

## Questions & Answers by Afsar Estate Planning

Many attorneys offer a free initial consultation, although some charge a nominal fee for their time; find this out before you set up the interview. If you plan to interview several candidates, anyone who charges for that first consultation should be scheduled last. As with every other type of financial advisor, you are shopping for trust, integrity, and ability, all of which will be hard to judge in an initial interview. Below are questions that will help you get a sense of the attorney you interview:

### How Long Have You Been Practicing And In What Areas Of The Law Do You Specialize?

In all financial relationships, you don't want to be a guinea pig. That's particularly true of law, where one misstep could put you on the wrong side of a judgment. Find out the scope of the practice, whether your current needs are a good fit either for the individual attorney or the firm. It's not that a patent attorney can't write up a good will, but you might have regrets when someday you discover what years of practicing intellectual property law have done to his skills as an estate-planning attorney. If an attorney has several specialties, ask how her workload is divided between those areas of the law. An attorney had helped a couple out with several amendments to reflect life changes and at the last of those upgrades and the attorney told us that what we needed next was some high-grade estate planning, and that his practice had become so focused on real estate with simple estate-planning matters thrown in that he didn't feel he was the right guy. Be sure to find out how long the attorney has had each specialty.

### Beyond A Law Degree, What Professional Credentials Do You Have?

Law is not an area where you must see specific credentials to feel comfortable with a practitioner. The law degree and license speak volumes about someone having achieved the minimum standards for competency. You are looking for someone who is experienced in the kind of matters you have; if you are presented with a credential, find out the educational and experience requirements and ask to see a code of ethics, if there is one. The one time you will want to be picky about credentials is if your attorney is going to wear two hats on your financial team.

### How Are Fees Charged? How Much Are Your Fees And For What Are They Paid?

With all the ways attorneys bill clients, you want to know specifically what is involved. You are always entitled to an itemized bill for the lawyer's services, but you would prefer to know in advance how fees are calculated. Some attorneys are always on the clock, meaning that your call to check with an attorney on your case sets the clock in motion, as do your few minutes of small talk with the attorney. You do not want to be racking up charges while talking to your attorney about his family. Find out the ground rules for being charged. Will a five-minute phone call show up on your bill, or is that a free part of the attorney's service? If you are charged, what's the rate going to be? Will you pay to have copies of important papers mailed to you? You do not want to have the meter running while you're talking to your attorney about the youth sports team he coaches. Find out the ground rules for being charged; it will affect how and how often you interact with an attorney.

### Flat Fees Or Fee-For-Service Payments.

This arrangement is common when the procedure is straightforward and generally requires a routine amount of time, such as Estate Planning. Many attorneys quote a flat rate on simple wills, title searches, reviewing a real estate contract, and other common practices. Routine procedures also are perfect opportunities to use prepaid legal plans and legal clinics. The prepaid plans sometimes offered as an employee benefit function as a kind of legal health-maintenance organization (HMO), where you pay an annual fee and are entitled to a specified amount of service from attorneys who take part in the network. Legal clinics tend to offer low-cost representation, often with less-experienced attorneys than those in private practices; simple procedures such as those that generally are billed at a flat rate generally can be handled cheaply by this kind of law office.

### What Other Costs Might I Incur?

Just because an attorney gives you a great hourly rate doesn't mean you will get off cheaply. You might pay \$1 per photocopy, \$5 to receive a fax, or pay inflated tabs for secretarial work. Attorneys really aren't supposed to profit on costs, but many do. They build depreciation, secretarial time, and anything they can think of into charges for using the copier, for instance; you could pay a lot more than the two-cents-per-page charge from the corner office supply store. Again, there is nothing illegal about this, although the ABA says that attorneys should only charge for "actual costs." Still, it's hard to complain about after the fact, because you agreed to pay attorney's costs. Most attorneys do not want to sound like they are squeezing clients dry. They may waive some charges if you press them for details in advance. If you don't ask about these charges up front, however, don't be shocked if your bill comes back padded with extra fees. Be sure this discussion also covers court costs that you might have to pay, plus any filing fees and the like. You may agree to the flat fee for preparation of a will or trust, and then be surprised to see charges for filing with the court, retitling assets to put them in the newly minted trust, and more.

### Will Anyone Else from The Firm Be Working with Me?

You're the one paying the bill, and you want to get what you pay for. If the attorney uses paralegals or junior partners to do the work, you should find out just how involved your attorney intends to be. It's dumb to pay for a figurehead. You also want to find out what, if anything, the involvement of others does to your projected costs; it can push costs up or keep them reasonable, depending on circumstances.

### Could I Get Contact Details for Some Recent Clients to Use as References?

Attorney-client privilege can make this sticky sometimes, but someone who can act as a reference and say how the attorney deals with clients will help cement your decision.

### How Do You Work with Clients?

You want contact when it's necessary, so ask when the advisor typically finds it important to call or meet with a client, and what circumstances drive those meetings. By establishing how often and under what circumstances you will hear from the attorney, you can decide whether that contact is sufficient for you to be satisfied. In addition, find out what paperwork, if any, the attorney will give you copies of.

### How Can I Terminate This Relationship If I Am Not Satisfied?

Never enter any arrangement without knowing how to get out of it. Depending on why you need an attorney and what kind of agreements you signed, you may just be able to walk away. If, however, an attorney has invested hours on you and you then pull the plug, expect some charges and possibly some unpleasantness as you head for the door.

### How Will We Resolve Complaints If I Am Dissatisfied?

Just because you know how to get out of an arrangement doesn't mean there won't be problems. Find out how potential disputes will be settled. Most state bar associations offer arbitration committees that settle disputes between clients and attorneys. Or you could resolve those matters in small claims court. Fees are the biggest area of dispute between attorneys and their clients; find out whether the attorney has had this kind of problem in the past and how it has been resolved. If issues arise, contact attorney and ask about the unexpected charges; if the situation cannot be resolved that way, contact the local or state bar association to ask about the fee arbitration process. Then determine how it will be resolved if it happens in your case, preferably settling upon fee arbitration as the fairest solution to potential problems.

### Have Complaints Against You Been Filed with the ABA? Have You Been Sued for Malpractice?

Attorneys know better than anyone that, lawsuits do happen. Many outstanding attorneys have had to defend themselves from clients whose expectations were not met and who pursued the attorney because they did not like the outcome or resolution. If your attorney has been sued, ask what happened and how the case was resolved. Use your intuition to determine whether past problems should send you off to visit someone else. Remember, too, that the attorney is not obligated to provide details of problem cases. If your background check shows cases that attorney did not own up to, hit the road and search elsewhere.

### Where To Complain If Things Aren't Working Out

If something appears to be going wrong, start at the source and talk to your attorney. If you don't get satisfaction there, you have several options: 1) If the attorney is in a firm, go to the managing partner. 2) If you are in a prepaid legal plan, contact the plan administrator. In either case, the boss should try to resolve the complaint and get you the kind of representation you seek. 3) Your state or local bar association can help in several ways. The disciplinary committee can answer questions about whether your complaint is legitimate. The fee-arbitration committee can help you if fees really are out of line, and may be able to help settle any disputes. And if you believe the attorney has stolen money from you, you may pursue restitution from the bar's client security fund. 4) You can sue for malpractice. If the attorney has been negligent and you have been damaged, you can pursue reimbursement. (Of course, suing for malpractice involves hiring another attorney, this one involved in handling professional liability cases.)

### Questions To Ask Attorney At Initial Consultation...The Attorney Should Answer Yes To Every Question

1. What documents will be included in the estate plan? Each Afsar Estate Planning Plan includes:
  - Trust or Restatement of Trust
  - Pour-Over Will for each client
  - Letter of Testamentary Intent for each client
  - Excel Spreadsheet for Schedule A
  - Durable Power of attorney for each client
  - Advance Health Care Directive for each client
  - Assignment transferring all your "tangible" personal property into the trust
  - Nomination of Guardian (if you have minor children)
  - Deed(s) to transfer your residence into your trust.
2. Will you receive draft copies of all documents with explanations of the main provisions so that you can review what has been prepared before you go to his/her office to sign the final documents?
3. Has the attorney prepared at least 100 estate plans in their practice?
4. Will you have attorney contact if you have questions prior to execution of the final documents.
5. Will the attorney personally handle the signing of the documents?
6. Are notary fees included?
7. Are recording costs included?
8. Will the Durable Power of Attorney & Advance Health Care Directive be specially tailored to fit your specific needs or will these important documents be "fill in the blank" statutory forms?
9. Will the fee include the transfer of your residence into your trust? Your trust will need to be "funded" or transferred into the name of the trust.
10. What assets will attorney help you to transfer into the trust? Most attorneys transfer your home into the trust, but leave "funding" of your other assets (IRA; vacation home; brokerage accounts) to you.
11. Is the attorney covered by malpractice insurance?
12. Will you receive copies of all your documents – electronic copies as well?