

**Fleming & Curti
Tucson, Arizona**

Getting Ready for Your Appointment With the Lawyer

By Robert Fleming

JULY 20, 2015 VOLUME 22 NUMBER 26

It was really hard to find the right estate planning attorney, but you're confident you've made a good choice (and we're glad it's us). You've made the first appointment — it's set for two weeks from today. You've gotten the questionnaire from the lawyer's office, and it looks a little daunting, but you're determined to get this project done. What can you do to make the appointment more productive (and possibly make the entire experience less expensive)?

The first step might seem obvious, but we're surprised how often new clients don't do this: fill out the questionnaire. There's a reason we've sent it to you. Having at least basic information (your name and date of birth, your children's names, the rough outlines of your assets) speeds up the process immeasurably, and makes us think you're serious about getting your estate planning done.

But, you ask, why should you have to fill out all that information when you haven't even decided if you like the lawyer or want to pursue the project at all? For the same reason you have to give your doctor medical information, your dentist information about your teeth, and your financial planner information about your finances. It's what we're going to work with, and we know from experience that if you just dictate information to us in the first appointment you'll forget some of it, we'll write some of it down wrong, and the whole project will take longer, cost you more and have a higher likelihood of needing changes along the way.

What else can you do in advance? How about if you give a little thought to who you want to put in charge of your affairs? We generally ask you for at least four names: who will handle your finances, and who will handle your health care decisions — and who will be backup for both of those people? You might know perfectly well who you want for those jobs, but we're surprised how many new clients haven't really given these critical questions much thought. You don't have to have final answers for our first meeting, but at least have some first reactions that we can work with.

Can you bring us some paperwork? Lawyers just love paper. We like to see a recent bank statement, and one from your brokerage account, and one from your retirement plan. We don't worry too much about the precise value of any of those assets (we know those values have changed since your statement was issued) — we just want to see the rough value, the kinds of holdings, the account number and the name and address of your broker/banker/financial planner. That way if we end up creating a living trust for you, or adjusting your beneficiary designations, we have a running start on getting the information we need.

Lawyers do love paper, but we don't need copies of everything. Your income tax returns are surprisingly unhelpful (though the listing of income sources might help you remember that small brokerage account you hardly ever deal with but haven't gotten around to folding into your main account). If you own real estate in Arizona (remember — we're writing this for an Arizona audience), we probably can get all the information about the real estate directly from the county recorder — besides, you'd be surprised how often people don't actually have the most recent deed to their property at hand (and don't panic if that's you, since you don't actually need a copy of your deed in Arizona).

What else can you do to prepare? Sketch out an informal list of personal property you want to leave to particular people. No need for you to make it official, or complete — it will be a discussion point for us to talk about. If you don't have any particular items that go to special people, or you don't get around to this project, don't worry — it's probably just not important to you, and that's fine.

Here's another item you can think about in advance: we'll be talking with you about powers of attorney, and whether your agent (particularly the one you name to handle finances) should be given authority to act right away or only if you become incapacitated later. If you're like most people, you likely default to not giving them authority unless someone can prove you've become incapacitated. But think about it: the primary reason we're creating a power of attorney is to avoid the necessity of a formal, official declaration that you are incapacitated, and if you make your agent go through that process you necessarily put yourself through it, too.

We've seen an awful lot of people who really ought to be getting help from their chosen family members, but who aren't easily categorized as "incapacitated." We've seen many others who are incapacitated, but whose physicians won't sign any documents to that effect. We've seen a few powers of attorney made ineffective by the need to go through a court process to secure a declaration of incapacity. We'll want to talk with you about that, and it would be great if you've thought about it a little bit in advance.

Please read the letter we sent you. Not only does it have the date and time of your appointment (did you think it was a different day or time? Let us know — we can work out the differences), but also some instructions and a heads-up about our office process. It explains that we'll be taking your picture, copying your driver's license or identification card, and asking your family members to wait in the front office while we talk first with you alone. We'd like you not to be surprised by any of that.

Finally, here's what we'd love to have you do in advance of your first estate planning appointment: relax. The process isn't actually scary or overpowering or threatening. In fact, we think many of our clients actually enjoy the process, and learn a few things about themselves while going through it. Our staff is friendly, helpful and happy to answer your questions. You'll be fine, regardless of how much preparation you've managed to work in before getting to our office.