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Client Maintenance and Harmony

Making a Difference in Clients' Lives

Robert C. Anderson, CELA, CAP

NAELA's **2014 Annual Conference** Coverage	Update on **Jimmo v. Sebelius**	NAELA's Leadership Position on **the GAO Report**	**Non-Clients** as Derivative Clients	Join Us for the first **NAELA Summit**

Robert C. Anderson, CELA, CAP

Helping Others

By Josh Ard, Esq., PhD

From Eagle Scout to Elder Law Attorney.

An Active Leader of NAELA and State Bars

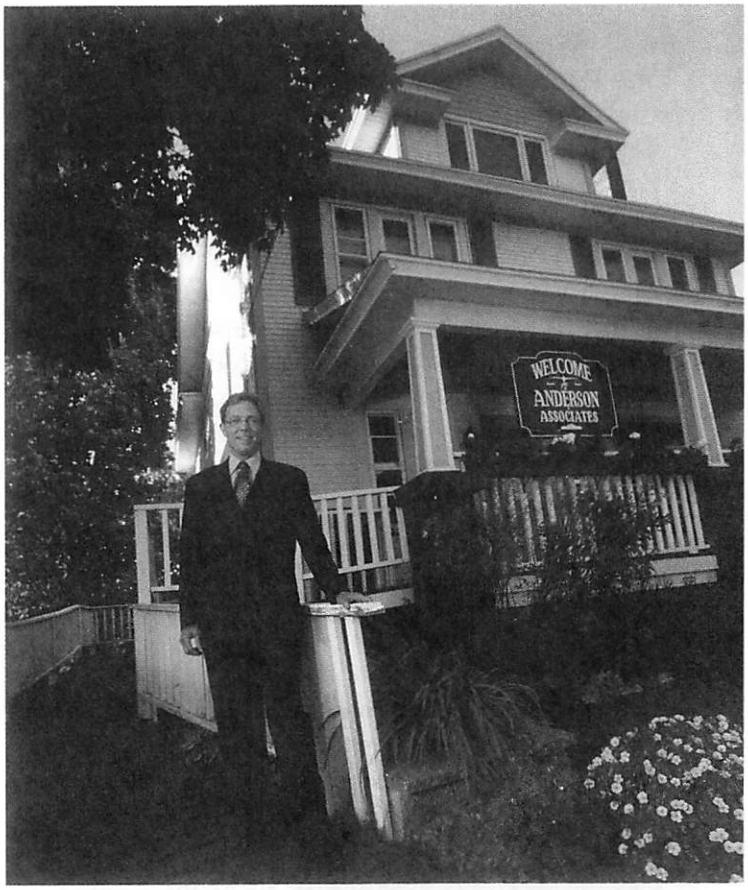
Since joining NAELA in 1993, Robert Anderson has done so much for NAELA:

- Served four years on NAELA's Board of Directors
- Is a member of NAELA's Council of Advanced Practitioners (CAP)
- Served as Chair of NAELA's Tax Section
- Is Vice Chair of the Practice Success Section
- Has been a member of the NAELA News Editorial Board
- Is a member of NAELA's committee that is rewriting the Aspirational Standards as well as the Unauthorized Practice of Law Task Force

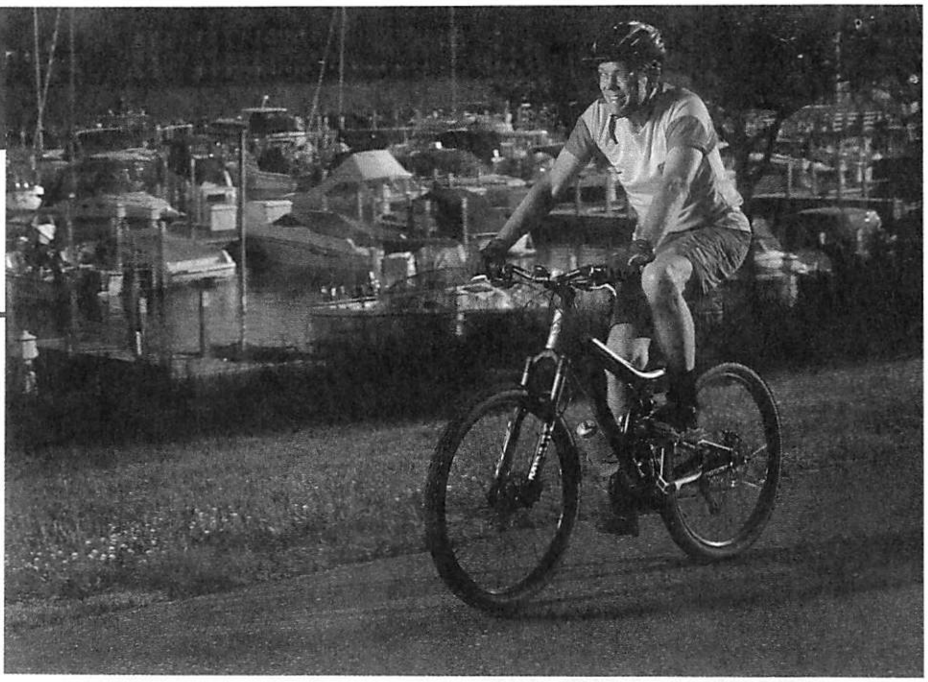
Bob also has made his mark in Michigan by starting the Michigan NAELA Chapter, helping to lead the effort to bring POLST (Physicians Order for Life-Sustaining Treatment) into Michigan, and helping to lead the successful federal class action to force the State to comply with the federal Medicaid rules on pre-eligibility medical expenses.

Bob serves on the Michigan Bar's Unauthorized Practice of Law Committee where he has been instrumental in fighting scams against seniors and veterans. More recently, Bob's law firm won four tax appeals that have changed Michigan real property law to recognize Lion Cub Deeds — an unequal joint tenancy which prevents the application of Medicaid spend down and reduces property tax.

Josh Ard, Williamston, Mich., interviewed Bob for this article. He is a member of the NAELA News *Editorial Board.*



Bob stands in front of one of his six office locations in Michigan's Upper Peninsula. Pictured here in the summer, winters are among the snowiest east of the Rockies.



Bob is an avid cyclist.

A Writer and a Speaker

In addition to his volunteer contributions, Bob has made his mark on Elder Law by writing groundbreaking articles on tax, ethics, real property, assisted living, premarital planning, living wills, and Medicaid, which have been published nationally and by state bars. In 2007, Bob won NAELA's coveted John Regan Writing Award for his must-read *NAELA Journal* article "Estate Planning with Nonqualified Annuities: Navigating the Labyrinth."[1] In Bob's words, "I wrote the article on annuities to give fellow Elder Law attorneys the knowledge base to protect their clients from unscrupulous sales of these products."

Bob is equally well known as a speaker, not only at NAELA and CAP conferences, but also for the Michigan and Wisconsin State Bars.

The Personal Side of Bob

Bob is a native Detroiter and now is a proud Yooper. There are two types of people in Michigan — Yoopers live in the Upper Peninsula (or UP) and the rest are "downstate" Trolls because they live below the Mackinac Bridge, the beautiful suspension bridge over the Straits of Mackinac connecting the two peninsulas. As a teenager, Bob spent many years in scouting, earning his Eagle at 16. The Scout's oath of "helping other people at all times" was permanently ingrained in his character.

Helping other people is what led Bob to work on housing programs for the poor in HUD's Office of General Counsel in Washington, D.C., after earning his JD at Michigan State University. While in D.C., Bob received his LLM in Taxation from Georgetown University. He then returned to Michigan to start his own tax and estate planning practice in Michigan's Upper Peninsula and Northern Wisconsin.

That's when his father was diagnosed with Parkinson's disease, a life-changing event that made Bob change his practice from tax law to Elder Law. "My father's 12-year Parkinson's journey turned our family upside down. I saw first hand that tax planning is a minor concern when compared to the greater need to advocate for quality of care, independence, safety, and public benefits when dementia strikes a family," said Bob.

Bob also has personal experience in special needs as a close family member has a learning disability.

Active in His Community

Helping other people in his community led Bob to work with a community group to establish a homeless shelter in Marquette, Mich. Bob has served on the local County Commission on Aging, he is active in Kiwanis International, and has served on the Board of the UP Land Conservancy. Bob even ran for Congress in northern Michigan.

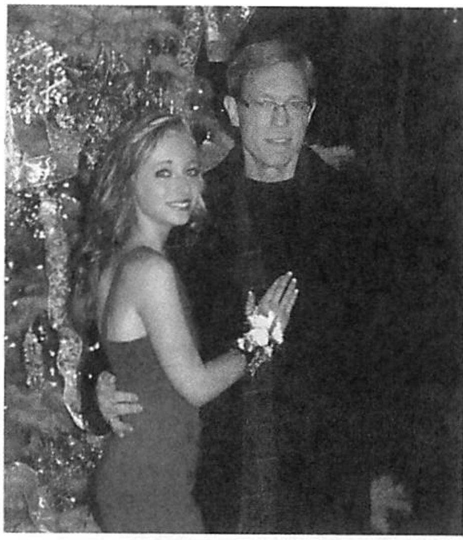
Bob is most proud of leading an uphill battle for eight years to raise $1 million to build three soccer fields and a sports complex pavilion in his hometown on what was once a sawdust pile.

Bob with his wife Valentyna.

Practice Challenges and Exceptional Service

Practice in the UP has many challenges. The peninsula contains 29 percent of the area of Michigan, but only 3 percent of the population. The population is smaller now than it was a century ago. There are many small towns and cities; all are far apart. Bob has offices in six UP towns; one is a three-hour drive during the

1 Robert C. Anderson, *Estate Planning with Nonqualified Annuities: Navigating the Labyrinth*, NAELA Jrnl., 119, Vol. 3, No. 2.



Bob and daughter Victoria.

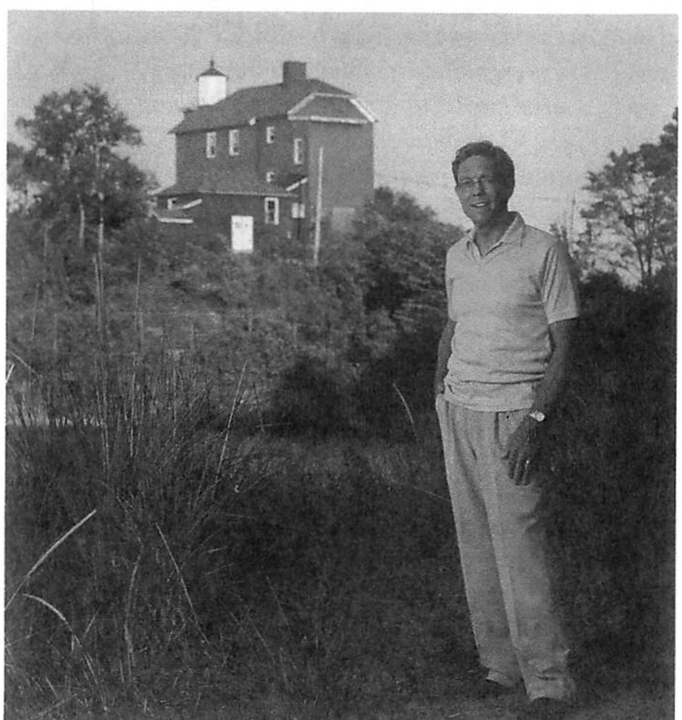
few months when the weather is good. Parts of the UP are the snowiest in the country east of the Rockies, with yearly records of up to 390 inches. Bob relies more on emails, conference calls, and other technologies than the average lawyer.

There are many upsides to practice in the UP. Compared to more populated areas, the pace of life is slower, people are more laid back, and it is easier to feel appreciated.

Bob's passion in his practice is exceptional client service and creating life-long client relationships. For 10 years, Bob's firm employed a geriatric nurse to help clients in long-term care. Now Bob's firm uses "friendly visitors," who check up on clients who are home-bound or in facilities.

On the Noque trail. Bob with his stepdaughter Valeriya and her husband.

In order to create life-long client relationships, his firm offers a client maintenance program. Bob describes this program in his article, "Client Maintenance and Harmony," on page 9. Bob's firm also offers clients advanced strategies to prevent disharmony and heal family conflicts, also described in his article. Another unique part of his firm's service is a video titled "Training Your Next In Charge," (available on DVD) that he filmed in his office. This video's goal is to help a client prepare their trustee and/or Power of Attorney for their elder care journey. ■



Bob at the Marquette harbor lighthouse.

Fun Facts About Bob Anderson

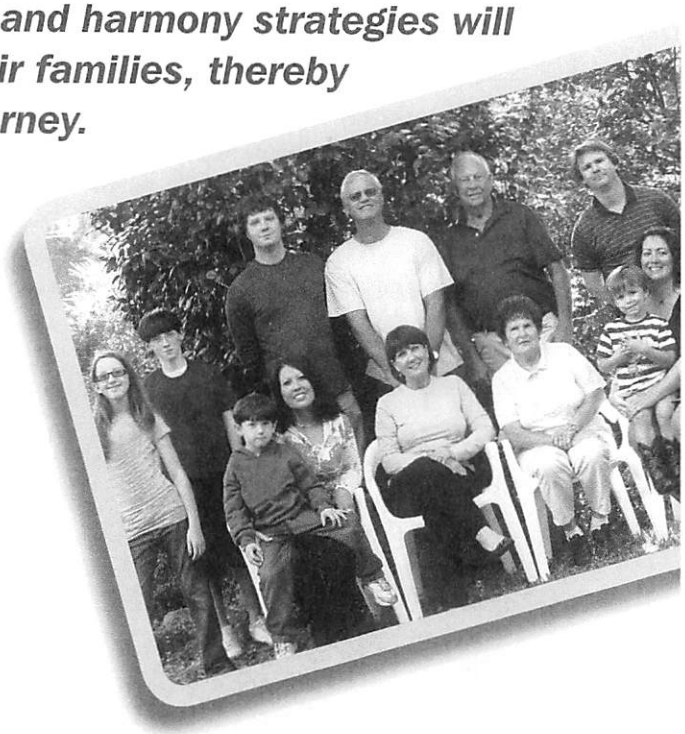
- Bob is an Eagle Scout, avid mountain biker, kayaker, and cross-country skier.
- He has a passion for soccer, having coached his son Phillip and daughter Victoria for 16 years.
- Bob spent his junior year at the University of Paris and in high school he was an exchange student in Bangkok, Thailand. He has a passion for travel.
- He is most proud of his family — his wife Valentyna (formerly of the Ukraine), his children Phillip and Victoria, and his stepchildren Dariya, Danil, and Valeriya.
- He is a staunch Green Bay Packer backer.

Client Maintenance and Harmony

Making a Difference in Clients' Lives

By Robert C. Anderson, CELA, CAP

Developing a client maintenance program and harmony strategies will make a difference for your clients and their families, thereby distinguishing yourself as a relational attorney.



The client relationship in an estate plan should not end when the client's estate planning documents are signed. In my 30 years of practice, I have learned that estate plans fail because of future unknown factors: changes in law, changes in health, changes in assets, changes in family circumstances, lack of training for the appointed next-in-charge, and disharmony among the client's beneficiaries when the parental glue is gone.

In my article, I want to share two practice ideas — client maintenance programs and harmony measures that are good for clients and your practice — that will distinguish you from the traditional estate planner. The traditional approach to estate planning is *transactional* because the client relationship ends when the ink is dried. The *relational* approach engages the client in a continuing relationship in order to be there for your client in the future to make sure the estate plan that was so carefully developed will actually work.

Client Maintenance Programs

A key strategy to creating a lasting client relationship is a client maintenance program (CMP). A CMP provides annual estate plan updates, newsletters, and other services for an annual fee. With proper staff training and consistent client education, setting up a CMP can be a snap.

Robert C. Anderson, CELA, CAP, is Vice Chair of the Practice Success Section and is a former NAELA Board member.

My motivation in starting a CMP grew out of a disappointment I experienced after I received a call from another attorney asking for my former estate planning client's file. Ten years earlier, I had done a good job setting up an estate plan for this aging client; but her children, who did not know me when they needed an attorney to do Medicaid qualification after the client entered a nursing home, selected another attorney to do the Medicaid work.

This should not have surprised me. I had done nothing to stay in touch with the client in the intervening 10 years and never reached out to her children to show we cared about their mother. I realized I had treated the client and her children as a transaction. I vowed to find out ways to create lasting client relationships.

The answer came from an excellent presentation on longevity planning at a NAELA conference by Rick Law, Esq., and William Hammond, Esq. I also received advice on how to set up a CMP from NAELA attorneys Vincent Russo, CELA, CAP, and Michael Gilfix, Esq., CAP.

Typical Services Offered in a CMP

Typical CMP services include:

- Unlimited free telephone advice and/or an annual in-office appointment;
- Automatic document updates caused by law changes;
- Periodic newsletters on law changes, scam alerts, and tax tips;
- Client appreciation luncheon to explain law changes and scam alerts (ask clients to invite their next-in-charge and a friend);
- Annual assessments of health status, asset changes, and trust funding; and
- Faxing advance directives to a hospital or medical office at client's request.

We recently added a DVD called "Training the Next in Charge" to our CMP service. This has become a client favorite. The DVD was filmed in our office with two married couples and their children in which I provide training on how to act as an agent under Power of Attorney and as a Trustee, and how to advocate for Medicare and other public benefits.

CMPs Offer Many Advantages

A CMP is a win-win for clients and law firms. The clients have increased peace of mind in knowing that their estate plans can be protected against the ravages of changes in law, health, asset funding, and family circumstances. The law firms that offer CMPs will enjoy increased revenues from three sources: 1) direct enrollment fees from clients; 2) future business from the enrolled client for new work, such as public benefit planning and estate administration; and 3) spin-off referrals from happy clients and impressed financial, and other, advisers to the clients.

Staying in touch annually with clients prevents them from being attracted to other law firms.

Offering Harmony Enhancing Strategies

The most important law review article that has made a difference in my practice is "Family Harmony: An All Too Frequent Casualty of the Estate Planning Process,"[1] by Timothy P. O'Sullivan. In his article, Mr. O'Sullivan estimates the incidence of disharmony and conflict among beneficiaries after the client has either died or become incapacitated ranges between 20 percent to 40 percent.

I will never forget how depressed I felt from the first family fight I experienced professionally after a client died. The estate plan I carefully crafted had fallen apart. I felt like a failure. I vowed to implement Mr. O'Sullivan's ideas and some of my own into a set of harmony strategies. These strategies have given our clients greater peace of mind, knowing that when the parental glue is gone, due to death or incapacity, their wish for harmony among their children has a greater chance of being realized.

1 Timothy P. O'Sullivan, *Family Harmony: An All Too Frequent Casualty of the Estate Planning Process*, Elder's Advisor, Marquette University Law School, May 2007.

Our key harmony strategies — which we call "Bomb-Proofing Your Estate Plan" — include:

- **Family Harmony Agreement.** Each child or beneficiary is asked to sign an agreement to honor the client's wishes on selection of fiduciaries, testamentary gifts, and end-of-life.
- **Pathway-To-Peace Paragraph.** In our trust agreements, a mandatory clear-the-air settlement conference is held within 21 days of death. An experienced attorney runs the conference, and the client's financial and accounting advisors assist.
- **Anti-Bicker Forms** from "Who Gets Grandma's Yellow Pie Plate."[2] We provide a practice guide, a schedule of special gifts, beneficiary's wish list, auction list, and a lottery election.
- **Careful Selection of Financial Fiduciary.** We spend a great deal of time counseling clients on whom they may want to select as the successor trustee or executor.
- **Mediation and "No Contest" Clauses.** Our trust agreements include non-court mediation requirements in the event of a dispute and "no-contest" clauses. Even though "no-contest" clauses are hard to enforce, such a clause can discourage fights.

In conclusion, adding a client maintenance program and harmony strategies will help distinguish your practice from traditional transactional estate planners. Don't roll the dice, hope for the best, and plan for the worst. *Doing well by doing good.* Being there for your clients is what NAELA is all about. ■

2 Stum, Marlene. *Who Gets Grandma's Yellow Pie Plate?*, Minnesota Extension Service: U of Minn. 1999.

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Leading the Way in Special Needs and Elder Law

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