Terry Emmens

He | Him | His

Partner

Rochester

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Education

- Vermont Law School, JD
- George Washington University, BA

Practices & Industries

- Trusts & Estates
- Elder Law & Medicaid Planning

Admitted to Practice

- New York

Court Admissions

- US Bankruptcy Court for the Western District of New York
- US District Court for the Western District of New York

Biography

Terry is Barclay Damon's Elder Law & Medicaid Planning Team leader, primarily concentrating his practice on helping seniors get the care they need. He is passionate about helping individuals of every economic status and ability to maximize their autonomy and independence while simultaneously ensuring that their family members will also be financially taken care of. Terry has extensive experience obtaining NYS Community Medicaid benefits for clients, including full nursing-home and aide-service expense coverage, transportation services, health insurance and pharmacy subsidies, wages for family caregivers, and a $45,000 home-improvement budget every three years for both homes and rentals.

Terry strives to keep his clients in their homes as long as possible through creating sustainable plans. If a client cannot remain in their home, though, or there is a sudden need for nursing-home admission, he uses 25 years of trusts and estates experience to successfully protect assets of all sizes, regardless of how little planning a client has done. As a general rule, Terry helps individuals protect about 1/2 of their assets plus their qualified accounts if they suddenly enter a nursing home and has helped couples protect all of their assets even after one spouse has entered a nursing home.

Terry routinely handles matters involving nursing-home care and asset protection, guardianship planning, estate litigation, and Medicaid-related litigation. He has extensive experience with outright gifts, Medicaid-permitted trusts, supplemental-needs trusts, loans, annuities, and deeds. In addition, he routinely prepares essential documents such as wills, trusts, powers of attorney, statutory gift riders, health care proxies, and other documents necessary for estate probate and related administration.

Terry strives to help clients avoid probate and through simple, straightforward measures, where appropriate. He also manages the forensic analysis required to process Medicaid applications

and to address prior transfers that would otherwise contaminate the plans.

Bar Associations

- Monroe County Bar Association, Elder Law Committee, Trust and Estate Section Executive Counsel, and Lawyers Concerned for Lawyers Committee Chair
- New York State Bar Association, Lawyers Assistance Program

Selected Memberships & Affiliations

- Estate Planning Counsel of Rochester
- National Association of Elder Law Attorneys

Representative Experience

- Assisted a client with a progressive memory impairment in obtaining Community Medicaid that allowed her and her husband to continue living together in their home with aide services paid for by Medicaid. As the client's disease progressed, helped her successfully enter a tier-one nursing home with no upfront payment while protecting all of her and her husband's assets, which allowed him to keep living in their home. Subsequently transferred the home to the couple's children and protected their IRAs for the benefit of their children.
- Successfully protected all of a couple's assets, including their $250,000 home, $700,000 in cash and investments, $300,000 in IRAs, and their cottage worth $150,000, even after the client's spouse entered a nursing home.
- Helped an 88-year-old client remain in his home by getting him Community Medicaid that paid for aide service and up to $45,000 in home improvements every three years. Protected the client's home, the balance of assets, and secured rights for the client's disabled daughter to be paid $11/hour to look after him.
- Successfully prosecuted a nursing home Medicaid application after discovering, through forensic analysis, a prior gift that would contaminate the client's plan. Helped the client and his family avoid probate and any imposition of penalties, and successfully got New York State to pay for the client's nursing-home care. Also protected life insurance and qualified funds and reviewed and approved the Medicaid determination.
- Helped a paralyzed client move in with his daughter as opposed to a nursing home and obtained Community Medicaid that covered all his expenses for 24/7 care through a pooled trust and paid for up to $45,000 in home

improvements every three years. Also secured rights for his daughter to be paid $11/hour to look after him and to charge him $3,400 in rent per month.

Prior Experience

- Lacy Katzen LLP, Partner and Management Committee Member

Judicial Clerkships

- US Bankruptcy Court for the Southern District of New York, Judge Francis Conrad

Selected Community Activities

- Monroe Golf Club, Secretary
- Volunteer Legal Services of Monroe County, Inc., Elder Care Counselor

Selected Honors

- *The Best Lawyers in America*®: Trusts and Estates, 2013–2027
- Monroe County Bar Association, President's Award, 2022

Selected Media

- *Buffalo News*, "How to Keep Nursing Home Costs From Devouring Your Life Savings"

Selected Alerts & Blog Posts

- NYS Medicaid Easements Continued Through December 31, 2021
- Nursing Homes, Medicaid, and Your COVID-19 Stimulus Payments: What You Need to Know
- Strict New Criteria for Community Medicaid Program Takes Effect October 1