

John S. Kiely | Of Counsel

Trusts & Estates

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John S. Kiely concentrates his practice in the areas of trust and estate planning, administration and litigation. He advises clients on matters such as:

- preparation of wills, revocable living trusts, spousal lifetime access trusts, life insurance trusts and grantor retained annuity trusts (“GRATs”)
- appointment of assets (“decanting”) in existing irrevocable trusts into new irrevocable trusts with different terms, particularly in the context of matrimonial proceedings
- estate planning components of prenuptial agreements and divorce settlement agreements
- administration of estates and trusts, including: (i) preparation of estate tax returns, (ii) defense of estate tax audits, (iii) settlement of claims against estates, including income tax claims, (iv) advice on deferral of estate tax liability on closely-held business interests, (v) advice on satisfying estate tax liability with so-called “Graegin” loans, (vi) complex valuation issues, and (vii) effectiveness of self-settled, offshore asset-protection trusts
- estate litigation, including: (i) challenges to wills and lifetime transfers based on claims of undue influence or lack of capacity, (ii) reformation of wills, (iii) admission to probate of improperly executed wills, (iv) action to remove an executor, and (v) action to obtain limited letters of administration in order for beneficiary to investigate potential claims against executor
- advice to fiduciaries, including: (i) advising executors and trustees regarding ambiguous provisions in wills and trust agreements, (ii) representation of executors and trustees facing potential claims by beneficiaries, (iii) advising executors and trustees on the propriety of discretionary decisions, including discretionary distribution decisions, and (iv) preparation of accountings and receipt and release agreements with beneficiaries

- advice to beneficiaries of estates and trusts about their entitlement to distributions and information
- application for a private letter ruling from the IRS to make a late tax election
- applications to the IRS seeking the abatement of tax penalties
- applications to the IRS for extensions of time to pay the estate tax based on hardship
- gift tax return filing obligations
- tax planning related to expatriation

He has written articles for the *New Jersey Law Journal* about estate litigation, in particular about undue influence and lack of capacity claims, improperly executed wills, and reformation of wills based on probable intent.

John frequently lectures on estate planning topics, such as estate planning for digital assets, income tax planning aspects of estate planning, options for illiquid estates with significant estate tax liabilities, estate planning for artists, and about proposed legislative and regulatory action that would affect estate planning.

Admissions

- New Jersey
- Connecticut
- Florida
- New York

Education

- Washington and Lee University, BA
- Fordham University School of Law, JD
- New York University School of Law, LLM

Recognitions

- 2018, Pro Bono Publico Award, Legal Aid Society of New York City
- 2017, Blank Rome Pro Bono Hero Award
- 2014 and 2017–2018, New York “Rising Star” in Estate Planning & Probate, listed in *Super Lawyers*®

Professional Activities

John successfully represented a grievously ill, long-term green card holder, in his application to Governor Cuomo for a pardon for two narcotics offenses which would have resulted in his deportation. In addition, he currently represents other non-U.S. citizens seeking pardons for criminal convictions which may result in their deportation.

John was an active participant in the Clemency Project, and through this initiative he

represented multiple federal inmates who had served at least ten years in federal prison for non-violent offenses and were seeking sentence reductions.

John also regularly provides pro bono advice to low-income artists and is very familiar with the unique issues that need to be addressed as part of an artist's estate plan. In addition, John has provided pro bono assistance to an animal rescue organization, and has advised a charity regarding its bylaws, conflicts of interests' policy, and general governance protocols.

John is a board member of:

- the CUE Art Foundation, an arts organization which operates a nonprofit gallery in Manhattan and which provides career and educational opportunities to under-recognized artists
- the Pajama Program, a charity which distributes pajamas and books to needy children throughout the United States, and which operates a reading center in Manhattan where volunteers read to needy children
- his co-op in Manhattan

In addition, he is passionate about the arts, and an active member of The Junior Associates of The Museum of Modern Art ("MoMA"), the Contemporaries at the Whitney Museum, and the Junior Council at the Neue Galerie.