
Client Memorandum

To: Estate Planning Clients of the Firm
From: Timothy S. Barkley, Sr., Esquire
Date: February, 2013
**Sub-
ject:** Execution of Your Documents

This memorandum how to sign your Estate Planning Documents. Proper signing, or “due execution,” is one of the requirements for a valid legal document. After executing your documents according to the instructions below, please follow the instructions in any other memoranda which you may have received from the Firm.

Review your documents after printing and be sure all type is clear and all pages are present. Do not print two-sided. Use a laser printer if possible, as print from an inkjet printer might be water-soluble and impermanent.

Notarization is a service usually provided free by your bank. It is possible that two bank personnel would be present to witness your documents. You should call ahead to verify the availability of witnesses and that the notary at the bank is permitted by corporate policy to notarize the documents you will be bringing. If the notary cannot ensure that two witnesses over the age of eighteen (18) years will be present, then you should take with you two witnesses. Your witnesses may not be anyone named in your documents in any function as beneficiary, agent, executor, trustee or guardian, and cannot be your health care provider or any employee of your health care provider.

Before anyone signs, the notary must ensure: (a) that you identify yourself for the witnesses; (b) that you tell the witnesses what documents they are witnessing, e.g., your will, medical directive and powers of attorney; (c) that you recite to the witnesses that you have reviewed the documents to your satisfaction, that you sign as your free and voluntary act for the purposes set forth therein; (d) that you ask the witnesses to witness your signature; and (e) that the witnesses affirm verbally that you appear to be of sound mind and disposing memory and over the age of eighteen years. Please follow this “script” exactly, as it is an integral part of the due execution of your documents. **If you skip steps, your documents might not withstand challenge.**

It is best to sign your documents in a room with the door closed and the ringer on the telephone turned off, so that there will be no disturbances or distractions. It is said that the most common problem that occurs in witnessing documents of this type is that one of the witnesses will react by habit to answer the door or the telephone, and not actually witness your signature. You must sign all over again in that case.

I have attached a sample signature page from a will for guidance; other documents are similar. Your notary should read any notarization or attestation paragraphs to be sure to comply with the terms of the attestation clause (the clause between the signature blocks) and the notary paragraph.

Sign your name as you usually do - your unique signature, not just your name in cursive. The witnesses should then sign their names. Someone should complete the other information as set forth on the sample page. This **MUST** be all be done in your presence and in the presence of the witnesses and notary. Both you and the witnesses must actually see the pen on paper making each signature.

For added security, you may initial in the left margin of each document page, to ensure that any page substitutions after your execution of the documents are easily detected. Executed documents should be stapled after all copies are made.

After signing, you should make at least one copy of each document for your records. Please also mail or scan/email me a copy of the signature pages for our files and so that I can check them for correct execution. I will call you if there are any problems.

You should keep your copy and the original in separate locations, so that a disaster will not destroy both. If you place your documents in a safe or safe deposit box, be sure that the parties acting for you can get to the documents in case of your death or disability. You may certainly make more copies for your fiduciaries (executor, agent, etc.) if you desire.

You should provide a copy of your medical power of attorney and advance care directive to your medical professionals. A copy of your power of attorney should be provided to anyone with custody or control of your assets – banker, broker, benefits department, etc. They will probably suggest that you use their form Power of Attorney; do so as long as it does not revoke the powers of attorney that you have just signed.

Your will can be filed for safekeeping in the office of the Register of Wills of the county in which you live. That is not necessary to make your will valid, but can ensure that your will is not accidentally or not-so-accidentally destroyed or lost.

If you have any questions, please to call me. I am here to serve you.

IN WITNESS WHEREOF, I have hereunto set my hand and seal to this my Last Will and Testament, on the ____ day of _____, 20 __, in [city] _____, Maryland.

[client signs]

Sample Client

The above signature of the Testator/rix was made in our presence, and Testator/rix acknowledged the foregoing Will to be the Last Will and Testament of Testator/rix in our presence. As attesting witnesses, we subscribe this Will on the date last above written, in the presence of the Testator/rix and of each other, at the request of the Testator/rix, who was then of sound mind and over the age of eighteen (18) years.

WITNESS

[witnesses sign]

ADDRESS

[witness home address]

WITNESS

ADDRESS

STATE OF MARYLAND:

Before me, the undersigned authority, on this day personally appeared **Sample Client**, [print witness name] and [print witness name], known (or sufficiently proven) to me to be the Testator/rix and the witnesses, respectively, whose names are signed to the attached or foregoing instrument. All of these persons being by me first duly sworn, **Sample Client**, the Testator/rix, declared to me and to these witnesses in my presence that this instrument is the Last Will and Testament of Testator/rix and that Testator/rix willingly signed and executed it in the presence of these witnesses as the free and voluntary act of Testator/rix for the purposes herein expressed. Before me and in the presence of these witnesses the foregoing Will was executed by the Testator/rix as a Last Will and Testament. Before me and in the presence and at the request of Testator/rix, and in the presence of each other, the witnesses did subscribe their names thereto as attesting witnesses on the date of this will. The witnesses further stated before me that the Testator/rix, at the time of the execution of this Will, was over the age of eighteen (18) years and of sound and disposing mind and memory.

[client signs]

Sample Client

WITNESS

[witnesses sign]

ADDRESS

[witness home address]

WITNESS

ADDRESS

STATE OF MARYLAND, CITY/COUNTY OF [city/county of notary commission];

I, [print notary name], a Notary Public in and for the state aforesaid, do certify that **Sample Client**, the Testator/rix, and [print witness name] and [print witness name], known or sufficiently proved to me to be the Testator/rix and the witnesses, respectively, whose names are signed to the attached or foregoing instrument, appeared before me and, being first duly sworn, have acknowledged the same before me in my presence to be their lawful act and deed, on the ____ day of _____, 20 __.

(SEAL)

Notary Public

My commission expires: _____