

34th Annual  
*Tax Symposium*

# A FIDUCIARY CLIENT IS DIFFERENT

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# CONSERVATORSHIPS & GUARDIANSHIPS



# CONSERVATORSHIPS & GUARDIANSHIPS

- For Guardianship or Conservatorship in the State of Michigan, a Court Petition is filed.





# CONSERVATORSHIPS & GUARDIANSHIPS

- The standard is whether, due to physical or mental conditions, a person is unable to manage their medical issues, care, assets or business affairs.



# CONSERVATORSHIPS & GUARDIANSHIPS

- A Judge determines if such a condition exists and thereafter supervises, in various ways, all the activities of the person they appoint a Fiduciary.



# POWERS OF ATTORNEY





# POWERS OF ATTORNEY

- Powers of Attorney operate outside of Court supervision.
- There are varying standards in which a Power of Attorney can be used.



# POWERS OF ATTORNEY

- Some POA'S are effective immediately upon their signing.





# POWERS OF ATTORNEY



- Some require various written medical support to become effective (i.e. Springing).

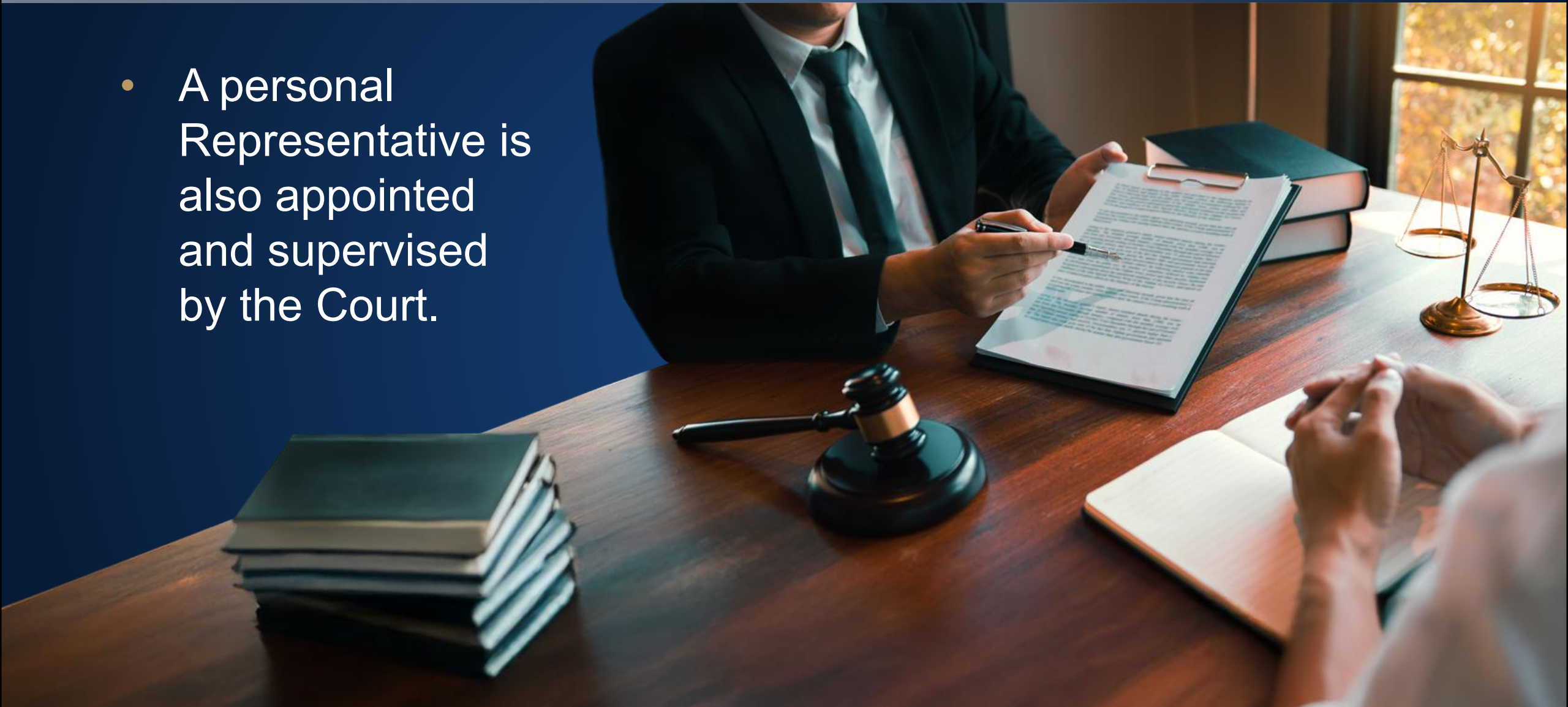
# PERSONAL REPRESENTATIVES





# PERSONAL REPRESENTATIVES

- A personal Representative is also appointed and supervised by the Court.





# PERSONAL REPRESENTATIVES

- They also report to the heirs at law as it relates solely to any assets remaining in the deceased's sole name at the time of death.

# TRUSTEES



# TRUSTEES

- Can act either at the time of death
- Or when incapacity occurs as previously defined in the previously signed Trust agreement





# LEGAL LANDMINES

- Sometimes your former client, who is still alive, contacts you after you know about a Probate or Power of Attorney already in play.
- Sometimes, either pre- or post-death heirs/beneficiaries contact you about your client's affairs.



# LEGAL LANDMINES

- Occasionally, a conflict of interest may arise as to whom you owe a loyalty to.
- Sometimes a Fiduciary who is your client acts in a way that could be construed as a breach of Fiduciary duty and puts you, as their CPA, in harm's way.



# LEGAL LANDMINES

As always, you should consider a CYA approach to any family disharmony, so you don't get caught up in the legal fracas.





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THANK YOU



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