

HEIRS' PROPERTY

LAWYER SKIT – PREVENTION

Role play a situation between a lawyer and a person or couple coming to visit a lawyer for the first time to begin working on a will. You may use some of the questions under “Questions a Lawyer May Ask” and allow the other person to make up answers. Or you may use the suggested script. Feel free to edit any of this content to fit your audience and the amount of time you have allotted for this activity.

Meeting with a Lawyer – Drafting a Will

Questions a Lawyer May Ask

- I require a retainer to begin. I will need you to pay me \$250.00 before I can begin work.
- I need you to sign an engagement letter. It explains the legal services I am rendering to you and the terms, the use of the retainer, and the terms and conditions of my employment. Please let me know if you have any questions. If not, please sign the letter and return it to me.
- What is your full (legal) name and date of birth, address, and phone?
- Are you married and if so, what is the name of your spouse?
- Do you have children and if so, what are their names and ages?
- Who do you want to be the executor of your estate, that is the person who will handle carrying out the wishes for your estate you set out in your will?
- Do you have real property?
- To whom do you want to leave your real property (your home and any other land)?
- To whom do you want to leave your personal property (furniture, cars, jewelry, or other personal property)?

- Do you have any children who are under 21, and if so, who do you want to designate as their guardian (if their other parent is not living at the time of your death)?
- Did you want to create a trust for any minor children or other person in your will and if so, let me know what you want to accomplish with the trust?
- Do you want to also execute a power of attorney for healthcare and a general power of attorney when you execute your wills? If so, I will have some more questions concerning those documents.

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LAWYER CLIENT SKIT: PLANNING MY ESTATE

Setting

A furnished office space in a quiet commercial building.

[Lawyer]

Good morning. My name is Blair Morgan, and I specialize in wills and estate planning. I appreciate you making the time to meet with me today.

[Client]

It's nice to meet you as well. My name is Cameron Martin.

I received your letter regarding today's meeting and outlining the process for hiring you as my lawyer. I brought along all the documents you requested, plus a few additional ones I thought might help with preparing my will.

[Lawyer]

Excellent, thank you for that. Before we start, let's clarify a couple of key points. First, I need to confirm whether I'll be representing only you or others as well.

Also, I'd like to review the terms of my engagement, particularly the retainer fee. Do you have any questions about the engagement letter? It's important to me that everything is clear and agreed upon before we proceed.

[Client]

You'll be representing just me. I'm divorced and haven't gotten remarried. I do have a question about the payment—you mentioned a retainer fee.

Why do I need to pay something upfront before you've actually started working on my will?

[Lawyer]

Good question. My policy for drafting a simple will is to charge a flat fee of \$500, with \$250 paid upfront and the remaining \$250 due once your will is completed and signed. This arrangement ensures commitment from both sides—clients are motivated to see the process through, and it protects me from investing significant work without compensation if someone decides not to complete the will.

If you're comfortable with this arrangement, please sign the engagement letter and provide the initial payment of \$250, payable to my firm's trust account as detailed in the letter.

[Client]

That makes sense. I'll go ahead with it. Also, I wanted to tell you, I have three children:

Alex Brooks, age 32, who lives in Austin, from my first marriage. My first spouse passed away.

Zuri Brooks, age 30, also from my first marriage, currently living in Austin.

Casey Martin, age 24, from my second marriage, residing in Nashville. I'm divorced from their parent.

I plan to leave everything equally to my three children.

[Lawyer]

Sounds good. To help draft your will accurately, I'll need some details about your previous marriages—specifically, your first husband's date of death and probate details, and the date and details of your divorce from your second husband.

[Client]

My first spouses' name was Jordan Brooks; he passed away on October 3, 2002. Their estate was probated in Travis County, and I inherited their assets. My second spouse's name was Jesse Martin, and our divorce was finalized on January 5, 2019, in Carson County. I've included copies of the probate closing order and the divorce decree, as you requested.

[Lawyer]

Great. Now, can we discuss your real estate holdings? Do you currently own any properties?

[Client]

Yes, I own two properties. My primary residence at 1920 Washington St. Houston, TX, and a family farm property, approximately 160 acres, in Dawson County.

I'd like to leave both properties equally to my children. They'll probably sell the house since none of them particularly want it, but I'd like them to keep the family land in the family. I've brought deeds for both properties as you asked.

[Lawyer]

That's very helpful, thank you. Let's clarify ownership details and debts on these properties. Are both properties solely in your name, and is there any outstanding debt, like a mortgage?

[Client]

Both properties are solely in my name. My home has a mortgage through Acme Federal Bank, but there's no debt on the family land. I've also included a copy of the mortgage paperwork.

[Lawyer]

Thank you. The scenario you're describing is common for drafting a simple will, particularly without a living spouse. Regarding your home, I'd suggest instructing your executor to sell the property, pay off the mortgage, and then distribute the net proceeds equally to your children.

This approach avoids potential conflicts if one child refuses to sell later. Does that sound reasonable to you?

[Client]

I hadn't considered potential disputes before. Actually, one of my kids can be quite challenging and tends to argue with the others. Your suggestion makes sense, so let's proceed with that.

[Lawyer]

Good. Now, about your family's 160-acre tract. Leaving it jointly to your children would mean they'll each own an undivided share, creating what we call heirs' property. This often leads to complications, as all of the children would need to agree on how to manage or use the land. To avoid potential disputes, there are several options:

1. Divide the property into three equal-value parcels.
2. Create a limited liability company (LLC), granting each child an equal share but with decisions made by majority vote.
3. Set up a trust to manage the property collectively, overseen by a trustee for everyone's benefit.

Do any of these options appeal to you, or is there another direction you'd like to explore? Please be aware, some of these options might involve additional legal fees, which I can estimate once you decide how you'd like to proceed.

[Client]

Let me think this over. These options are quite thorough, and I appreciate your clarity on each. I'd like to consider them carefully.

[Lawyer]

Of course, take your time. Once you decide, let me know, and we can proceed with drafting your will accordingly.

[End of skit.]