

First Will Signing – Suggestions?

Hi folks,

I'm doing my first will/POA/living will signing this week. We have the witnesses and notary lined up.

Any suggestions on statements/procedures/logistics to make for a smooth signing ceremony? Also, suggestions on arrangement of documents? I know this was brought up recently on another email thread...I'm thinking 3 copies, stapling original will on cardstock and putting all documents in a folder.

Thanks in advance!

What the heck... here's my signing checklist (in the original, these are hyperlinked to the documents on my hard drive):

ESTATE PLANNING SIGNING CHECKLIST

- Notary Record Book (pre-enter names & addresses), notary seal, inker
- Pens for witnesses and for self; fountain pens filled and ready
- In client data file, change county in client data files to county of signing, and add in the names of witnesses and the date of signing.

Documents for client stack (print and PDF; clip together with small clamp):

- Revocable living trust and Certificate of Trust, if any
- Wills – add gold seals to Self-Proving Affidavits
- Declarations of Guardian
- Appointment for Disposition of Remains
- Statutory Durable Powers of Attorney
- Medical Powers of Attorney

- HIPAA Authorizations
- Directives to Physicians
- Anatomical Gifts, if any

Documents for attorney stack (clip together with small clamp):

- Will execution ceremony checklists
- Trust Summary, if any
- Contact Information Form
- Memorandum of Wishes forms
- Funeral & Memorial Instruction forms
- Estate Organizer forms
- "When There Is a Death in the Family" Letter
- Bill for Estate Planning Services
- Envelope (including label) to keep the documents in

Place all of the above in a file folder to protect documents in briefcase. After signing:

- Estate planning closing letter
- CD (including label and case insert) containing electronic copies of documents
 - CD contents: client documents in PDF format, signed scans, plus

Estates\Reference\CD for Clients

- Scan all original documents, staple them, and mail or deliver them with CD and closing letter to client(s)
- Delete the .FRM files, delete client folder on Web site, zip and archive client folder to laptop and network drive.

I can upload my Will Execution Ceremony checklist for you if you'd like.

As I tell clients, if I'm ever called before a court and asked: "Mr.

Koenecke, do you remember the circumstances of the Smith will signing on December 20, 2006" my answer would have to be "heck no. But I always do my signings the same way, and keep a checklist, and here's the checklist done at that signing, with my initials on each line."

Michael A. Koenecke, Texas

I'm not quite so formal as Mike on the checklists but:

1) We sign the wills first, normally, because will execution is a bit more complicated; in that testator and witnesses sign will once, then notary asks whether they signed the will in each others presence, they say "yes" then sign again and notary completes self proving affidavit; so there's two passes. Then we do other docs that simply require signatures and notarizations.

2) When executing documents I ALWAYS start off "Mr. Smith this is your last will and testament (power of attorney, whatever), while showing him the document, I've prepared it at your direction, I've sent you a copy, [if appropriate] I've answered your questions, made the changes we discussed and sent you a copy of the amended will, you've read it, you understand it, and it does what you want, right? Wait for client to say Yes, or Right. If client says I have a question, or let me look at it one more time, or such, I answer th question or let him look at it. Once in a blue moon, like 2 or 3 times in 1500 cases, client says, No, I don't understand it, or I don't know what I'm doing here;' at which point the whole thing is aborted. Once they've indicated they're happy with it, then we sign it. And I do that for every single client and every single document every single time; for the reason mike states; I don't necessarily remember any particular will signing but if I'm ever asked "how do you know that client knew what he was doing" I can honestly answer that because I always, always, ask that series of questions and don't sign the will until they indicate that it's good.

3) I explain why they're signing the will twice; "The first time you sign the will you are validating the will. Then my father (notary) will ask what seems a very stupid question; whether You Mr. Testator, and you Mr Witness 1 and Mrs. Witness 2, swear or affirm that you just signed the last will of Mr. T; and whether you signed in the presence of each other. I need all of you to give an audible YES to the question; the reason for this is that the second time you sign it you are swearing that you signed it and did so in the presence of each other. My notary will then notarize it; the reason for this is the second signing and notarization makes the will self-proving; and that means we can submit it to the judge without trying to track down witnesses years later; because it might be years before the will is probated and witnesses move and die and forget."

Ronald Jones, Florida

Wholly ... that's great! I LOVE checklists!!

If anyone has any others to share - or anything other they are especially proud to have crafted to help with getting the law or office stuff done ... upload at <http://www.legaltypist.com/sendto> - and put Solosezzer project in the notes section. I will compile by specialty/subject and, depending on what gets sent in, perhaps finally make use of the group file cabinet.

Andrea Cannavina, not a lawyer

I have a few other checklists and useful documents on my public documents page:

<http://koeneckelaw.com/public>

Michael A. Koenecke

I do it more like Ronald does. I have only done a few, but I do it the same way. Since I don't charge for notarizing, I don't keep a notary log.

I usually only notarize what I draft. I scan the signed notarized copy, so there is a record. For anything else, what good does it do?

Mitchell Goldstein, Virginia

I scan everything, but I ALWAYS retain originals of trusts and any amendments to them.

Vicki Eskin, Florida

If there is a trust, then I have the clients execute the trust before the

Will(s) because the Will(s) are usually "pour over Wills" and thus, in my documents, the trust has to exist before the Wills.

Also, control the actual signing of the documents. if more than one person is executing documents that day, there is a tendency for the other person to want to get a head start executing their documents as well and i have found that if there is more than one person signing at a time, there is a good chance for the pages to get mixed up.

Naomi C. Fujimoto, Hawaii

In the "old days" I always kept a duplicate copy of all final documents. But, in this electronic age, I only keep a scanned copy.

Frederick G. Irtz, II

I keep the original trust instrument because it protects the trust from being altered in writing by unwitting clients (who do it even though warned not to do so) and because issues sometimes arise needing certification that trust has been unaltered or that amendments are included. In order to certify, I need to know that no changes have been made and the only way to do that is to keep the original. I definitely give copies to the clients and I tell them that I have no problem whatsoever if they decide to go to another attorney down the road to make changes, but I request that I be permitted to send originals directly to the new attorney.

I used to give original trusts to clients. I couldn't believe what some of them did to them before passing away. Then, families came back wanting to implement the trust terms. In my opinion, when the decedent wrote on the original trust (revocable trust that is), or struck out specific provisions, etc., they modified it and or indicated their desire to change it before death, making the trust ineffective.

So now, I catalogue them and retain them in the office safe. And I'm seeing that when clients come to me wanting changes to revocable trusts that the prior attorneys forward original docs to me. I don't like the custom of lawyers retaining wills - just trusts.

But I'm open to other points of view on this!

Vicki Eskin

Thanks for the advice, everyone! Especially to Mike Koenecke, who shared his checklist with us! Lots of great advice and ideas.

Sharon Barney, Pennsylvania