Reasons to Decant a Trust

Planning Scenario	Reason to Decant
Joe is 55 years old, a successful surgeon and is married with three adolescent children. He has accumulated substantial assets in addition to his high annual income. Joe would like an estate plan that provides for his family and future descendants as well as providing current asset protection. Based on these facts, it appears that Joe might be a good candidate for a self-settled Alaska Asset Preservation Trust. This trust provides the combination of great estate planning with an element of asset protection for Joe and his family.	During the drafting of Joe's trust, the attorney accidentally made a scrivener's error whereby he did not provide that Joe retained certain, required powers over the trust. In order to correct this error, Joe and his attorney can look to decant the document.
2. Suzy is 65 years old, unmarried and has no descendants. Suzy's brother, Owen, has two children. Suzy would like an estate plan that provides for her niece and nephew while also fulfilling her philanthropic goals. Based on these facts, it appears that Suzy should discuss a Charitable Lead Trust with her estate planning attorney. This type of trust could provide benefits to charitable organizations during her life and then benefits to her niece and nephew upon her passing.	When Suzy had this trust drafted, her brother Owen only had two children, Sarah and Oscar, thus she specifically stated that the trust was for the benefit of Sarah and Oscar. Since that time, Owen has adopted another child, William. Since William is not specifically listed as a beneficiary of the trust and there is no broad definition of beneficiary to include all of Owen's children, without modification William cannot benefit from the trust. This can be changed via decanting.
3. Darrell and Jean are retired school teachers both in their early 70's.	When drafting these trusts, Darrell and Jean did not allow for "powers of

They have three children who are starting families of their own. Darrell and Jean are "net savers" and thus have accumulated considerable assets. They would like an estate plan that provides for their children and future descendants.

Based on these facts, Darrell and Jean may be good candidates for a Dynasty/Perpetual Trust. They could create separate trusts for the benefit of their children. After their children's passing, these trusts would transition into trusts for their grandchildren. As long as the respective trusts are not exhausted, this process would continue in perpetuity. These types of trusts are particularly powerful when created in a jurisdiction without a state income tax, such as Alaska.

appointment." These powers allow beneficiaries the ability to appoint the assets to a certain class of people or entities, such as charity. Since drafting these trusts, two of their children have become quite wealthy and wish to appoint their trust assets directly to a charity of their choice. By decanting the trust these powers can be added.

Colleen is 45 years old and is married with four children. Colleen is the sole "bread-winner" of her family and her salary places her into the top tax bracket. She would like an estate plan that would provide income to her family should she suffer an unfortunate disability or untimely death. Colleen has previously discussed purchasing a life insurance policy to accomplish this goal.

Colleen should consider utilizing an Irrevocable Life Insurance Trust. The trust could purchase a large policy and the proceeds would be paid to the trust and they would be excluded from estate taxes. Additionally, Colleen, through her legal counsel, could draft the trust to support her family in her desired manner.

When drafting this trust, Colleen had the trust "payout", in entirety, to the beneficiaries when they attained age 25. Upon reflection, Colleen is uncomfortable with this provision as she is concerned as to whether all her children will be able to properly manage a large sum of money at this age. By decanting the trust she can extend the trust term.