

## UNDERSTANDING NON-SERVICE RELATED VETERANS' BENEFITS

Long-term care costs can add up quickly. For a veteran or the surviving spouse of a veteran who needs in-home care or who is in a nursing home, help may be available. The Veteran's Administration (VA) has an underused pension benefit called Aid and Attendance that provides money to veterans, and the surviving spouses of veterans.

Aid and Attendance is a pension benefit, which means it is available to a veteran who served at least 90 days in the military, with at least one day during wartime.

There are no combat service requirements. War time dates are as follows:

**World War II:** December 7, 1941 through December 31, 1946

**Korean War:** June 27, 1950 through January 31, 1955

**Vietnam War:** August 5, 1964 (February 28, 1961, for veterans who served "in country" before August 5, 1964), through May 7, 1975

**Gulf War:** August 2, 1990, through a date to be set by law or Presidential Proclamation



## PERSONAL NOTE FROM BRADLEY FRIGON

### ***We Moved (but not far)***

*We are in the same building, but moved up one floor to Suite 330. Our office address is 6500 South Quebec Street, Suite 330, Englewood, Colorado 80111. All of our other contact information remains the same.*

**Wall Street Journal** *Yes, I was recently interviewed and quoted in the Wall Street Journal. In case you missed it (which apparently everyone did since no one called to tell me that they saw my name in the Wall Street Journal), you can find the complete article at the following address: <http://online.wsj.com/article/SB120978067718664607.html>.*

### **New Website**

*We have completely redesigned and changed the contents of our Website. Check it out at [www.bjflaw.com](http://www.bjflaw.com) and let us know what you think.*

### **Monthly E-Newsletters.**

*Did you know that we send out a monthly e-newsletter on special needs trusts (the Voice) and a monthly Legal View e-newsletter on current legal matters. Send us an e-mail if you would like to receive one or both of these newsletters.*

*The veteran does not have to have service-related disabilities to qualify. Veterans or surviving spouses are eligible if they require the aid of another person to perform an everyday action, such as bathing, feeding, dressing, or going to the bathroom. This includes individuals who are bedridden, blind, or residing in a nursing home.*

## UNDERSTANDING VETERANS' BENEFITS (cont.)

To qualify for the Aid and Attendance benefit, the veteran or spouse must have less than \$80,000 in assets excluding a home and one vehicle. The VA has very complicated rules on what you can do to get below the \$80,000 limitation. Additionally, the veteran's income must be less than the Maximum Annual Pension Rate (MAPR). The following chart shows the current maximum annual pension rates:

<b>Single Veteran:</b>	<b>\$18,234.00</b>
<b>Veteran with one dependent:</b>	<b>\$21,615.00</b>
<b>Single surviving spouse:</b>	<b>\$11,715.00</b>
<b>Surviving spouse with one dependent:</b>	<b>\$13,976.00</b>



A veteran whose income is above the legal limit for a VA pension may still qualify for the Aid and Attendance benefit if they have large medical expenses for which they do not receive reimbursement. Unreimbursed medical expenses include Medicare, Medigap, and long-term care insurance premiums; over-the-counter medications taken at a doctor's recommendation, long-term care costs, such as nursing home fees, the cost of an in-home attendant that provides some medical or nursing services, and the cost of an assisted living facility. These expenses must be unreimbursed (in other words, insurance must not pay the expenses). The expenses should also be recurring, meaning that they should recur every month.

**How it works:** The amount a person receives depends on the veteran's income. The VA pays the difference between the veteran's income and the MAPR. For example, John, a single veteran, has income from Social Security of \$16,500 a year and a pension of \$12,000 a year, so his total income is \$28,500 a year. He pays \$20,000 a year for home health care, \$1,122 a year for Medicare, and \$1,788 a year for supplemental insurance, so his total unreimbursed medical expenses are \$22,910. Subtracting his medical expenses from his income (\$28,500 - \$22,910), John's countable income is \$5,590. John could qualify for \$12,644 (\$18,234 - \$5,590) in Aid and Attendance benefits.

**Free Seminars:** Due to the number of veterans who are missing this valuable benefit, the complexity of the program and the potential impact VA benefits can have on other government benefits such as Medicaid, the Law Offices of Bradley J. Frigon will host a series of free seminars to explain the Aid and Attendance program. The seminars will be held at the third floor conference room at 6500 South Quebec Street, Englewood, Colorado, 80111.

Due to very limited space for each program, you must contact the Law Offices of Bradley J. Frigon to preregister for a program:

<i>Seminar Dates</i>	<i>Time</i>
<b>August 26:</b>	<b>7:00 p.m.- 8:30 p.m.</b>
<b>September 16:</b>	<b>11:30 a.m. - 1:00 p.m.</b>
<b>September 30:</b>	<b>7:00 p.m. - 8:30 p.m.</b>
<b>October 7:</b>	<b>11:30 a.m. - 1:00 p.m.</b>

To register for a program please call 720-200-4025 and ask for Tina, or send an email to [seminars@bjflaw.com](mailto:seminars@bjflaw.com). Your email must specify the number of people attending and the date of the program you wish to attend. You can also register for a program through our website at [www.bjflaw.com](http://www.bjflaw.com) by clicking the "Contact Us" tab.

## CONTRACT ISSUES FOR THE BUSINESS OWNER by W. Eric Kuhn, Esq.

**Let's assume a common occurrence for a small business:** In this case our small business is a landscape contractor, but similar rules apply to any other service related business. The owner of our small business speaks with a customer. They agree that the contractor will install a new lawn. They agree that the lawn will be installed in a timeframe of four weeks and that the customer will pay a total of \$5,000 for the work and the supplies. The conversation has gone well and the contractor has never had any problems with a customer before. Nothing is done in writing and nothing is signed by either party.

The contractor installs the lawn and promptly completes the work on time with no complaints from the customer. The contractor sends an invoice to the customer that states that the work is completed and that the total amount of \$5,000 is due at that time. After several calls from the contractor, the customer will not pay the invoice. The customer then says that the price is wrong and that he only agreed to pay \$3,500.

At this point the small business owner doesn't know what to do and expresses to friends and family members that he wishes that they had a contract. What the business owner doesn't realize is that they *did* have a contract — it just wasn't written down.

**Oral Contracts:** A basic contract requires three things, that one person offers something, that the other person accepts the offer, and that something of value is to be exchanged in the transaction. An oral contract can be entered into – and can be legally enforceable. When one person says, "I will sell you 15 widgets for \$10 each," and the other person says, "I accept your offer," there is a valid and enforceable contract under these terms.

However, oral contracts can be very difficult to enforce. It is difficult to prove what the terms of the agreement were and evidence can come down to one person's version of what happened compared to the other person's version. Equally difficult can be deciding what to do with terms in the transaction that the parties didn't discuss. For example, if the customer is paying late the contractor wants to charge a late fee but that isn't part of their oral contract.

**Written Contracts:** In contrast to oral contracts, some contracts are required to be in writing. Each state has what is called a Statute of Frauds that specifies that contracts in particular situations must be in writing. For example, most contracts involving real estate must be in writing in order to be enforceable. It is very important to ensure that a contract covered by the Statute of Frauds is in writing or it may not be enforceable at all.

However, for the small business owner, a written contract helps to ensure that all terms are spelled out between the parties. This is important in case the owner ever has to seek enforcement of the contract. It also helps to have everyone on the same page about the terms of the agreement.

**Standard Agreements versus Custom Agreements:** Most businesses can have some form of standard agreement drafted for them. Although each business should have an agreement customized to their own situation, the standard agreement should be flexible enough to cover most of their common customer transactions. The agreement can have spaces to customize the exact work to be done and the amounts to be paid for that work. Using an agreement that is not customized to your own situation or a form that has not been thoroughly reviewed by an experienced lawyer can be equally dangerous.

The rest of the agreement will contain the terms that the business owner has decided to do business under. For example, charging 1.5% interest per month on accounts unpaid after 30 days would be important. Now, each of the customers who have signed the agreement knows, and more importantly has agreed to, your policy on late fees. Additionally, the contract can define methods of dispute resolution and assessing attorney fees. And if you have to go to court to enforce the agreement, the amount that you are charging as a late fee or as monetary damages for the customer not complying with the agreement is far less open to attack. In contrast to the standard agreements you use with your customers, there are times that a business owner should have a custom agreement drafted for a specific transaction. This would typically involve a unique or large transaction. For example, if a business owner wants to acquire another company as a way of expanding his business, an acquisition agreement may need to be drawn up. It is very important that any transaction that requires significant negotiation is reduced to writing to help ensure (Continued on back page.)



## **NEW ADDITIONS TO OUR STAFF**

The Law Office of Bradley J. Frigon is pleased to announce the addition of Alex Gury, as an associate attorney with the firm and Tina M. Wizi, as a paralegal.

**Alex Gury** started with the firm in August 2006 while attending law school. He was admitted to practice law in Colorado in October of 2007, and joined the firm as an associate attorney in January 2008.

Alex is a Colorado native who started his career in venture capital, real estate development and finance. He graduated with a bachelor's degree in Government from the University of Redlands in California. Before law school, Alex was active as a political consultant working on many national, state, and local campaigns.

While attending the University of Denver Sturm College Of Law, Alex excelled in many moot court competitions including qualifying for the ABA's regional Negotiations championship. Alex is an avid outdoorsman who loves hiking, camping, and backpacking.

Currently, Alex is working in all areas of the firm with a focus on estate planning, probate, and real estate.

**Tina M. Wizi** has been a paralegal since 1992, when she received her certification from Nova University in South Florida. Her area of expertise is in estate planning and real estate. Previously in her career, Tina was an account representative for a national title insurance company in Florida. In 1995, she moved to Colorado and continued her career in the title insurance industry as an account manager with a local agency.

Tina has a personal interest in the area of special needs trusts since she is currently pursuing the designation of Registered Riding Instructor with the North American Riding for the Handicapped Association, Inc., (NARHA). In the near future, she would like to combine her experience as a volunteer for individuals with special needs and her lifelong love of horses to open a ranch for handicapped and at risk children.

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## **CONTRACT ISSUES FOR THE BUSINESS OWNER (cont.)**

that the deal reached between the parties is understood by all of them.

**Other Legal Contract Issues:** The business owner may also want to double-check that he is not violating other requirements of the law while conducting his business. For example, the Fair Credit Reporting Act places restrictions on companies that pull credit reports as part of their business. Or if our landscape contractor keeps chemicals on hand for treating lawns he may have to comply with state or federal laws and regulations targeted at protecting employees or the environment.

**An Ounce of Prevention:** As with many things, planning up front for contingencies can save time and money down the road. Consulting with an attorney to ensure the small business owner has the right contract can save money in the long run and minimize an uncertain result if the parties end up in court. Contact us if you need a standard contract to use with your business customers, a custom agreement for a larger transaction, or if you need an experienced lawyer to review your existing customer agreement.

## **Help us update our records**

If you have changed your name or address, or if you are receiving more than one copy of LEGALVIEW, please contact us by phone, fax or email so we may correct our records.

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The Law Offices of Bradley J. Frigon is a member of the Special Needs Alliance, a national network of attorneys that practice disability law. As a member of the Special Needs Alliance, we help preserve Medicaid, Medicare and SSI eligibility for people receiving personal injury damage awards, workers' compensation settlements, inheritances, or their own personal assets. This assistance includes the creation of special needs trusts, Medicare set aside arrangements, qualified settlement trusts, and tax planning. Visit the Special Needs Alliance website at [www.specialneedsalliance.com](http://www.specialneedsalliance.com).

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