

Methods of Keeping Estate Planning Docs Organized During Signing

For those of you who create wills, trusts, and other estate planning documents, what methods or processes do you use to keep the various documents organized while they're being signed and witnessed? I feel like there's got to be a better way to do this than my current method, which involves simply passing stacks of paper around the table. Pages sometimes get out of order or mixed in with the other document stacks, and it can be a bit messy.

Of course, I could use paper clips or binder clips to temporarily hold the pages together, but that gets unwieldy when many pages within a document need initials or signatures. My current thinking is that I might put the documents in tabbed sleeves or pockets, which could then be passed from person to person for signing. What do you do? Are you happy with your method?

I have the clients sit side by side with one of my assistants on the outside of each.

Cl1: Client 1 Cl2: Client 2 W1: Witness 1 (Bookkeeper/Probate Paralegal) N/P: Notary Public (Office Mgr/E-P Paralegal) I am second witness

Cl1 [-----] Cl2 [] W1 [-----] N/P ME(W2)

N/P has all docs paper clipped.

Each client acknowledges the document then signs their respective stack and gives signed version to one of the witnesses.

As paperclips come off, N/P snaps them up.

Witnesses sign/initial as the case may be; then swap stacks.

Signed stack goes to N/P.

N/P quality controls execution as she gathers them.

N/P and witness leave room to stamp, scuff and scan. I confirm whether copies need to go out to any one; collect remaining 50% due.

Tell client that binder will be available in a day or so.

Ask for a referral.

My 0.02

Michael Sweeney, Connecticut

My post was done on a laptop.

It does NOT translate well to the phone.

That's roughly similar to how I do it. I prepare a stack of documents for each client, paper-clipped, with the stack held together by a small clamp. If there's a revocable living trust, it and the Certificate of Trust are separate. Order: Will, Declaration of Guardian (these are the only two documents that are witnessed), Appointment of Agent for Disposition, Declaration of Guardian for Children (if needed), Statutory Durable Power of Attorney, Medical Power of Attorney, HIPAA Authorization, and Directive to Physicians. I act as notary, so swear in the testators and witnesses, and go through the will signing ceremony line by line: the testators sign, documents to witnesses, they sign, back to me, I notarize and place in two stacks, one for each testator. Same for Declarations of Guardian.

Then the witnesses are excused (if they wish to leave), and we go through the signings and notarizings of the other documents, placing them one by one on each client's stack.

I make sure documents are signed one by one, so that I can answer questions about the particular document if necessary and keep them in order.

When done, I go through the additional documents, guides, and forms I provide clients at signings, place those in a custom bank bag for holding their originals (I like the flexibility, as opposed to a binder), present them a statement for the remaining half of my fee, and I retain the originals for scanning. I then send the (now stapled) originals to the clients along with a credit card flash drive containing electronic copies of the text documents and scans of the signed documents, plus the forms and guides, and instructions.

I'm pretty happy with my method, though I agree it's a challenge to keep documents together when they're only bound by paper clips. But better that than having to remove staples for scanning.

Michael A. Koenecke, Texas

I find staples work pretty well. Normally I prestaple everything and then present each document to the client and have them sign/initial in appropriate place(s).

But, I do NOT provide executed copy of will to client after signing and I STRONGLY discourage them from making copy (because they nearly always want to 'provide a copy to my son' or whoever). They got the original; put it away in a safe place, do not make a copy of it to provide to anyone. In the very unlikely event that the will is lost and destroyed under circumstances that would indicate that it was not revoked by TX then I've got electronic copy in my files. And because I very nearly always am present when will is executed, I can act as witness and between my electronic copy and my own testimony I can get copy of will admitted.

But I do NOT want hard copies of the damn will floating around, that leads to mischief.

Living will, deeds, normally my living wills are about 1 or 2 pages; same with deeds, if I want to make copy I can run it off of copier easy enough.

DPOA/HCS, same thing; it depends, if I know client is going to need immediate copy of it, I'll wait till they initial and sign it, then run it thru autofeed of copier, then staple stuff, but normally it is prestapled.

I know you, personally, Andrew, use three ring binders and that's fine but I fricking HATE the 'binder estate planning system'. That's me, but I do think that 3 ring binders are, not malpractice, but problematical and I grit my teeth anytime client brings me estate plan done by a another lawyer in a 3 ring binder.

Ronald Jones, Florida

Actually, Ron, I don't use 3-ring binders at all. Like you, I also hate them.

Once the documents are signed and notarized, I scan them for my records, assemble the docs (i.e. add blueback and staple), and place them in a nice leatherette expanding wallet <https://www.officedepot.com/a/products/263810/Office-Depot-Brand-Polyurethane-Expanding-Wallet/> for the client to take home. Incidentally, I add an adhesive card pocket <https://www.officedepot.com/a/products/181074/Office-Depot-Brand-Adhesive-Business-Card/> to the inside flap of the wallet so I can include a few business cards. Of course, Office Depot has recently discontinued the expanding wallets I use, and I can't find any similar items anywhere. I should've bought a gross when I had the chance. Sigh.

Since you pre-staple, I assume you don't make copies of the executed docs.

Haven't you ever needed a copy of the originals?

Andrew C. McDannold, Florida

We pass stacks of paper around the table. I always have a person running the signing, the notary public, which is often but not always me. Each client executes a document one at a time, then passes the entire document to notary public to give to next person in its entirety. If it is something like a joint trust or joint declaration, then I have one person initial and sign in its entirety, give it to me, then next person initials and signs in its entirety. If a married couple is each signing a similar document, like each has their own living will or POA, then I may have them both sign their respective documents at the same time and only give the instructions once. Portions of documents aren't ever passed around - just like salt and pepper, the whole document travels together, and if my client tries pass portions away, I politely stop them and explain that we have a pattern for doing this to ensure the document is completely signed and doesn't get out of order. I also have each person completely turn the page over after it is signed or initialed - witnesses are there to watch it being signed, and at least for wills the signature has to occur within their sightline, and can't be obscured by other papers.

I (or my employee notary) when it is time for witness signatures, turn the document to the first page where a witness signature is needed, flipping the rest so it is the opposite direction and on the bottom of the stack, then pass it to the first witness. My witnesses are usually either my employees, who have done this hundreds of times, or repeat witnesses who I pay, and who often know what to do, at least with wills and POAs.

While witnesses are signing, if there is a bit of a lull, notary public asks the client about how the originals are to be bound, how many photocopies they want made of each document, whether they want a pdf emailed, etc. All of that information is written down on a post-it and put it on top of the stack of clipped documents to be scanned, so the copy/scanning folks know. If they want multiple copies, depending on the document I may give them further warnings or advice (giving everyone a copy of your will is a bad idea; giving everyone a copy of your living will and HCPOA is generally good idea, and don't forget that you need to give copies to your doctors and maybe have a couple on hand.) Usually one of the witnesses does the scanning and copying for me.

At the end, before notarizing (if notarization is needed) or before copying, I usually go through each document scanning page by page to make sure it is ordered correctly and all pages are present, everything that needs to be initialed is initialed and everything that needs to be signed is signed, and that there aren't any surprises, like weird ink blots or someone getting a bit signature crazy and signing where they aren't supposed to. When we watch carefully, this is rare, but occasionally I'll find something. After notarizing, if needed, or after going through the document if not, I clip document back together for scanning by my assistant. The key is to develop a pattern for how you do it, and be patient. I don't want anyone to be confused here. I want everyone to understand precisely what they are signing, and if that takes an extra minute or two, then I take the extra minute or two.

Having folks sign simultaneously the same document is not worth it to me if documents get all out of order.

Cynthia V. Hall, Florida

Similar to what I do.

We handle one document at a time; and usually wills first, then other docs second, etc. Because the docs are nearly always stapled we pass around the whole document.

On wills, which are the most complicated, I do a little script first:

Begin Script

Ok, so we're going to sign wills. I'm picking on Frank because his will is on the top of the pile, but this is how we are going to sign everyone's will. This is a bit complicated because we sign wills twice. This is how we do it.

Frank, I will have you sign your will, and Thelma and Louise (the witnesses) I will ask you to sign below him where I indicate. Then my mother (who is my notary) is going to ask what seems a silly question, she is going to ask whether you, Frank, do swear or affirm that you just signed your last

will and testament, and whether you, Thelma and Louise, do swear or affirm that you did just sign Franks will as witnesses, and whether everyone did sign in the presence of each other in spite of the fact that we are all sitting around in front of each other and know perfectly well that you did. I need everyone to say "Yes", an audible "Yes", not nod your head or say uh-hunh. And please, I do not want to have to explain to a probate judge that a witness was just joking when they said "oh no, I didn't see it".

Then, I will have Frank sign the will a second time, and Thelma and Louise will sign a second time as witnesses and I will pass it to my mother to notarize.

The reason we do it like this is, the first time you sign the will you are validating the will; it's a valid will at that point. But by signing it a second time and notarizing it we are avoiding having to hunt you down and have you go in front of a judge to swear to the will; hopefully we won't be probating this will for Frank for some time, people move, people die and no one really wants to have to go to a judge to swear to a will [yeah, I know, technically I'm simplifying it a bit but the explanation is accurate enough]

End Script.

Then the signing itself:

So, Frank [with me physically holding and exhibiting Franks will] This is your last will and testament, I've prepared it at your direction, I've sent you a copy of it, you've read it and understand it, [if appropriate, I've answered your questions about it and made the changes we discussed and sent a copy of the changed will] and it does what you want, right? Frank says "yes, or right". "OK Frank, please sign here". Frank signs. Take will to witnesses; Thelma, please sign on this line, Louise please sign below that, you all are from Summerfield, right" (or Belleview, or whatever). Then I fill in where they are from on the appropriate line.

Then Mommy asks, "Frank, do you swear or affirm that you just signed your last will and testament, and Thelma and Louise, you do swear or affirm that you just signed Franks last will and testament as witnesses, and all of you did sign in the presence of each other" Everybody says yes, or if they don't I glare at them until they do. Then everyone signs again and I hand it to Mother and she completes affidavit, signs it, stamps it, and hands it back to me for review.

Then we do the rest of the wills just like that.

Once we finish the wills, then we do everything else, the POA, Deeds, whatever, following same general format; exhibit doc to signer, ask if I've prepared it at their direction, etc. and if it does what they want, and then sign it, usually with myself and my mother as witnesses. And usually do all of the remaining docs for one person at a time then move on to next person. When I hand them the docs, in a bank bag, I ask for check/cash.

Ronald Jones

The mechanics here are simple. I go slow and pay attention. I explain that it is important that all is signed appropriately and verified, to complete the process.

If it is one person, I simply go through each document and obtain necessary signatures, also discussing the matters of consequence. If it is, for example, a H and W, then I do the same thing but administer getting each to the right page for each signature or discussion. Frequently I remain standing around a round conference table to better monitor. As documents are signed, they are placed in a stack, and I pull each unsigned document from a separate stack.

Wills are all that are witnessed here, so I have a standard approach there as well. Each page is initialed by testator and the two witnesses. At the end the signatures are affixed and notarized. After wills are signed, witnesses are dismissed and we go through the rest of the documents.

After all documents are signed and notarized, my current practice is to scan them before doing final assembly (blue back, staples and so forth). Originals leave with the client. I keep my electronic scans. If client loses original or wants to change, then a new set is printed out and re-signed and witnessed.

I may have two to four inches of documents per person. I don't have trouble generally keeping track, but I have been meticulously following a protocol for years.

I don't use estate planning binders. Documents go into an appropriate envelope with labels. I have ordered Budco Bank Bags and so am going to start using them.

Darrell G. Stewart, Texas

I follow similar procedures except I do not have a cadre of assistants to sit next to clients or assist in passing around and explaining what is going on. In fact I do not even have a resident notary public.

Pennsylvania has a statute that permits a witnessing attorney to later go before a notary public and give an Attorney's acknowledgment, which is what I frequently do.

While I have some casual conversation before the actual signing takes place, to introduce my witnesses to the client, I do not permit any joking or casual conversation once the signing begins. I want to emphasize the seriousness of the occasion and keep everyone focused on the job at hand.

I only pass one document around at a time, so that documents are not scrambled. I also have footers on each document that have a code identifying what document and whose it is, so in case somehow pages are scrambled, I can unscramble them.

Only one will is signed, but POAs, advanced directives and health care proxies are usually signed in multiple duplicate originals, so several copies of each of these will be going around the table at any one time. I am watching as the principal and the witnesses are signing so that I can jump in and make sure that the right person is signing on the right line and, where initials are required, that the initials are made in the right place.

Because I do not have a notary present in most cases, I keep all of the documents, take them to a notary to get the notarizations done and take the documents back to my office to scan so that I have my electronic copy. Then I staple documents together and send the originals to the client with instructions on how to distribute them to agents and to doctors etc., also carefully explaining that I

have not kept any originals for myself. I provide them with logs so that they can keep track of who was supplied with copies of what documents.

Miriam Jacobson, Pennsylvania

I appreciate all the ideas. It's nice to get a glimpse into each of your conference rooms, even if only from your written description. Thanks for sharing!

Andrew C. McDannold

Ditto. I don't ever plan to do estate planning, and I still saved all of the emails in this thread in a little sub-folder, just in case. Thanks all for sharing!

Amy A. Breyer, California

I usually sit at my desk, with clients opposite. I have a pile of docs for each, and a pile of docs that need to be signed by both. We go through the individual docs first, and I have them initial each page, and fill out any blanks (our AHCDs and POAs have some check boxes, which they complete before signing and initial each mark). As each form is filled out and initialed (but not signed), I take it back (now I have 4 or 5 stacks across in front of me). Then we do the trust and other docs that are signed by both - I usually give one client the trust to initial each page, and give the other client the short-form trust and certification of trust. When both are done, they switch. When all are initialed, they come back to me.

Once all docs are initialed and filled out, I have my notary come in for what we colloquially call the "signing frenzy." (No point in having her hang around while I answer questions, they fill out their docs and initial them.) She stands to the left of my desk. Then I pass the trust to the client on my right to sign, s/he signs and passes it to the other client who signs and passes it to the notary. Same for short-form trust and certification of trust, and any other docs that are signed by both (deeds, etc. - we don't initial each page of deeds, just sign/notarize). Then the notary goes and puts the trust into the scanner (or gives it to the receptionist to start scanning).

Then I pass the clients their individual docs (paper-clipped together - the clips don't usually come off until the docs are completely done and ready to scan). I usually open each document to the signature page, present it to the client telling them what it is ("this is your medical directive" "this is your HIPAA release" etc.), they sign, then either they or I pass it to the notary. She stamps and signs each document and keeps track of which have been done, and stacks them again for scanning.

Once everything is signed but the wills, we have our second witness (another staff member) come in. Then I do the will allocution, where I ask the clients some questions to establish for the witness that they have testamentary capacity (questions about family members, nature and extent of property, do they recognize the document, have they had a chance to read over it and have their questions answered, did anyone force them or persuade them to make it, etc.); then if they confirm

that they are OK, I have this little statement that I say ("By your signature on this document, you are attesting to Kate, as notary public, that you are signing this document as your last will and testament, that you are doing so as your free and voluntary act, that you are over the age of 18, of sound mind, and you are under no duress or undue influence; no one is forcing you to do this. If this is true, and you want to execute this will, then go ahead and sign where indicated.... [they sign.] Now, to be valid in Hawaii, a printed will must be signed by two witnesses. Do you want me and Charlene to witness your wills?" [they say yes] While we are signing, I say another statement about how by our signatures, we are attesting to the notary that we saw them sign and each of us, in their presence and hearing, is signing as a witness to their signatures, that to the best of our knowledge they are over 18, of sound mind, and not being forced or pressured to sign their wills.

Then the notary has them sign her notary book, and she disappears to finish scanning the documents. put them on the stick drive, staple them, and bring them back to me to put in the notebook (I keep the notebook because I take the scanning time to explain all the goodies that are in there: trust ID cards, info about our maintenance plan and the DocuBank program, places for them to put deeds, bank statements, beneficiary confirmations, etc.). As I'm going through, I also pull out the invoice and ask for final payment, then stamp it "paid" and put it back into the notebook. We also discuss funding, and I ask if they would like their recorded deeds returned by mail or e-mail, and note that on the file. If they want a follow-up meeting to review funding, we schedule that.

Will plans (no trust) and individual plans are similar but simpler. We still do the initialing first, notary comes in for signing, and the wills last with similar witnessing and allocution.

BTW, I LIKE binders because they provide a centralized place for all of the documents and info that their loved ones will need to "carry on" when they are gone or incapacitated. Mine are NOT the super-heavy, padded leather behemoths, but just Avery heavy-duty binders from Walmart that give off more of a "working" vibe, than a "legacy" vibe. I suggest that they review them every year (a good thing to do on New Year's Day, maybe - that's when I do mine). The documents are all stapled in their respective tabs, which discourages mixing up or removal of individual pages. There is a page summarizing the trust and exhorting them to "DO NOT WRITE ON YOUR DOCUMENTS" and to see an attorney to make changes (I tell them that putting a post-it on if someone's address changes is OK). A binder is harder to lose than a sheaf of individual documents. Though, I do see the POV of those who "hate binders."

We never have an issue with documents coming apart or pages mixed up during the signing.

Cynthia Hannah-White, Hawaii

I also rely on sticky flags. Although the assignment of colors is random based upon how many sticky flags I have for each color:

After making the mandatory statements before the witnesses, everyone signs.

I have pre-fastened colored flags on all of the documents.

Red= Testator or Trust maker

Blue= Witness #1

Yellow= Witness #2

Purple= notary.

This way, I can check that every signature is filled in.

For added security, I rely on the U.S. Supreme Court sticky notes and flags. It really does enhance your reputation among clients when you use the "U.S. Supreme Court version" of sticky notes and flags.

<https://www.supremecourtgifts.org/notebox-stickynotesandflags.aspx>

Bob Gasparro, Pennsylvania

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That makes sense. So long as you're stapling the docs, that's fine; what I hate about binders is (95% of the time) they're just 'loose leaf', unstapled docs and what happens is clients will take the stuff out, shuffle the pages, lose pages, get pages out of order; the punch holes wear thru and the pages come loose. If everything is stapled it pretty much prevents client from messing around with the stuff.

I do find that if I give them bank bag everything stays in bank bag but a binder with stapled docs would work about as well.

Ronald Jones
