. Brigid pursued a law degree to continue her advocacy which makes elder practice a natural fit and allows Brigid to use her abilities in helping others.

While attending law school, she worked as a legal intern in the Saint Louis University Legal Clinics and successfully tried her first case as a third year law student. She graduated from Saint Louis University School of Law in 2006 where she received the David Grant Student Attorney Award for her commitment to public service and the Academic Excellence Award for the highest grade in Legal Profession.

During law school and after graduation, she worked at a well-known personal injury law firm, with a focus on medical malpractice and personal injury litigation. She was also a law clerk for the Honorable Booker T. Shaw in the Missouri Court of Appeals, Eastern District.

She is a Board Member for several organizations including the Huntington's Disease Society of America—St. Louis Chapter, the Long Term Care Ombudsman Program and the Life Care Planning Law Firms Association. Brigid is a member of The Missouri Bar and the Bar Association of Metropolitan St. Louis. Her other professional affiliations include: Member of the Women Lawyers' Association of Greater St. Louis, Member of the National Academy of Elder Law Attorneys-Missouri Chapter, the National Association of Social Workers and the Society for Social Work Leadership in Healthcare.

She is a speaker and presenter for various professionals including financial advisors, social workers and healthcare workers. She speaks to and on behalf of seniors in the community at events including senior fairs, conferences and nursing home support groups. Her passion for healthcare shows in her work. Brigid has organized the National Health Care Decisions Day, in cooperation with the Bar Association of Metropolitan St. Louis for the last four years. Brigid has served on the Missouri Bar committee to revise and update the Missouri Bar healthcare directive form.

Brigid is a Certified Civil Mediator. Her areas of concentration include elder law, estate planning, life care planning, guardianships and conservatorships, Medicaid, long term care planning, special needs trusts and veterans benefits.

Brigid brings a unique perspective to her clients and to our firm because she is both a Licensed Clinical Social Worker and an attorney. She understands how hospitals and nursing homes work; she is familiar with families dealing with illness, long term planning and the numerous other issues our clients face. She not only understands their legal issues, the complex legal system, but is compassionate and takes a personal interest with each individual client and their families.

Brigid is married to Tom Fernandez who is the Athletic Director at Chaminade College Preparatory School. They have two children who are currently attending college.

## What We've Been Up To

### What We've Been Up To

Get additional information at our website by visiting:

<http://>

[www.elderlawstlouis.com/news-attorneys-speak.shtml](http://www.elderlawstlouis.com/news-attorneys-speak.shtml)

#### Firm's Third Year in Alzheimer's Walk

The staff at Martha C. Brown & Associates participated in the Alzheimer's Memory Walk 2011 held on September 17th at Busch Stadium. All attendees received different colored flowers representing loved ones they care for and support.

#### Martha C. Brown is Appointed to Guardianship Code Taskforce

Martha has been appointed to the Guardianship Code Taskforce for the State of Missouri.

#### Brigid Fernandez Selected as Chairperson for the Long Term Care Ombudsman Program

LTCOP is the area's premiere advocacy organization dedicated to protecting the rights of residents who reside in long-term care facilities. LTCOP also is the most comprehensive resource in providing counseling and support to individuals, families and professional caregivers on long-term care options. For more information about the LTCOP, visit: [www.ltcop-stl.org](http://www.ltcop-stl.org).

#### Martha C. Brown & Associates was a Vendor at Arnold Senior Expo

The firm was a vendor at the 8th Annual Arnold Senior Expo. This event was held at the Arnold Recreation Center on October 12th.

#### Brigid Fernandez Writes Prime Life Circuit Article

Brigid wrote an article called "Estate Planning: The Holidays Can Be a Great Time to Get Your Affairs in Order" in Prime Life Circuit's December issue. To view, visit: <http://www.primelifecircuit.com/news/2011/nov/29/estate-planning-holidays-can-be-great-time-get-you/>

#### Micah Huff Discusses Probate

Micah Huff presented "How to Proceed through Probate" for new lawyers at a continuing legal education class sponsored by the Missouri Bar Association. This event was on October 22nd in Clayton, MO.

#### Martha C. Brown on SNA Board

Martha was elected to the Board of Directors of the Special Needs Alliance at the SNA Fall meeting in St. Petersburg Beach, Florida

#### The Firm Continues its Tradition of Supporting Caregivers at LTCOP Awards Luncheon

The staff at Martha C. Brown & Associates celebrated area caregivers by recognizing staff and volunteers who demonstrate excellence in person centered care at the 17th Annual Caregiver LTCOP Awards Luncheon. Brigid Fernandez co-chaired this event with fellow LTCOP Board Member, Ursula Shaner of Elder Support Services of St. Louis. The firm was also a sponsor of the ceremony. This event was December 6th at the Hilton-St. Louis Frontenac.

#### Martha C. Brown on Talk Show

Martha Brown appears on talk show "Caring for Mom Together" with host Diane Keefe. To watch this informative hour long discussion visit: <http://www.iwatchradio.com/archives/viewvideo/644/people-a-inspiration/caring-for-mom-together-8-10-2011>.

#### Brigid Fernandez Talks to UMC Students

Brigid discussed "Health care - Power of Attorney" to graduate social work students at the University of Missouri School of Social Work on November 29th.

#### Alicia Albus Participated in the 6th Annual Family Caregiver Workshop

Alicia was invited to participate in the 6th Annual Family Caregiver Workshop at the Roy Wilde Conference Center in Arnold, MO on November 4th. This is a community education opportunity for local residents who have loved ones in a private residence and are able to have one-on-one discussions with caregivers and professionals in the community.

#### Brigid Fernandez Provides Professional Continuing Education for Social Workers

Brigid gave a continuing education seminar to the Social Workers for Fesenius Medical Care on November 16th on the importance of Advanced Directives and Powers of Attorney.

#### Brigid Fernandez Chosen as a Board Member for Life Care Planning Law Firms Association

LCPLFA is a national network that offers legal services, care coordination and advocacy services to help elderly clients and their families navigate the health care and long-term care maze. LCPLFA is a national advocate for quality care for elders, dedicated to raising public awareness about the physical, financial, and legal implications resulting from aging. For more information, please visit: [www.lcplfa.org](http://www.lcplfa.org).

#### The Firm was a Sponsor and Exhibitor at the Brain Injury Conference

Martha C. Brown & Associates was a sponsor and exhibitor at the 7th Annual Brain Injury Association of Missouri Statewide Conference at the St. Charles Convention Center. In addition, Brigid Fernandez was the moderator and a presenter on a panel titled "Guardianship, Social Security and Alternative Legal and Financial Options for Persons with Brain Injury." This three day event was October 20th-22nd.

#### Martha C. Brown Talks to SLU School of Law Students

Martha discussed "Special Needs Trusts" to students at Saint Louis University School of Law on November 2nd.

#### Brigid Fernandez Talks about Long Term Care

Brigid presented "Planning and Paying for Long Term Care" at Mary Mother of the Church on November 14th.

#### The Firm was a Vendor at Senior Health Jam Series

Martha C. Brown & Associates was a vendor at the "Are You Ready for 2012" Senior Health Jam. This was a series of five fairs held during the months of September through October at various YMCA locations across St. Louis.

#### Brigid Fernandez Contributes to the St. Louis Business Journal Article on Estate Planning

Brigid was a contributor in the article "The Five Must Have Estate Planning Documents" that appeared in the November 4th issue of the St. Louis Business Journal. To see the article, visit: <http://www.bizjournals.com/stlouis/print-edition/2011/11/04/the-five-must-have-estate-planning.html>

#### The Firm was a Sponsor at the Show Me Summit on Aging & Health

Martha C. Brown & Associates was a sponsor and exhibitor at the Show Me Summit on Aging & Health held at the St. Louis Sheraton Westport Lakeside Chalet. This year's theme was "Living Longer, Getting Stronger." Brigid Fernandez presented "MO HealthNet: Planning and Paying for Long Term Care" during Wednesday's morning session.

## Contact Us

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## Calendar of Events

**FRIDAY, JANUARY 6 -- 8:15 a.m.-3:15 p.m.**  
 2012 ST. LOUIS TIMES GERIATRICS SYMPOSIUM  
 UMSL J.C. PENNY CONFERENCE CENTER  
 ONE UNIVERSITY BOULEVARD  
 ST. LOUIS, MO 63121

The 2012 St. Louis Times Geriatrics Symposium is an enjoyable and informative experience for all. Attendees will learn from noted experts on the arts and aging in the morning, and participate in some exciting hands-on sessions in the afternoon. Adults from all walks of life and professionals from social service, health care and long-term care are invited. Meals and a general certificate of attendance are included. Social Work CEU certificates are available upon request. This event is hosted by the University of Missouri-St. Louis Gerontology Program. For additional information call Raina at 314-516-5974 or visit: [http://www.stlouistimes.com/symposium\\_2012.asp](http://www.stlouistimes.com/symposium_2012.asp).

**WEDNESDAY, JANUARY 18 -- 7:00 p.m.-8:00 p.m.**  
 SPECIAL NEEDS FAMILIES LECTURE SERIES  
 MISSOURI BAPTIST MEDICAL CENTER MAIN TOWER  
 AUDITORIUM 3 - FIRST FLOOR  
 3015 NORTH BALLAS ROAD  
 ST. LOUIS, MO 63131

At this lecture series, Martha C. Brown will be presenting "Guardianships and Special Needs Trusts - When Are They Needed." She will discuss how to plan for a family member needing long-term medical or support and how to provide lifetime quality care. For additional information please contact JoAnn Browy Denaro with Prudential at 618-233-2026.

**THURSDAY, JANUARY 19 -- 2:00 p.m.**  
 MO BAR WEBINAR

THE NEXT STEP SERIES: GUARDIANSHIP FOR ADULTS

This webinar teaches you the process of how to obtain guardianship of an adult in Missouri. You will also learn the advantages and disadvantages of conservatorships and other options for managing the financial affairs of an adult. Martha C. Brown will be one of the speakers during this webinar, which offers 2.4 total MCLE hours. For more information, visit: [http://members.mobar.org/cle-web/cle-programs/PROGRAM%0CATALOG20PAGES/2012\\_TNSS\\_Guardian\\_Adult.html](http://members.mobar.org/cle-web/cle-programs/PROGRAM%0CATALOG20PAGES/2012_TNSS_Guardian_Adult.html)

**FRIDAY, JANUARY 20 -- 8:30 a.m.-12:05 p.m.**  
 MISSOURI BEST PRACTICES SEMINAR  
 WASHINGTON UNIVERSITY SCHOOL OF LAW-ANHEUSER-BUSCH HALL  
 BRYAN CAVE MOOT COURTROOM  
 ST. LOUIS, MO

This seminar is titled "Negotiating and Resolving Disputes: Better Business Bureau and Car Dealers; Over Commitment, Elder Law and Risk Management." Martha C. Brown will be presenting "Elder Law - An Update of Recent Developments" during the 10:20 a.m. session. The seminar is presented by Washington University Law Negotiation & Dispute Resolution Program and United States Arbitration and Mediation Midwest, Inc. For additional information contact the CLE online at: [www.usam-midwest.com/edurfs.shtml](http://www.usam-midwest.com/edurfs.shtml) or call Kelly Spiller at 314-231-4642.

**THURSDAY, FEBRUARY 23**  
 NASW-MO CHAPTER PRESENTS CONTINUING EDUCATION  
 MSU MEYER ALUMNI CENTER  
 301 S. JEFFERSON AVENUE  
 SPRINGFIELD, MO 65806

The National Association of Social Workers-Mo Chapter presents Continuing Education for the Springfield Region. This collection of professional development and continuing education workshops are for social workers, counselors, case managers, mental health providers, human services professionals and social service workers. Brigid Fernandez will be a presenter at both the morning and afternoon sessions. You may choose to attend the morning or evening session or both. Each session is 3.0 clock hours for all practice levels. Social workers will receive continuing education to maintain their license. The morning session is from 8:30 a.m.-11:45 a.m. and is titled "Legal Planning Techniques for the Elderly or Client with Disabilities: Health Care Directives, Living Wills and Powers of Attorney." The afternoon session is from 1:00 p.m.-4:15 p.m. and is titled "Everything You Need to Know About Legal Guardianship and Conservatorship." For additional information visit [www.nasw-mo.org](http://www.nasw-mo.org) or call 573-635-6965.



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*If you are  
interested in having  
an elder law  
attorney from  
Martha C. Brown &  
Associates speak at  
your event, please  
contact Peggy at  
314-962-0186*



## Calendar of Events (Continued)

### FRIDAY, MARCH 23

NASW-MO CHAPTER PRESENTS CONTINUING EDUCATION  
MOTHER OF GOOD COUNSEL HOME  
6825 NATURAL BRIDGE ROAD  
ST. LOUIS, MO 63121

The National Association of Social Workers-Mo Chapter presents Continuing Education for the St. Louis Region. This collection of professional development and continuing education workshops are for social workers, counselors, case managers, mental health providers, human services professionals and social service workers. Brigid Fernandez will be a presenter at both the morning and afternoon sessions. You may choose to attend the morning or evening session or both. Each session is 3.0 clock hours for all practice levels. Social workers will receive continuing education to maintain their license. The morning session is from 8:30 a.m.-11:45 a.m. and is titled "Legal Planning Techniques for the Elderly or Client with Disabilities: Health Care Directives, Living Wills and Powers of Attorney." The afternoon session is from 1:00 p.m.-4:15 p.m. and is titled "Everything You Need to Know About Legal Guardianship and Conservatorship." For additional information visit [www.nasw-mo.org](http://www.nasw-mo.org) or call 573-635-6965.

### SATURDAY, MARCH 31 -- 8:30 a.m.-3:30 p.m.

HUNTINGTON'S DISEASE FAMILY CONFERENCE  
SSM ST. CLARE HEALTH CENTER  
1015 BOWLES AVENUE  
FENTON, MO 63026

Brigid Fernandez will be speaking at the Huntington's Disease Society of America St. Louis Family Conference. Her presentation is titled "Planning and Paying for Long Term Care." This is a free program and will include breakfast, lunch and snacks. Registration is required by March 17, 2012. This conference is presented by HDSA St. Louis Chapter and the HDSA Center of Excellence at Washington University School of Medicine. For additional information visit <http://www.hdsa.org/images/content/1/5/15650.pdf> or call 314-647-HDSA.

### THURSDAY, APRIL 5

NASW-MO CHAPTER PRESENTS CONTINUING EDUCATION  
MARK TWAIN BOYHOOD HOME & MUSEUM  
120 NORTH MAIN  
HANNIBAL, MO 63401

The National Association of Social Workers-Mo Chapter presents Continuing Education for the Hannibal Region. This collection of professional development and continuing education workshops are for social workers, counselors, case managers, mental health providers, human services professionals and social service workers. Brigid Fernandez will be a presenter at both the morning and afternoon sessions. You may choose to attend the morning or evening session or both. Each session is 3.0 clock hours for all practice levels. Social workers will receive continuing education to maintain their license. The morning session begins at 8:45 a.m. and is titled "Legal Planning Techniques for the Elderly or Client with Disabilities: Health Care Directives, Living Wills and Powers of Attorney." The afternoon session starts at 12:00 p.m. and is titled "Everything You Need to Know About Legal Guardianship and Conservatorship." For additional information visit [www.nasw-mo.org](http://www.nasw-mo.org) or call 573-635-6965.

**May every happiness be yours this Holiday Season and everyday in the New Year.**

**Thank you for your trust to allow us to assist in the care of those you serve.**

Martha C. Brown & Associates appreciates and encourages you to share this newsletter with anyone that is interested in issues regarding the elderly, the disabled, or someone needing information on veterans benefits. If you know someone who would like to receive this or future newsletters, please have them contact us at 314-962-0186 or email us at: [marketing@elderlawstlouis.com](mailto:marketing@elderlawstlouis.com).

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**[marketing@elderlawstlouis.com](mailto:marketing@elderlawstlouis.com)**  
**Thank you.**

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*The choice of a lawyer is an important decision and should not be based solely upon advertisements.*

## The Achieving a Better Life Experience (ABLE) Act of 2011

On November 15<sup>th</sup>, the Achieving a Better Life Experience (ABLE) Act of 2011 was introduced with Bi-partisan support in the House ([HR.3423](#)) by Congressman Ander Crenshaw (R-FL) and Congresswoman Cathy McMorris Rodgers (R-WA), and in the Senate ([S.1872](#)) by Senators Robert Casey, Jr. (D-PA) and Richard Burr (R-NC). The ABLE Act would amend Section 529 of the Internal Revenue Service Code to allow individuals with disabilities and their families to deposit earnings into tax-exempt savings accounts.

The ABLE Act aims to change the tax code to allow for tax advantaged savings accounts for individuals with disabilities for certain expenses like education, housing and transportation. By creating ABLE accounts, this bill would let families plan and save secure funding for disability-related expenses on behalf of designated beneficiaries with disabilities that will supplement, but not replace, benefits provided through private insurances, the Medicaid program, the Supplemental Security Income program, the beneficiary's employment and other sources.

Qualified disability expenses would include: school tuition and related educational materials, expenses for securing and maintaining a primary residence, transportation, employment supports, health prevention and wellness costs, assistive technology, personal support and various miscellaneous expenses associated with independent living.

In 2009 a similar ABLE Act was submitted into Congress; however it was submitted too late into the congressional session and was not passed into law. At the time, the Special Needs Alliance supported the ABLE legislation in concept, although they raised a number of concerns about administration and accountability, including the potential for abuse and exploitation. There were concerns that there were many individuals who could not and do not take advantage of Special Needs Trust laws due to the small amounts of money which may be involved and the high costs of establishing Special Needs Trusts.

Martha C. Brown & Associates, LLC take a similar stance with this new Able Act. While the ABLE Act looks and appears to be a very good piece of legislation, there are a number of issues that still remain with the wording of the bill itself. There were some "fixes" or "corrections" that the sponsors allowed at the eleventh hour before filing of the Bills. However, they only improve the ABLE Act for 32 states, not including Illinois & Missouri. They were left off since neither state tie Medicaid directly to SSI (Illinois & Missouri are 209(b) States). We hope these issues can be resolved in Congress; however many of these issues will require the individual states to have independent legislative action, otherwise the bill may not offer any protection for those who need it.

The ABLE act should not be viewed as substantially the same as the traditional 1<sup>st</sup> party or 3<sup>rd</sup> party Special Needs Trusts.

### Some examples:

- (1) ABLE is much more limited on how you can spend the money than a traditional 1st party or 3rd party Special Needs Trust. Future regulations may expand or clarify expenditure issues;
- (2) Reporting requirements to the federal government is another issue. The ABLE requirements vary from a 3rd party Special Needs Trust. If there is no guardianship set up and the individual is not a minor, ABLE requires much more reporting than a 1st party Special Needs Trust;
- (3) Able has a payback (reimbursement) requirement to the state(s) when the beneficiary dies for all that the state(s) has paid, unlike a 3rd party Special Needs Trust where the remainder stays with the family. This can be left to the parents if they survive the child with special needs, the other children or grandchildren, to organizations that provided for the child or to individuals who cared for the child.

This legislation is a good start to provide a more cost effective alternative to Special Needs Trusts for smaller sums of money. Hopefully the legislation will be expanded so that Missouri citizens can participate.

If you would like further information regarding the ABLE Act, please contact our office at 314-962-0186.