

Popular Threads on Solosez

WIFE CANNOT COME TO MY OFFICE BEFORE WILL IS EXECUTED--OKAY TO INTERVIEW ON PHONE?

A new client requested that I prepare some estate planning documents for him and his wife. I interviewed the husband for about two hours, but his wife couldn't make the appointment. It's difficult for her to get to my office. The husband suggested I contact the wife and interview her over the phone.

I have never had this happen before. I feel like I should have a face-to-face interview with the wife before execution of the documents, but I'm not sure why I feel like this since I could cover everything over the phone.

Are my instincts correct? Should I insist on meeting her in person before I finish drafting the docs?

You do not want to mess around with a will.

henry lebensbaum, Massachusetts

Your instincts are correct IMHO. I would never do estate planning without an in-person meeting.

Sandra J. Slaga

I would not automatically rule it out. I have spent most of my practice years conducting significant matters by phone - many clients I never saw in person at all. Phone skills are different than in-person skills, because you have to make sure you ask for understanding and questions since you can't pick up visual clues from the client, but I have had very few situations where I felt in-person was critical. Unless you need to see how the person presents themselves in preparation for testimony or something of that kind, phone has always worked fine for me.

However, in this specific case, I would make sure you have a phone call with the wife on at least one occasion when the husband is not in the house, just to be sure you're getting candid responses.

Pamela Parker, Texas

It depends.

How well do you know your client? Were they referred by someone you know?

I have interviewed clients over the phone and then met them at the execution when they came from a good referral. If they came to me through the Internet, I would be more careful. I have also visited clients at their house. Some I charge, some I don't. It depends on whether I think they will become good referral sources for me (hey, this lawyer was so great, he came to our house). One client I did know turned out to be a pain toward the end, so when she asked that I come to visit her mother to start the estate plan, I told her that I charge for that.

E.J. Hong, California

Personally, I agree. I would rather have in person interview, but sometimes you can't ; either it's an emergency, the person is in the hospital, or they can't easily schedule the interview. The main thing is, 1) taking the information 2) making sure they have an opportunity to review what you did 3) your being able to explain and answer their questions and 4) that you supervise the execution of the will. Which is why I will almost always insist on sending them a copy of the documents in the mail, having them call me when they receive it, and explicitly asking if they understand and have any questions when they call; THEN, at the execution saying "Mr. Smith, this is your will or whatever, I've prepared it at your direction, I've answered your questions and explained it, and it does what you want, right?" and they have to say Yes. If they say anything else, we put it on hold until I'm satisfied they understand and are happy.

Ronald Jones, Florida

I had a law professor who found out in court that his client was an impostor who had lied to him about his identity. In my practice all new clients must give me a driver's license or passport for me to photocopy. My view is that as long as the person's identity is totally confirmed and the person validates what was said on the phone it should be OK. BTW, if phone contact isn't sufficient what about webcam?

P e t e r W i z e n b e r g, Florida

I have prepared wills for clients without meeting them in person until the will signing.

In such cases (1) I interview both clients on the phone, (2) I send them a written engagement letter for them to sign and send back with my retainer fee, (3) after receipt of the signed engagement letter, I send them draft documents (prominently marked draft) with a letter explaining the drafts, (4) I discuss the drafts with both clients on the phone, and then (5) I discuss the final documents with the clients in person before the will signing.

I would not consider drafting estate documents for clients over the phone if they are not going to come to my office for the will signing.

Neal A. Kennedy, Texas

Why not try using Skype Video to Video? It's free and creates a nice rapport with the client. Although I don't do estate planning, I would think that you want to feel secure that you're getting all of the information (including visual clues) from the client. I've conducted many interviews with clients, even two mediations with overseas clients, via Skype. Of course I'm using Skype in the generic sense, I'm sure there are other similar applications out there.

Lowell Steiger, California

I really should investigate Skype. I'm not sure my clients are the type who would welcome something like this, but it's a great idea.

Curtis P. Patalano

The possibility of running an imposter for a wife is a standard concern in real estate transactions - I would expect the same for wills. I would not require the wife to come in ahead of time - there are lots of busy people, and people who don't travel well. I would, however, be sure to see and copy a driver's license or other picture ID on the wife, pull a real estate record to find a signature exemplar for the wife, meet with the wife out of the presence of the husband at some point in the meeting before signing, and make notes to file on the wife's demeanor during the entire meeting and especially during the signing.

Rebecca K. Wiess, Washington

I would expect any issue related to an imposter wife to be resolved at the signing of the will - I assume all states require notarization, which requires identification. If a fake ID gets by a notary, surely it would have gotten by the attorney as well.

Pamela Parker

Wills generally aren't notarized. I have never executed a will without also executing some other document - trust, power of attorney, etc. - that is, itself, notarized, so this is a non-issue for me.

That said, I will not ever plan for a married couple unless and until I meet with both of them simultaneously. In my experience, no good can come of it.

Cheers,

David Hiersekorn, California

Okay, I stand educated, in that at least one state does not require notarization, nor apparently does it require any verification of identity upon the signing of a will. In states such as California, the attorney should take appropriate steps to verify the identity of the client.

I do, however, believe that it is possible and completely appropriate to do good legal counseling by phone. I know from prior discussions on this list that many of you prefer to always do office consultations for various reasons, but there are also many of us on this list that prefer to have alternative methods of consulting with clients available. No one form is the "right" form, although one may be right for a particular attorney or in a particular circumstance.

I personally prefer a business model that is open to non-traditional methods of delivering legal services, and I have found many examples that work wonderfully.

Pamela Parker