



“How To Choose The Right Lawyer To Handle Your Loved One’s Estate”

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The death of a loved one presents many daunting challenges, including negotiating a potential minefield of legal decisions and activities. In these frightening economic times, you will be tempted to avoid lawyers and either handle the legal matters yourself or ignore them completely. Please don't, because you don't know what you don't know. Have a least one consultation with a lawyer to find out what, if anything, needs to be done about your loved one's estate. The time and money will be well spent. You may be relieved to learn that very little needs to be done; on the other hand, you may be dismayed to learn that things are a mess and will take time and money to clean up.

I was only twenty-seven years old and clueless about the legal profession when my first husband, David Phillips, died. (I began law school eleven months after David died.) I had only two previous experiences with lawyers, the last one of which was with the lawyer who had written David's will the previous year. Thus, I had at least a name to call to get me started with settling David's estate. If you are not as fortunate, I offer the following steps in identifying a lawyer who is competent to handle the estate of your loved one.

1. Contact the local bar association where you live. The Dayton (Ohio) Bar Association to which I belong maintains lists of lawyers who handle various kinds of cases, including estates.
2. Ask trusted advisors, such as your insurance agent, financial advisor, or accountant. Most financial services professionals network with other professionals in order to provide value-added services and generate referrals.
3. Engage a lawyer who is recognized as a specialist in estate law. You do not want "a Jack of all trades and a master of none." In Ohio where I practice, the Ohio State Bar Association certifies lawyers as specialists in various areas, including the areas of Estate Planning, Trust, and Probate Law. To find an estate law specialist in your state, contact the American College of Trust and Estate Counsel at www.actec.org or 310.398.1888. Another resource for locating estate lawyers is the comprehensive lawyer directory,

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Martindale-Hubble, which you can reach at www.martindale.com or 800-526-4902. Your faith affiliation may have referral resources as well; for example, the Christian Legal Society (CLS) has a lawyer referral service that lists areas of practice. Contact CLS at www.clsnet.org or 703.642.1070.

4. Be a wise consumer of legal services. Interview several lawyers before choosing one. Question the lawyer about his or her credentials, experience, staff, and time line for working on and finishing your case. Look for a lawyer who sensitively listens to you, candidly answers your questions, encourages collaboration, and considers you a member of the legal team.

5. Before you hire a lawyer, have a frank discussion about fees, including how and when the lawyer sends bills. Estate lawyers usually charge either an hourly rate or a percentage of the assets in the estate. An hourly rate will generally be more appropriate for your case. Do not engage a lawyer who is ambiguous about fees. Insist upon a written fee agreement before the lawyer starts on your case. Resist the urge to let your lawyer-friend who knows little about estate issues handle the case because he or she wants to help and may be cheap or free. Remember, you get what you pay for!

Once you have decided upon the lawyer with whom you want to work, consider the following:

1. Don't delay! Deadlines may affect the administration of your loved one's estate and your legal rights. For example, if your loved one died as a result of the negligent or intentional behavior of another person, you may have only one year from the date of your loved one's death to file a lawsuit against the perpetrator. Also, if you are a surviving spouse and your loved one died without a will, there may be limitations periods on the property rights that you can claim as a surviving spouse. Finally, although most states no longer have estate or inheritance taxes, a few states like Ohio still do; you do not want to incur penalties and interest by not filing the estate or inheritance tax returns on time.

2. Your grief will affect your motivation and concentration. Ask a friend or relative to accompany you to meetings with your lawyer to help you remember the lawyer's explanations and instructions. Take a notebook or journal with you to each appointment with your lawyer and make notes of your meeting, especially recording activities that your lawyer wants you to do.

3. In defense of lawyers everywhere, I beg you to not shoot the messenger. Your lawyer may need to tell you things that you do not want to hear...difficult legal realities about the

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death of your loved one that your lawyer did not create. Your grief may compel you to lash out in anger at the lawyer. Don't. During this difficult time, your lawyer can be a powerful ally who you don't want to alienate.

4. Don't panic if your loved one's estate must be probated. Probate has gotten negative publicity in recent years; some of it is justified, and some of it is not.

5. Release your expectation of quickly finishing your loved one's estate; that may or may not be possible. You may feel that if the estate is closed quickly, you will get over your grief quickly. This is a common perception that is usually not grounded in reality, because you will get through your grief only as you diligently do your grief work.

6. To get started, I suggest that you acquire a copy of the booklet, "What Do You Do Now?" published by LIMRA, which will help you navigate through the legal, financial, and emotional issues presented by the death of your loved one. Contact LIMRA at www.limra.com.

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