



FROM THE SCHUMAN & ISELT, LLC RESOURCE LIBRARY

# PLANNING INFORMATION

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# THINKING ABOUT YOUR WILL

## Disposition

Who should get what? You should also think about backup dispositions, in case somebody you name dies before you do. If you are leaving anything in a trust, consider what should happen if the beneficiary dies before the trust ends.

## Executors

The executor's job is to gather your assets and distribute them according to the will. The executor should be somebody close to you, so you feel comfortable about him or her going through your things; somebody whom you trust to carry out the spirit as well as the letter of the will; and somebody with enough business experience to handle the estate's bank accounts efficiently. You may want to name several people as co-executors, and should name successors in case the person you name cannot serve. Remember, the executor will hire a lawyer to take care of the legal end.

## Trustee

It may make sense to leave part of your estate in a trust, particularly if you have children who are not adults. Sometimes a trust can reduce taxes. In case this makes sense for you, you should think about trustees.

The trustee's job is to administer the trust according to your instructions. In naming a trustee, you should think about the same things as in naming an executor. One difference is that the executor's job is usually finished in a year or two, while the trustee's job can continue for years or decades. Depending on the rules you write for the trust, the trustee may also have to make important decisions about how the trust assets are to be used. So look for somebody with sound personal judgment, fairness, and understanding of the long-term needs of the beneficiaries.

Here, too, you should choose successors in case your first choice cannot serve.

## If There Are Children

So long as there is a living parent, that person will have primary responsibility. If there is no living parent, the court may appoint a guardian. The court's choice will be based on what the court thinks is best for the children. What the will says is only advisory. However, the wishes of the parents are always treated with respect and almost always followed.

You will probably want to leave most of your property in trust for the children until the children are adult and get full control. However, something possibly could happen to them first. You should have some ideas about what should happen to the money in the trust if the children die before they reach adulthood.

# OTHER ESTATE PLANNING QUESTIONS

## Anatomical Gifts

A will does not have to say anything about anatomical gifts. Besides, an anatomical gift can be made at any time. Even so, this is a good time to think about it. You may want to help medical study or research, save a life with a heart transplant, or let somebody lead a more normal life with a kidney or eye transplant.

## Burial Provisions

You do not need to say anything about funeral, cremation, or burial arrangements in your will. Whatever you say in your will is only advisory, and the funeral may be over before anybody even looks at the will.

There are things you can do outside of the will. For example, if you want to keep the cost down and avoid a fancy funeral, you might want to make arrangements in advance. I can give you some advertising, names, and phones of people I respect. You could also discuss your ideas with people around you or leave them letters.

Illinois residents can designate who will have control of their burial, cremation, or funeral, and give legally binding instructions using a health care power of attorney.

## Your Virtual World

Your executors or trustees will need to monitor your e-mail inbox just as surely as they will need to monitor your physical mailbox. After all, if your bills and statements are delivered by e-mail, checking your physical mailbox will be useless. Your representative will also probably want to close out your e-mail and social networking accounts so that they are not pirated or abused in ways that cause issues with your assets, embarrass your family and friends, and make the closing of your estate more difficult. Last but not least, you or your representatives may feel that friends who aren't notified of your death and who try to contact you by e-mail deserve a reply.

In our wills and trusts, we include special provisions to give your representatives the legal right to deal with your electronic accounts. But having the legal right to be informed of your password sooner or later is not the same as having the password on file. We recommend giving your representatives as much help as you can to find their way around your computer. To start with, we recommend that you list your passwords and similar information in our Planning Questionnaire for your file. We think this information is the emerging equivalent of information like bank statements, investment records, and Social Security numbers—information which responsible lawyers have been requesting for years.

# FEES

## Use of Hourly Rates

We will bill work at hourly rates. We will send you a letter confirming the rate we agree on and any exception to the general policies in this memo.

## Recording Hours

Some lawyers claim low hourly rates, but bill more hours than they spend. Sometimes this practice is formalized. The lawyer may allocate to your matter some part of the time spent in non-billable work. In this system, for every hour worked, the lawyer may record an hour and a half. In other cases, lawyers may say they use an hourly rate, but assign a set minimum number of hours for a given task. Our fees, by contrast, are based on the hours we actually work on your matter.

We generally record time in hundredths of an hour so you will not be charged for time we are not working for you. Most lawyers round up to tenths or quarters of an hour.

## Our Hourly Rates

We charge based on the kind of work and on our judgment of what's fair to you and to us. When doing work which we think we could delegate to a computer operator, executive assistant, or paralegal, none of whom we employ, we charge \$50 an hour (identified on the bill as "NonProfessional") or \$100 ("Semi-Professional").

We'll come to an agreement with you on the rate for work we do which we think is distinctly lawyer work (identified as "Professional"). We'll consider your circumstances, the nature of the work, and prevailing market conditions.

## Costs

Besides our fees, we will bill you for money we spend on your work. Some of the expenses for which we will charge you are: courier deliveries, court filing costs, long distance charges, postage, and copies. We have excluded these expenses from our overhead in setting our hourly rates. We disregard expenses less than \$1.00. We itemize the expenses for which we charge you.

We charge you exactly what we spend, without any markup. Many lawyers mark up costs by 50% to 100%.

## Reducing Fees

Here are some steps you can take to help keep the fee as low as possible. Remember that the fee is based on the time we spend.

## **Do your homework**

Of course we are delighted to talk with you, but the more information you can obtain from the written material, and the more information you can provide on the questionnaire, the less your cost will be.

## **Avoid unnecessary changes**

Your will should say what you want, but changes are expensive. In particular, read the draft documents carefully to avoid changes after the documents have been put into their final form for signature.

## **Don't procrastinate**

When we send you drafts, your circumstances and plans are fresh in our minds. If you don't get back to us for many months, we will have to refresh our memories when you do. In the meantime we will spend time checking the status of your file and reminding you of the passage of time. Try to give us your comments within a month.

# **BILLING AND COLLECTION**

## **Billing**

We usually bill when the work is finished or when we send the first draft. However, if your plan is complicated, we may bill earlier. If you would like progress billing or monthly billings, we would be glad to provide them.

We generally provide very detailed bills. Sometimes this makes people feel uncomfortably conscious that “the meter is running” when we meet or talk. Please let me know if you would prefer to receive a bill without details showing only a value for the work as a whole. The amount will not be substantially different.

We send statements every month reflecting receipts during the prior month.

If you abandon the matter before it is finished, or change lawyers, you will pay for the work we have done.

## **Interest**

We charge interest at 12% per year on amounts which are unpaid for more than thirty days. This is less than you would pay on your charge card. It is also less than we pay when we have to borrow on our charge cards because we are waiting for your payment.

## **Conclusion**

We understand that legal fees can rattle a modest budget, and we know that groceries are more important than a lawyer's bill. Reasonable installment payments are fine with us. If you think

our fee is too much, please discuss it with us. We will not be abused or ignored, but if we talk we will be reasonable. We want you to be satisfied with the fee you pay as well as with the work we do, and to feel that we have dealt with you fairly.

## FILE MAINTENANCE

Client files don't usually include important original documents. They include our notes, correspondence, lapsed papers which might (but probably won't) have some use while the matter is pending, information you provide, and drafts and copies of documents. There may be copies of insurance policies, court records, deeds, or tax papers, but the copies can generally be recreated if necessary from other sources. We usually throw away client files ten years after the matter is permanently closed. Although the formal attorney-client relationship will end when the documents are signed and the immediate follow-up is completed, we will not consider your planning matter to be permanently closed and we won't destroy your file until we lose contact with you, until you get a new lawyer, until you die and your affairs are completely wrapped up, or until we and all of our professional successors die.

We at Schuman & Iselt hope to coordinate our work well enough so that either of us can complete work begun by the other. If you lose touch, the Attorney Registration and Disciplinary Commission of the Illinois Supreme Court can help you locate either of us or any other Illinois attorney.

## WORKING TOGETHER

We have a unique practice. We hope that you will notice some of its advantages and will not be inconvenienced by the disadvantages. We do not have a receptionist, so we may be interrupted by a knock on the door during meetings. There is nobody to answer the phone when we are out but we try to return messages promptly. And finally, we won't answer incoming calls when we are in a meeting or on the phone. That's a disadvantage if you're calling in, but an advantage if you're the person we're speaking with. Please be patient and let us know if our practices are not working well for you.

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