

**ALER STALLINGS** LLC

LAW FIRM

ESTATE PLANNING & ELDER LAW ATTORNEYS



COLUMBUS  
**BUSINESS FIRST**

RANKED #1 FOR FAMILY LAW IN CENTRAL OHIO



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# PATH TO PROTECTION

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## WHAT ASSETS DO YOU HAVE IN YOUR BACKPACK?

**THIS BACKPACK INCLUDES THE ASSETS AND ITEMS  
ACCUMULATED BY YOU AND YOUR SPOUSE OVER YOUR LIFETIME**

**retirement assets (401k, IRA)**

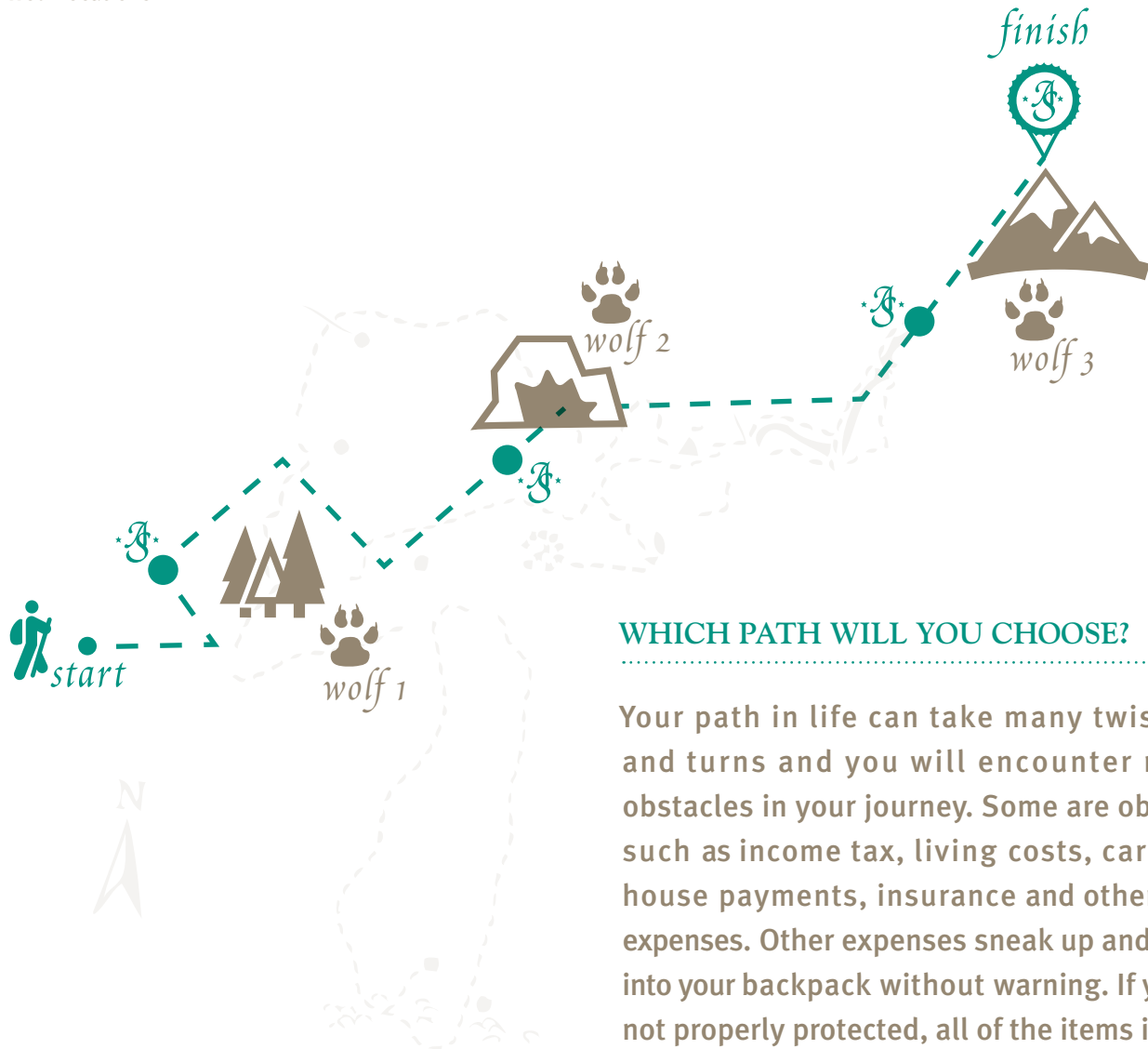
**annuities**

**life insurance**

**real property**

**personal property**

**business interests**



### WHICH PATH WILL YOU CHOOSE?

Your path in life can take many twists and turns and you will encounter many obstacles in your journey. Some are obvious, such as income tax, living costs, car and house payments, insurance and other daily expenses. Other expenses sneak up and reach into your backpack without warning. If you are not properly protected, all of the items in your backpack which you have worked so hard to obtain could be lost. This guide will show you the proper path and avoidance mechanisms AlerStallings has available to help you and your backpack reach the **SUMMIT** safely.

## WATCH OUT FOR THE WOLVES! 🚩

Three sneaky wolves will be waiting to pounce if you make a wrong turn along the way. Follow this Asset Protection Guide to avoid these **BIG BAD WOLVES!**



wolf 1



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# PROBATE WOLF

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## GETTING LOST IN THE PROBATE WOLF FOREST

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**AT THE TIME OF YOUR DEATH, IF YOU HAVE DONE NO  
PLANNING OR HAVE JUST A WILL, THE PROBATE WOLF WILL  
GET HIS PAWS INTO YOUR BACKPACK.  
DON'T BE FOOLED – ALL WILLS GO THROUGH PROBATE!**

## THE PROBATE WOLF

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The Probate Wolf is the court process in which your estate is inventoried, your debts are paid, and your assets are distributed.

### PROBLEMS *with* PROBATE

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**COSTLY**– On average, the Probate Wolf will take 5-10% of your estate (or even higher) through various fees and expenses. These costs include administrative, court, fiduciary, inventory, appraisal and attorney fees.

**LENGTHY** – At a minimum, this Probate Wolf will be around for 6 months and up to multiple years.

**PUBLIC** – Anything the Probate Wolf knows is public record. This means that the value of your estate, the amount each beneficiary receives, and other personal information contained in your will or estate is accessible by ANYONE.

**CONTESTABLE** – The Probate Wolf opens the floodgates for would-be beneficiaries to challenge and contest your estate.

**RIGID** – Intestacy laws dictate distributions and do not allow for flexibility.




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**So what path leads to protection from the Probate Wolf?**

wolf 1



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# PROBATE WOLF PROTECTION

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## SAFELY NAVIGATING THE PROBATE WOLF'S FOREST

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**THE KEY TO SUCCESSFULLY AVOIDING THIS WOLF IS TO ENSURE THAT  
ALL OF YOUR ASSETS IN YOUR BACKPACK ARE TUCKED AWAY AND  
PROPERLY TITLED TO AVOID PROBATE**

***REMEMBER: A WILL WON'T GUIDE YOU OUT OF THIS PROBATE FOREST***

## TOOLS & STRATEGIES FOR SUCCESSFUL NAVIGATION

**BENEFICIARY DESIGNATIONS** – Make sure that your beneficiaries are properly listed on your policies or accounts (Life Insurance, 401ks, annuities).

**TITLING APPROPRIATELY** – Use designations such as TOD (Transfer on Death) or POD (Payable on Death) for accounts and real estate.

### KNOW THE FACTS

Often times people veer towards a WILL and get lost in the probate forest because the initial cost is cheaper. However, in the long run the actual costs of administering a WILL can greatly exceed the cost of a TRUST.

★ SEE THE ILLUSTRATION BELOW SHOWING THE COSTS OF A WILL VERSUS A TRUST FOR A \$500,000 ESTATE:

	WILL	VS.	TRUST
Initial Cost.....	\$500.....		\$3,000
Probate.....	\$25,000.....		\$0.00
Administration Costs.....	\$2,000.....		\$5,000
<b>TOTAL</b>	<b>\$27,500</b>		<b>\$8,000</b>

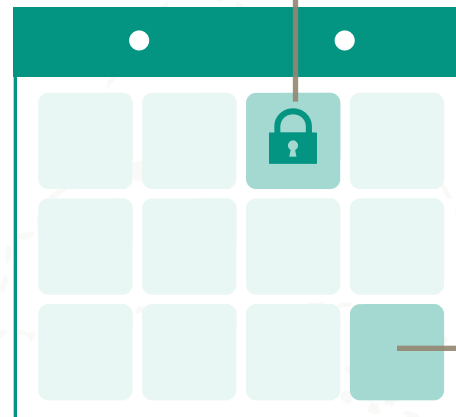
**GIFTING** – Assets transferred during your lifetime are not subject to probate. However, ⚠️ NEVER make any transfers without first consulting an attorney and accountant to ensure there will be no negative tax implications.

**TRUST INSTRUMENTS** – Any assets titled in trust are not subject to probate.

### PROBATE & DELAYS

The probate court process ranges from 6 months to multiple years. Trust administration can be finalized in less than 3 months.

TRUST ADMINISTRATION: 3 months



PROBATE: 12 months

**🔒 PRIVACY** – With a trust, you ensure your family business stays within the family.



wolf 2



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# TAX WOLF

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## TRAPPED IN THE TAX WOLF DEN

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THE TAX WOLF USES THREE TAXES TO TRAP YOU IN HIS DEN

1. Capital Gains Tax
2. Gift Tax
3. Estate Tax


## THE TAX WOLF

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You spend your entire life paying taxes. Unfortunately, Uncle Sam doesn't stop taxing you when you die. A better understanding of these taxes, coupled with professional planning WILL keep you out of the Tax Wolf Den.


### CAPITAL GAINS TAX

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- When you buy property and sell it for a profit at a later time, you are subject to a Capital Gains Tax which is based on the amount of the increase and the length of time which the property was held.
- The Capital Gains Tax over the years has hovered between 15%–25%.
- **BE CAREFUL**  If you transfer assets during your lifetime, the beneficiary will receive your "cost basis", which can result in a significant **CAPITAL GAINS TAX**.


### GIFT TAX

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- Did you know that the Gift Tax is paid by the giver, not the recipient?
- **CAUTION**  Any time you make a gift (cash or property) to friends or family – you may incur negative Gift Tax liability.
- Gifting items **DURING YOUR LIFETIME** such as your home or other assets to avoid Estate Taxes and Probate can result in greater taxes and costs for your family.

### ESTATE TAX

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- Ohio Estate Tax – Despite currently being on hold, the Ohio Estate Tax has historically ranged around 7%.
- Federal Estate Tax – Don't forget about this tax just because the current threshold is high.
- **BE PREPARED**  We don't own a crystal ball to forecast what taxes will be around at your passing. But what we do know is that the State and Federal Estate Tax rates change almost every year. Make sure your plan has the mechanics to provide your family with maximum tax protection.

### FARMLAND TAX TRAP

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Given the recent valuations of farmland, all farmers should be very careful when it comes to transferring their land to family members during their lifetime (including life estates). This can expose heirs to **THOUSANDS OF DOLLARS** in future tax liability.



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# TAX WOLF PROTECTION

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## ESCAPING THE TAX WOLF DEN


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**THE KEY TO SUCCESSFULLY ESCAPING THIS WOLF IS TO HAVE  
YOUR PROFESSIONALS SHOW YOU THE LIGHT BY PUTTING A  
PLAN IN PLACE TODAY VERSUS TOMORROW**

***BE SURE NOT TO PAY VOLUNTARY TAXES***

## PLAN YOUR ESCAPE FROM THE DEN

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- **Giftng Strategies** –  Always work with professionals
- **Living Trusts** – the most common trust for avoiding taxes and probate
- **Benefits** – minimize Estate Taxes by utilizing both spouses' exemptions

### REAL LIFE EXAMPLE - GIFTING YOUR HOUSE

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Jack tries to avoid Ohio Estate Tax and the costs of probate by giving his home to his son, Johnny, with the understanding that Jack will live there for the rest of his life.

#### 2 BIG PROBLEMS

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**Problem 1** – Johnny will receive Jack's cost basis instead of the fair market value at Jack's passing.

**Problem 2** – Johnny's problems are now Jack's problems. If Johnny gets divorced, sued, or files for bankruptcy, Jack could be looking for a new place to live.

### LIVING TRUST TOOL KIT

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#### A LIVING TRUST IS THE PERFECT DEFENSE FOR THE PROBATE AND TAX WOLVES

- **Taxes** – maximizes Ohio and Federal Tax Savings
- **Flexibility** – you can fund, unfund, amend, terminate or change anytime during your lifetime
- **Practical** – utilized by anyone regardless of estate size to save money
- **Straightforward** – easily created, funded and administered
- **Privacy** – family business stays in the family and is NOT a part of public record (unlike a Will)
- **Protection** – against creditors, divorce and future estate taxes

### CAPITAL GAINS COMPASS

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By using the correct type of trusts, assets can be transferred while still allowing the beneficiary to receive the stepped-up cost basis and reducing or eliminating Capital Gains Taxes due.



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# LONG-TERM CARE WOLF

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## FALLING DOWN THE LONG-TERM CARE WOLF MOUNTAIN

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THERE ARE MANY OBSTACLES FOR YOU TO SLIP ON WHEN CLIMBING UP THE LONG-TERM CARE WOLF MOUNTAIN. PAYING OUT-OF-POCKET FOR RISING NURSING HOME CARE COSTS CAN CAUSE YOU TO LOSE YOUR GRIP AND EVERYTHING YOU SAVED IN YOUR BACKPACK.

## LONG-TERM CARE WOLF

The Long-Term Care Wolf is the hungriest and sneakiest of the pack and most climbers don't realize how much damage he can cause. What makes the Long-Term Care Wolf so destructive is that most people don't see him coming until it's too late.

### BASICS OF THE LONG-TERM CARE MOUNTAIN

The cost of care in your home, an assisted living facility, or nursing home

- **Will you need it?**
  - » Nearly 3/4 of people over 65 will come face to face with this wolf
- **How much does it cost?**
  - » Average Monthly Costs = \$6,000
  - » Average Nursing Home Stay = 3 Years
  - » The Result = **\$180,000**
- **How are you going to pay?**
  - » Private Pay
  - » Financial Planning
    - \* Long-Term Care Insurance
    - \* Life Insurance with Health Care Benefits
    - \* Annuities with Health Care Benefits
- **Government benefits**
  - » Medicare
  - » Medicaid
  - » Veterans Benefits

**SPEND DOWN EXAMPLE** – Jill, a widow, has recently entered a nursing home and has approximately \$100,000 in assets. Jill wants to know how to become eligible for Medicaid. Ohio Medicaid rules allow Jill to have a maximum of \$1,500 in assets (as of 2013). The remaining \$98,500 would have to be “spent down” on nursing home costs.

### MEDICAID BUZZWORDS

- **Spend Down** - Any money in excess of \$1,500 must be “spent down” on nursing home costs before Medicaid will pick up the bill.
- **Look Back** - Any transfers or gifts from your estate will be penalized if they occurred within five years of applying for Medicaid.
- **Penalty Period**
  - » The penalty period is the number of months which a person must privately pay for their own nursing home care before they will be eligible for Medicaid benefits.
  - » To calculate the penalty period, Ohio divides the amount of the improper transfer by the average monthly cost of nursing home care.

**PENALTY PERIOD EXAMPLE** – Jill transfers \$98,500 to her son Johnny and immediately applies for Medicaid. Jill is told that she must now privately pay for 16 months of her nursing home care due to her “improper” transfer ( $\$98,500 / \$6,114 = 16$  month penalty).



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# LONG-TERM CARE WOLF PROTECTION

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## CLIMBING THE LONG-TERM CARE WOLF MOUNTAIN

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**THE KEY TO SUCCESSFULLY CLIMBING THIS MOUNTAIN IS TO  
TAKE PROACTIVE PLANNING MEASURES TO ENSURE ALL OF THE  
ITEMS IN YOUR BACKPACK ARE SAFE FROM THIS WOLF**

***THE ONLY WAY TO PROTECT 100% OF YOUR BACKPACK  
IS TO BE PROACTIVE***

## PLAN FOR YOUR CLIMB

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Strategies exist to keep your backpack safe from the Long-Term Care Wolf during your ascent up the mountain. Sometimes, an emergency situation arises where a loved one has to enter a nursing home and no planning has been done.

### PROACTIVE PLANNING

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**GOAL** – To shelter as many of your assets as possible from the costs of nursing home care. This planning must be done in advance and can shield up to 100% of the assets in your backpack from this wolf.

#### CLIMBING GEAR

**Gifting** - This can be a very effective strategy when done with the assistance of a professional 

**Trust Instruments** - Utilizing the **CORRECT** trust instrument can provide absolute protection from this wolf.

#### GIFTING TRAP

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Jack and Jill transfer their home to their kids in order to protect themselves from long-term care costs. They paid \$10,000 for the home, which is now worth \$100,000. When the kids receive and sell the home, a Capital Gains Tax of around **\$20,000** becomes due. This is because the kids inherited Jack and Jill's cost basis and did not get a step-up in basis. If they would have utilized AlerStallings' tools and equipment, the kids would have received a step-up in cost basis and **\$0** in Capital Gains Tax would have been due.

### REACTIVE PLANNING

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**GOAL** – To minimize the amount of assets in your backpack lost to the Long-Term Care Wolf. AlerStallings can still shield up to 70% of these assets **EVEN IF YOU ARE ALREADY IN A NURSING HOME.**

#### CLIMBING GEAR

- » Advanced Gifting Strategies
- » Trust Instruments
- » Financial Vehicles
- » Start-to-finish Medicaid & Veterans Benefit Applications

#### MEDICAID EMERGENCY EXAMPLE

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Jill enters the nursing home with no prior planning and \$100,000 of assets in her backpack and is stranded on the side of the mountain. She is told that she must pay \$98,500 to the nursing home before Medicaid pays. AlerStallings comes to the rescue to guide her safely off this mountain by assembling a strategic emergency asset protection plan that could save Jill up to 70% of her assets from nursing home costs.

### AVALANCHE ALERT!

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The reality is that the landscape of Long-Term Care is ever-changing and is extremely complicated and requires advanced tax planning and expert knowledge of the current Medicaid laws.



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# REACHING THE SUMMIT

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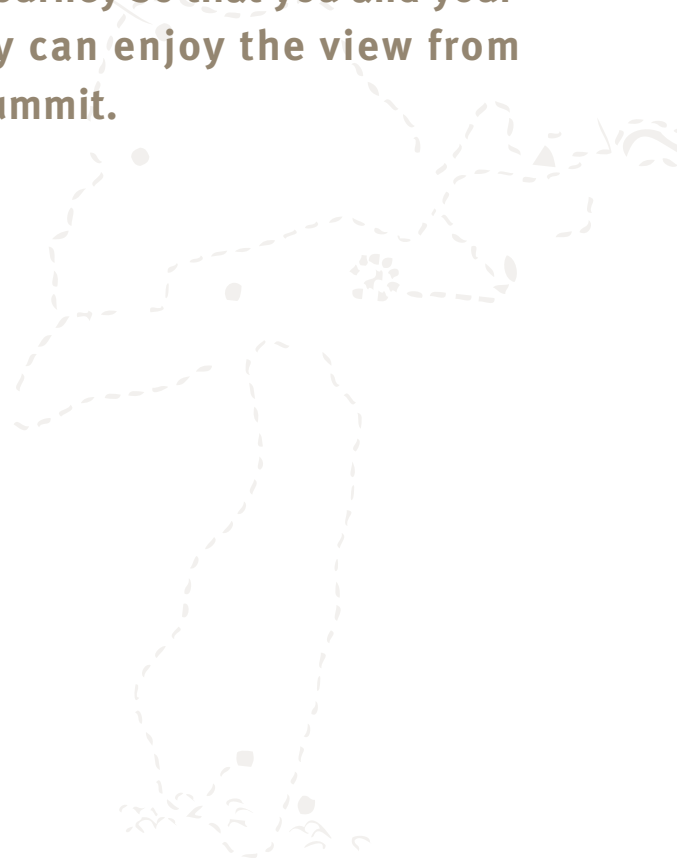
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## SAFELY ARRIVING AT YOUR DESTINATION

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With the proper guide, tools and plan in place, you and the assets in your backpack will always be protected and heading in the correct direction. The AlerStallings team provides all of our clients with the peace of mind that all three wolves will be avoided on your journey so that you and your family can enjoy the view from the Summit.





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ALERSTALLINGS.COM

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**ALER STALLINGS** LLC  
LAW FIRM

ESTATE PLANNING & ELDER LAW ATTORNEYS

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