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## Estate Planning During the Pandemic: Challenges and Solutions

We have seen an uptick in estate planning interest both from new and existing clients, and expect to see more when things get back to “normal.”

By **Rebecca Rosenberger Smolen and Amy Neifeld Shkedy** | May 04, 2020



**Rebecca Rosenberger Smolen, left, and Amy Neifeld Shkedy, right, of Bala Law Group.**

Like everyone else, we certainly have had our share of personal and professional challenges, while navigating this unprecedented period of our lives, during the global COVID-19 pandemic. The silver lining for us, which may be unique to our practice area, is that many folks confronted with their own mortality and that of their loved ones (and lots of extra time on their hands) are now realizing that the time to focus on estate planning is before there is a real crisis for them. Previously, this would regularly happen in isolated instances, when a family member or peer would die suddenly or prematurely. Now, we are all simultaneously having the opportunity for this important and motivating epiphany.

Americans are woefully under estate planned. For that to change, it would probably help to have a catchy promotional ad campaign, like the dairy industry's “Got Milk?” campaign of yore (perhaps, “Got wills?”) strewn

across billboards around the country and on radio and TV ads as a public service announcement. The stark realities of the COVID-19 crisis appear to be serving as a decent “Plan B” to help accomplish the same result.

We have seen an uptick in estate planning interest both from new and existing clients, and expect to see more when things get back to “normal.” Because of the social distancing rules, we, of course, are not meeting in person with clients for the time being. So far, we’ve been able to navigate the normal in-person meeting process to discuss an estate plan, or updates, via telephone calls and emails.

To date, we’ve been able to avoid the need for video conferences with our clients (but, of course, couldn’t avoid a court-ordered Skype conference). Nevertheless, it seems clear, that this medium for engagement will likely become a new aspect of our practice in the years to come. Like Pandora’s Box—it’s going to be hard to avoid it becoming part of the new normal now that board meetings, court conferences, and, let’s not forget, happy hours, are being held in this manner. At least while we are in this surreal global self-quarantine mode, with its concomitant relaxed grooming habits, we have so far managed to escape the need to become “camera ready” for every client call.

As has been previously reported in the Legal, there is a new “temporary” law in Pennsylvania allowing for remote notarization via video conferencing. We haven’t yet started working with that approach, for several reasons. First, it’s temporary and we have found workarounds for clients where document executions have been necessary. Second, it requires the use of software that is new and unfamiliar in our practice area. Third, it doesn’t necessarily solve the issue of the need to obtain additional witnesses. Finally, it requires retaining the video footage for 10 years, which seems to be a bit of overkill for our practice area. In our view, there should also be a way for attorneys to vouch for a client known to them to have signed a document without needing to have video footage at all. It seems that phone conversations in the normal course of business would be adequate for this purpose in nearly all situations.

Most of our signing meetings have been postponed until after things get back to normal (or at least a bit closer thereto). When desired by a client, the workaround we have generally used, to date, has involved meeting in the parking lot and maintaining appropriate social distance. (Of course, the weather must cooperate for that to work.) We have also encouraged clients to sign documents without a notary, with the goal of signing again in a formal manner with witnesses and notary present, when circumstances will allow. This generally works for all documents except deeds and powers of attorney. Since the first phase of returning to semi-normalcy appears to allow meetings of under 25 people, we should expect to be able to resume our normal document signing ceremonies with four to five people present (perhaps with gloves, separate pens and masks for the foreseeable future), within the next few months.

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