

## How Would You Respond?

So, I am not quite sure how to respond to this. Maybe someone has an idea.

A "friend" on Facebook reached out to me yesterday. For some perspective, she and I have known each other 30+ years. We were on the debate team together. She married another friend from high school.

My last communication with her before this was probably 2012. We have gone down to San Diego and invited people down there to join us. She has never shown any interest.

Her brother is an attorney at some big law firm in San Francisco. She is a lawyer who has worked at a few firms in San Diego, worked for some law school down there (USD?) and is now an attorney for the court of appeals.

The message:

On my list of things to teach myself while sheltering at home is setting up a trust. We have no estate plan. Can you recommend resources to me? I want to do it myself.

I don't want to be a jerk. At the same time, she should know that a) this is not really a DIY project, b) attorneys get paid for their time.

How would you respond? Or, would you ignore it?

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Tell her it is not a DIY project in your opinion, but (if this is true) you would be glad to prepare an estate plan for them.

Shell Bleiweiss, Illinois

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Although you're a good lawyer, estate planning is not a DIY undertaking. I'd be happy to talk with you about it, and I'll give you my "old friends" rate if you decide to hire me.

Marilou Auer, Virginia (retired legal clerk/secretary)

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I suppose it depends on how nice you want to be. It's reasonable to tell her that this is a complex area of law and that, if done incompetently, her DIY trust could do more harm than good. As an attorney, she would surely understand this. But, you also indicate that she is, or maybe was, a friend. If so, you might consider offering her a discounted rate to do her estate plan. Or, you could simply answer the question she asked by giving her a list of resources -- textbooks, practice guides, etc. -- known to be authoritative in your state.

Of course, on the other end of the helpfulness spectrum, you could just ignore her question completely, or you could provide a snarky reply. I'm not suggesting that you should, however.

If it were me, I would do my best to help her. Who knows, maybe your kindness will cultivate a new friendship, or develop a new referral partner, or bear fruit in some other way.

Andrew C. McDannold, Florida

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Just tell her, "It's not a DIY", point her to the Rutter guides, and change the subject to health and weather.

Robert Thomas Hayes Link, California

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Options, not mutually exclusive:

1. Refer her to materials you would purchase or CLE articles.
2. Suggest she hire someone, either you or another.
3. Suggest that a "do it yourself" project is inappropriate.
4. Suggest she volunteer at estate planning sessions for the poor, which may offer a mentor.

If you go down the first route, she may be back with questions, so you would have to manage that issue. Nonetheless, I would probably suggest that in combination with other options.

Darrell G. Stewart, Texas

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I mean, how is that much different from someone on here making such a request? She is an attorney, right?

Warn against DIY estate planning. But at the same time, recognize that she is an attorney, and if it is really an area of law she would like to explore and get familiar with, you can certainly be helpful with that. You can point out that drafting documents is really a completely different skill set than prosecuting a case, and (assuming you believe this) often no trust is better than a trust that doesn't focus on the correct things, but here is how I progressed to learning how to do this and is my favorite reference on the subject.

Or you can just start with giving her a list of references.

I would probably say that trust drafting is one of the last things I picked up in my estate planning practice, as I needed to have knowledge of wills, probates, Medicaid planning, real estate property, and certain aspects of tax law in order to really put the pieces together (and there are still cases in this area that I refer out.) Assuming you feel comfortable with that, here are the references I would start with.

Cynthia V. Hall, Florida

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I'm not a T&E type of lawyer, but if I got a request from a friend asking for advice about how to draft their own Franchise Disclosure Document, I'd probably say something along the lines of:

“I'm sure you could learn to do it—after all, I have—but it's going to take you a lot of time and effort. If you're thinking about just doing one for yourself, I suspect you will find that the learning curve is steep enough and long enough that you would be better off working with someone who is experienced. On the other hand, if you think it's an area of law you want to learn, I would recommend that you attend \_\_\_\_\_ (CLE course) to get a quick handle on things, then \_\_\_\_\_ and \_\_\_\_\_ as good reference materials.”

The other thing to think about is to say that the challenge with Trusts is that they don't come into effect (usually) until after it is too late to make changes, and there is no way to “test” things in advance. If everything is accurate and great, then your friend is all set. But she runs a risk that a defective effort will be worse than

nothing—at a time she cannot do anything to correct it.

Brian H. Cole, California

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Respond to her and say "Sure thing: <http://www.google.com>  
<<https://sgndpr.online/click?redirect=http%3A%2F%2Fwww.google.com&dID=1595536943489&linkName=http://www.google.com>>."

E. Seth Combs, Kentucky

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I would suggest she might contact a T&E professor at USD Law for recommendations on reference materials and forms. If she completed law school and passed the bar, I would think she is smart enough to figure out how to proceed on her own; I suspect she has another reason for reaching out to you.

Duke Drouillard, Nebraska

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LegalZoom?

Mike Phillips, North Carolina

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What I would and have responded:

“It is my practice rule to not engage in recommending legal advice. Recommending is practicing what we do and would invoke my malpractice rules—so I wouldn’t be able to advise you—But I can represent you if you wish. Good luck and hope you are well!”

Micah G. Guilfoil Payne, Kentucky

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Agree. These people think you are selling a product, and if they can get it elsewhere more cheaply that's their best bet.

I just met with some people this morning\* who had paid a significant sum for a revocable living trust package from some company out of Las Vegas, and did not

know how to get assets properly transferred. They were the sorts of do-it-yourselfers who fundamentally do not think legal advice and representation is worth paying for (unless, of course, they get sued or want to sue somebody - and even then, the lawyer should get a percentage of a recovery). I gave them some general advice about procedures in transferring assets, but in my experience trying to get them to understand that it is worth paying for my time and effort is a losing proposition.

\* A friend/client of mine is a financial planner whom I have known for some 25 years, and I agree to meet with his clients for free consultations. Frequently it is a waste of time, but it gets my name before people, and sometimes it is worth it.

Michael C. Koenecke, Texas

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Sounds to me like she's kicking the tires. I have no problem with people doing that as long as they don't string me along. I think the best response is to say to her something like this,

Dear Friend, estate planning is a very serious matter and should not be taken lightly. You should not undertake it alone - even if you are an attorney. You need a qualified professional - it is well worth the money. I'd be happy to help you with crafting an estate plan, but I would have to charge you my regular rate of \$785/hour. Please call me at my office and I'd be happy to set up an appointment! Great to hear from you!

Sterling L. DeRamus, Alabama

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If you have a California hornbook on Trust Law, recommend it to her. What is she going to do, sit and read the whole damn thing? You will not come off being a lawyer, but will remain her acquaintance.

Robert W. Hughes, Georgia