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Witnesses for Will Execution

Since we are a small firm, we do not have enough witnesses for a will execution ceremony. I also do not yet have my notary license. I have established a relationship with a local bank to hold the execution ceremony there and have the bank provide a notary (for \$2, I think) and to provide the necessary witnesses for our will executions.

What do other offices do to have enough witnesses available? Is it OK to have bank employees present at the execution ceremony (held at the bank) to witness the signing? I always ask the client if they are comfortable with the bank I've chosen or if they would prefer their own bank. Any suggestions are appreciated.

Many solos and small firms are hiring contract support help to do just that. If you go to the "Listings" area at <http://www.superpages.com/yellowpages/C-Paralegal+Services/S-IL/T-Chicago/>, you will see and large list of firms in Illinois offering contract paralegal support that can be hired to attend various signings and ceremonies. The benefit is that a professional will be your witness. My firm used to offer real estate signatory services until we became too busy with our IP specialty work to participate in a non-specialty. During that time, however, there occurred several incidents wherein a SIPPS representative caught a mistake, or something overlooked in the documents, that could have negated the transaction. A random bank employee will be cheaper but will not provide that degree of additional expertise. The costs can be factored into your fees. Regards,

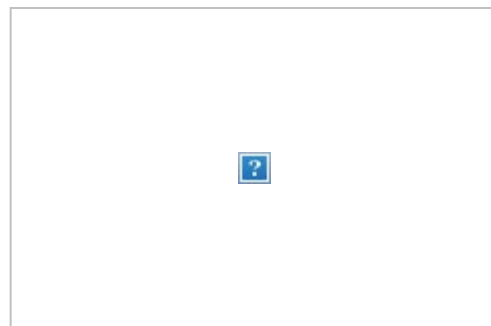
Lyza L. Sandgren, Paralegal

A great marketing tool is to have the clients bring friends as witnesses. It helps to verify that they knew they were making a will and it helps to bring in new business as there's a great probability that the witnesses will need your services too.

Bruce Dorner, Londonderry, New Hampshire

Since opening my own office I've been wondering what to do when (god willing) I have my first will execution. There are a couple of other people in my office building, but they aren't there all the time.

Using your bank seems like a good idea. Do you meet with your client ahead of time to go over the documents and then head over to the bank to do the signing, or do you do it on different days?



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Leanna Hamill, Hingham, Massachusetts

I either double schedule will signings and use each other to witness the other sides wills, or if the client is not comfortable with that or wants to have it done NOW, when i can't schedule someone else, I tell them to bring a friend. This is a marketing opportunity; at least half the time the witnesses will ask about a will. Second, IF there should happen to be a will contest at some point (no matter how unlikely that seems) it might be handy to have the witnesses able to say not only did they witness the will, but they knew the testator and the testator was sane, competent and knew what he was doing.

Ronald A. Jones, Florida

I quit using a notary clause on wills for that very reason. I have a total of three people in the office and we are not all always here. Now I just use the attestation clause which requires only two of us at any one time.

William B. Bates, Lincoln, Illinois

In SD the "self-proving" will form needs a notary. Lucky for me I office share with a financial advisor and his staff (one of whom is a notary).

Laura Blankenship. Canton, South Dakota

Another comment on will executions as marketing tools--sometime it's worth a house call, if friends of the Testator are provided as witnesses. I assume that the need for a notary arises from a self-proving affidavit, so save this until later.

Robert Thompson

Here's my stupid question of the day, then: Can you be the attorney drafting the will and a witness to it? I was under the impression that you could not, but I'm not sure why!

Tammy Shults, Carbondale, Illinois

Prior discussions have included the option of bringing their own witnesses. Some people think this works better because the witnesses have literally known the testator for a substantial period. It obviously needs to be a person not taking under the will.

The foregoing is offered as an option only. Your approach works; nothing wrong with it. When I am short-handed, other businesses in my building allow their employees or principals to act as witnesses. It helps that most of us in this building have been here more than ten years, and relations are very neighborly.

Darrell G. Stewart, San Antonio, Texas

At both will signings I had yesterday I requested the client bring a witness. Both witnesses have made appointments. Excellent idea!

Christy A. Schmidt-Noe, Brick, New Jersey

I used to always tell clients to bring their own witnesses, advising them what the witnesses' qualifications would be. And I can't count the number of times that the witness would make an appointment while he or she was in the office. At the very least, it's an opportunity for someone to see you, see your office, and receive a business card -- a very inexpensive marketing opportunity.

jennifer j. rose

I frequently serve as the second witness. If I had three employees instead of two, that might change. Texas has a form of authentication for the will, so that witnesses do not have to be located. If that fails, one recourse is to locate a witness. If needed, I can put on a paralegal or legal assistant if I am handling the probate. My approach is common here.

Darrell G. Stewart, San Antonio, Texas

I have been drafting and witnessing Wills for 26 years and my father for 45 years before me. Unless you are a beneficiary or the Executor, in which cases, you probably should not be drafting it, you can witness the execution.

William B. Bates, Lincoln, Illinois

Thank you all for the suggestions!! I think we'll start asking the client to bring a friend (or two!) This does sound like a great marketing tool or at the very least a chance for another person to see the office, as suggested. Thanks again!

Tammy Shults, Carbondale, Illinois

I have found banks and hospitals very resistant these days to having employees serve as witnesses, as they are afraid of having them called to testify in the event of a challenge. Of course, if you have a relationship with your bank, it might make an exception for you. I use other professionals, and help them out in the same way, for witnessing wills. This also ensures I have no problems locating witnesses or proving their signatures if needed. Asking testators to bring friends (except in those cases where I go to their home, as I might in the case of very aged or infirm clients) seems less professional to me and I would not do so.

Alan P. Bernstein

I have also often served as a witness to the will. The problem arises when there is a will contest - you can't be both a witness and the attorney defending the will contest.

Teri E. Robins, Cincinnati, Ohio

In response to Teri's comment, in New York at least the attorney can most certainly be both a witness and the attorney defending the will contest. As a matter of fact, it is typically very difficult to overturn a will where there is an attorney as a witness.

Lenore W. Tucker

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