

# The Power of Narrative: Listening to the Initial Client Interview

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As I thought about the hypothetical situations<sup>1</sup> posed for consideration by this symposium, I envisioned distinct individuals in context, speaking particular words. I decided to write the initial consultation out as a dialogue to see what happened to the ideas and the interactions as these three, the lawyer, husband, and wife, explored them. I, thus, chose to turn a hypothetical into a real situation.

By selecting this format, I was only able to focus on the first hypothetical. This one was perhaps the most challenging for me personally. As a feminist and a family law lawyer,<sup>2</sup> I have struggled and frequently counseled others, particularly women, to avoid voluntary or involuntary submission to the will or charms of others.

I make no pretense that the following conversation is a model to be followed by others. It is one narrative of what might occur. I invite the reader to imagine himself or herself in this setting and to consider how he or she might handle it differently.

[The lawyer goes out to greet the new clients, Bob and Ruth Fenster. He<sup>3</sup> observes a well-dressed, healthy man and woman in their mid-30s. After ushering them into the office, offering coffee, and engaging in very brief ice-breaking, the lawyer begins the interview.]

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\* Clinical Professor of Law, Seattle University. It is not surprising that this paper should take the form of a dialogue. I teach in a live-client clinic in which learning takes place in the context of the specific interaction. I want to thank my clinic colleagues Lisa Brodoff and Betsy Hollingsworth, and a number of private attorneys who discussed the situation of the first hypothetical and reviewed drafts of this paper.

1. For text of Hypotheticals I and II, see 22 SEATTLE U. L. REV. 1, app. at 14 (1998).

2. I practiced and supervised students in the area of family law. The majority of the situations have been representing one spouse at the breakup of a marriage, so I am especially conscious of that eventuality.

3. I have decided in this case that the lawyer should be a man. I do not believe this couple would choose a woman lawyer.

LAWYER: How can I be of assistance?<sup>4</sup>

BOB: My wife and I want to get some advice about planning for our future. We are newlyweds, just married two months ago. Now that the wedding and honeymoon are over, we have decided to put our financial affairs in order.

LAWYER: Congratulations on your marriage.

BOB: Thank you. We didn't go see a lawyer before the marriage, for something like a, I think they call it, a prenuptial contract or agreement. That seemed so contrary to our idea of marriage, to divide rather than unite.

We plan on having children. And we want to make sure they are protected; things like who will raise them if we die and making sure they are taken care of financially. We also want to take care of each other. Ruth's first husband died suddenly a couple of years ago without a will and she is still dealing with various issues. Between us we have quite a sizable amount of money and other assets. We want to know if there are any legal documents we should have to make this all go smoothly. I guess we are thinking of wills, powers of attorney, and things like that. But maybe we<sup>5</sup> need other pieces of paper to make it all legal. It isn't as if anything is "illegal," it's just that we like to prepare and then get on with life.

We talked about this last night, and I wrote some things down. Here, I made a copy for you, too.

[Bob hands to the lawyer a copy of a one-page sheet with a list of possible documents they might need, their respective assets (\$2 million for him and \$5 million for her), and possible beneficiaries.]

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4. Rather than begin, "I understand you both would like to make a will," I always begin an initial consultation with an open-ended question so that I can hear at the outset what issues and concerns the client(s) raise before any of us get boxed in by thinking only in terms of a legal issue. This approach is recommended by many authors who discuss lawyer interviewing. See, e.g., DAVID BINDER ET AL., *LAWYERS AS COUNSELORS: A CLIENT-CENTERED APPROACH* (1990).

I will assume that the receptionist has scheduled an appointment having received only the information that Mr. and Mrs. Fenster want legal advice about wills. The receptionist has checked the files, noted they are new clients, and does not see any conflict regarding the couple's last names. So far, the receptionist has not checked against maiden names, business affiliations, etc. The firm may have a policy to send out an information questionnaire to be filled out by the clients before the first meeting. It is certainly efficient, but over the years I have concluded that new clients may find the questionnaire both daunting (like a test) and perhaps intrusive. I will assume for the purposes of this article that the information is gathered during, or after, the interview.

5. At this point, the lawyer is noticing that the husband is doing all the talking but uses "we." Does the lawyer make an effort to include the wife, or does he proceed to see how the couple chooses to present itself?

BOB: Ruth, do you think I've covered everything?

RUTH: Well, I can't really think of anything else. Although we talked about making sure our parents are taken care of. My parents are quite a bit older than Bob's, and my mother had polio as a child, so we anticipate problems in the future, but not soon, God willing. Also my ex-sister-in-law has had it rough, and I would like to make sure she is provided for somehow.<sup>6</sup>

BOB: We figured our brothers and sisters weren't an issue at this point. Oh yes, I almost forgot, we're very active in our church and would like to provide for it. But that's just further ideas about the will. I guess that's why we're here. We want to know what kinds of things we should be thinking of.

I'm a businessman, and I like to get matters set up right from the start. As you can see, Ruth has lots of property she inherited from her husband. I've spent literally days trying to help her sort it all out. I'd like to put those assets to work.

LAWYER: Mrs. Fenster, I am sorry to hear about your former husband's death.<sup>7</sup> Any death can be very traumatic, and I can understand why you want to arrange your affairs so that kind of tragedy is not compounded by other worries. Before we go into any specifics, I want to share that I am impressed with how much thought you have put into this already.

[At this point the lawyer may wish to preserve the unmediated flow of information coming from Ruth and Bob. Another 10 minutes of conversation about the clients, their backgrounds, and specifics may be worth hours of later confusion, complications, and clarifications. If so, he may ask them each to tell a little about themselves and how they met. He would learn that they met about a year ago. Each has a college education and substantial financial sophistication.<sup>8</sup> They would have discussed his business and her volunteer interests. The red flag that went up upon learning of her prior marriage is minimized by learning of no children. Also, the size of the assets may trigger the possible need for a tax advisor and/or accountant. But the lawyer is also trying to understand how the clients see themselves and what level of legal knowledge they already possess.

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6. The advantage of a narrative is that the individuals reveal themselves and the richness and complexity of their lives. For an interesting exploration of narrative, story-telling, and case theory, see symposium issue on that topic, 87 MICH. L. REV. (1989).

7. This is not just a social grace. It demonstrates that the lawyer is really listening and is responding as a human being. Lawyers are often accused of not taking the time to listen.

8. The following conversation might be quite different if there were a significant disparity between the husband and wife in education, assets, knowledge, or experience.

He is probably somewhat cautiously assessing the extent to which Bob is looking to get his hands on Ruth's assets.]

LAWYER: This information has been helpful to give me some background, so that I understand your concerns, how they arose, how you tend to deal with things. And get to know you some. You will, of course, want to get to know me, to see if we can work together.

You are talking about the area we call estate planning. There are many aspects to it. I like to think of it as problem-solving: how I can help you accomplish your goals while foreseeing and avoiding any pitfalls.<sup>9</sup> You are correct that we do this through wills, powers of attorney, health care directives, trusts, etc. Mostly, these documents address death or disability in the future. There are also documents which address how you want to treat and use your assets now.<sup>10</sup> I will explain each of these further and, in fact, I have an information package I have prepared for my clients that gives you a fair idea of each.

As you know, I provide an initial consultation without charge. That is so that I can understand something about why you are consulting a lawyer and whether I have the knowledge and experience to assist you. You have been very clear about why you are here. I do the type of legal work you desire. In our initial consultation, I believe it is also wise to take the opportunity to talk about what our lawyer-client relationship is going to be.

BOB: Excuse me if I interrupt. Each of us has worked with other lawyers and it's always been pretty straightforward.

LAWYER: That's precisely why I am bringing it up. Each of you has had separate lawyers, dealing with you alone.<sup>11</sup> It was maybe so clear it didn't even seem a question as to who was the client or what kind of a relationship you had with the lawyer. I am not talking about whether it was good or bad, although I gather each was good. But in each situation, he or she was your lawyer, had a confidential relationship with you alone, and consulted you and you alone about what steps to take.

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9. Presumably, each lawyer has his or her way of defining the nature of the practice.

10. For the sake of this specific conversation, I am assuming it takes place in the State of Washington, which is a community property state and by statute allows a husband and wife to define the character of their current and future property by means of a community property agreement. WASH. REV. CODE § 26.16.120 (1994).

11. During the background conversation, Ruth has revealed that she never dealt with a lawyer personally until after her first husband's death. Real estate transactions, such as her housing purchases for Habitat For Humanity, do not require lawyers in Washington.

Our situation is quite different. There are two of you. It makes our attorney-client relationship a bit more complicated, and I want to take some time to talk about that. Am I making sense at all?

BOB: Yes, I understand. It seems like we should be really easy to deal with. We're married, so why not just represent us as a family? We will discuss everything we want and then we'll tell you.

RUTH: We can even make it easier. We're a bit old-fashioned about being married. I don't want to have to deal with this stuff. I think Bob is better at it than I am, so he can be the one to deal with you. So basically, after today you can just talk with him. He'll let me know what kinds of things we need to make a decision about. We'll talk it over and then he'll tell you what we want to do. If you like, think of us as a corporation, and he's the president.

LAWYER: You raise some things that are important for me to understand. I'd like to pursue it more. We, all three, have to make some choices about the representation.<sup>12</sup>

At this point, we already have a preliminary type of lawyer-client relationship. What you have told me is confidential. Some stranger or, for that matter, Mrs. Fenster's mother couldn't call me up to find out what we talked about.<sup>13</sup>

But, as between the two of you, we have to lay down some ground rules. I could say each of you will be my separate client.<sup>14</sup> But that is not fully accurate because you are asking me to give you advice about things that involve both of you.<sup>15</sup> You have shared information

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12. Perhaps this is the most essential point. The clients have the power to choose. Our job as lawyers is to give our clients information and then to let them choose. But with respect to the representation relationship, the lawyer also makes choices. Washington has adopted a variant of the ABA Model Rules of Professional Conduct, Rule 1.2(a) cmt. (1983): "Both lawyer and client have authority and responsibility in the objectives and means of representation." In the transactional settings, such as estate planning, there is often the luxury of time to discuss this early on.

13. MODEL RULES OF PROFESSIONAL CONDUCT Rule 1.6(a) (1983) [hereinafter MODEL RULES].

14. The standard model of representation is one lawyer and one individual client. But here the lawyer is referring to one lawyer and two simultaneous, separate clients. This is a model advocated by some authors. See Jeffrey N. Pennell, *Professional Responsibility: Reforms Are Needed to Accommodate Estate Planning and Family Counseling*, 25 U. MIAMI INST. ON EST. PLAN. 18 (1991) (assuming that the lawyer will maintain the confidences of both clients after full disclosure to the clients that may be adverse to one of them).

15. Here the clients appear to have common or joint interests. The lawyer could be thinking of his responsibilities under Model Rules of Professional Conduct Rule 2.2, which addresses the situation of acting as an intermediary between clients with common interests. This rule presumes that the lawyer maintains confidentiality with each client as he seeks to "adjust a relationship between clients on an amicable and mutually advantageous basis." MODEL RULES, *supra* note 13, Rule 2.2 cmt. 2 and cmt. 6. Mr. and Mrs. Fenster already have a relationship.

with me that is not confidential from each other. In order for me to continue representing the two of you, I would want you both to agree that I will not be in a position to keep secrets for one from the other. I personally would find it very difficult to represent you both while keeping secrets.

RUTH: I understand and agree. We don't want to have secrets between ourselves, and if that's true, then we don't want you to keep our secrets from each other. So in that sense, we don't want separate representation for each of us.

BOB: This is consistent with our notion of being a family. We are a unit. We two have become one, and we would like you to relate to us that way.

LAWYER: This is the idea that you mentioned earlier about representing you as if you were a family corporation, so to speak. I think I understand what you would like me to do. But there are some complications with that idea. Let me explain how the law looks at the concept of representing the family.

It is true that lawyers represent groups. There is a rule of legal ethics that directly discusses that and talks in terms of an organization that is a legal entity.<sup>16</sup> The rule is addressing, by and large, a formal entity that has an independent legal existence and that cannot act on its own but only through its legally recognized representatives.<sup>17</sup>

Families certainly exist, and the law recognizes their existence. But there is not one consistent legal definition of the family. Both of you constitute a marital family, but each of you separately is also a member of your birth or adoptive family; and in some ways you each have joined the other's historical family. Let me give you an example. State inheritance laws recognize these different families, but the Social Security Administration is only going to grant survivor's benefits to a husband or wife, not to the deceased's parents.

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They not only want it adjusted, they want the lawyer to undertake certain actions with respect to third parties based on their relationship. See Teresa Stanton Collett, *And the Two Shall Become as One . . . Until the Lawyers Are Done*, 7 NOTRE DAME J.L. ETHICS & PUB. POL'Y 101, 117-8 (1993).

The mediator model of this rule may be helpful to contemplate, but the confidentiality constraints would seem to put a lawyer for the Fensters in an impossible position continually. The lawyer is more likely going to take guidance from the informed consent provisions of MODEL RULES, *supra* note 13, Rule 1.6(a) and 1.7(a)(2) and (b)(2).

16. MODEL RULES, *supra* note 13, Rule 1.13(a). Washington has not adopted this rule, although in Washington, as elsewhere, lawyers represent entities. The lawyer would be aware of the Model Rule and would have consulted it for guidance. There is also no ethics opinion in Washington on representing the intact family.

17. MODEL RULES, *supra* note 13, Rule 1.13 cmt. [1].

The law recognizes that as members of each type of family you have differing legal, social and moral responsibilities to the other family members. But the responsibilities and the rights are those of the individual. I, of course, would take into account your ties with other family members and give advice to that effect. However, I don't write a family will; I write a will for each person.

There was a time when the marital family had distinctive features of a separate legal entity. Women lacked many legal rights and, once married, their husbands could speak for them. But that time has passed.<sup>18</sup>

RUTH: That is exactly what we thought we could have. I am surprised to find that the law is hostile to my notion of family.<sup>19</sup> I consider that Bob and I are equal. I do recognize that it is 1998. I just think that we each have separate spheres of responsibilities under God's laws.

LAWYER: One of a lawyer's most important jobs is that of translator.<sup>20</sup> For example, today it has been important that I translate to you the term "family" as the law looks at it. I also consider myself a translator to others of who my client is, and what my clients' visions are. Yet there are ways that an attorney's translation will be flawed. You intend to relate to each other in a certain way based on your religious convictions. You may have an earnest desire that others relate to you in that same way. Yet, I cannot make other civil institutions or other individuals do so.

18. HOMER H. CLARK & CAROL GLOWINSKY, *CASES AND PROBLEMS ON DOMESTIC RELATIONS* (4th ed. 1990).

19. Many clients would be as surprised as Mrs. Fenster that they cannot have a lawyer to represent the "family." Several authors have critiqued this state of affairs. See, e.g., Patricia M. Batt, *The Family Unit as Client: A Means to Address the Ethical Dilemmas Confronting Elder Law Attorneys*, 6 GEO. J. LEGAL ETHICS 319 (1992) (arguing that the realities of representing longstanding elderly clients require changes in the Model Rules, especially Rule 1.13); Russell G. Pearce, *Family Values and Legal Ethics: Competing Approaches to Conflicts in Representing Spouses*, 62 FORDHAM L. REV. 1253 (1994) (proposing that families be able to select whether to be represented as a collection or under his proposed Optional Family Representation. His proposal differs from current ethical rules by requiring a waiver of confidentiality, while allowing current clients to withdraw without requiring the lawyer to terminate representation of the rest.); Thomas L. Shaffer, *The Legal Ethics of Radical Individualism*, 65 TEX. L. REV. 963 (1987) (arguing from a position of morality that the family is an "organic community" which exists separate from [before, during, and after] its individual members). But see, Teresa Stanton Collett, *The Ethics of Intergenerational Representation*, 62 FORDHAM L. REV. 1453, 1499 (1994) ("Individuals are not fungible.").

20. See Clark Cunningham, *A Tale of Two Clients: Thinking About Law as Language*, 87 MICH. L. REV. 2459 (1989).

And some of those institutions regulate me as a lawyer as well. I cannot engage in representing both of you by discussing matters with Mr. Fenster only. I have a loyalty and duty to each of you.

BOB: It is interesting that you use the term loyalty. I think of that term in a religious and personal context. I hadn't really considered it having much to do with lawyers, except perhaps when they are representing a criminal.

LAWYER: Well, I know we often are seen in an unflattering light. Sometimes it is because of our very loyalty to a client and also because we are often called upon when there is a disagreement between people. Sometimes one side will think ill of the lawyer because he or she is representing the other side.

In your situation, it isn't one side against the other. It is that there are many ways to look at each step. I need to make sure that I have been loyal to both of you by looking at each step from each of your perspectives.

RUTH: I think I understand what you are saying, and I can see your concern. What do I want, and what if Bob says we want something that you think I might not want or might be unfavorable to me? I guess I would like to say that I believe Bob will completely explain it to me, and we'll decide in the privacy of our home what we want. I really am in this marriage on the belief that it is a sacred and special relationship, and that one of the most profound commitments is that we have trust in each other. Is that idea so unusual that we have to have this whole conversation?

LAWYER: I sense you are feeling some frustration with what I am saying.<sup>21</sup> How you want your relationship to be as husband and wife, as between the two of you, is the personal choice you have in this country. Your choice is not unusual. But each couple or family is unique. Also each one of you is unique, a whole person with your own ideas and ideas that change. So whenever two individuals seek a lawyer, there is the need to have some type of discussion like this.

RUTH: I didn't mean to be critical of you. I guess I did feel that you might be a bit judgmental about our traditional relationship. And frankly, I didn't think it would be quite this complicated.

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21. This lawyer is acknowledging the client's feelings. This is an interviewing and counseling strategy called "active listening." It sends a message of having listened and may encourage further openness. BINDER, *supra* note 4, at 46-68.



LAWYER: Thanks for being so honest. I understand the resistance. It's not what you expected. It's not going to take that long, but it's a conversation we have to have.<sup>22</sup>

I apologize if I have appeared judgmental. I have not felt that way. I want you to know that I have been married for 30 years. My wife and I have arranged our family life differently than you have. Does that mean I cannot work with you? Not at all. In this job, I work with many very different people and I respect their choices.<sup>23</sup> If I felt I could not in good conscience be fair to you, or that you were choosing something unwise or impossible, I would tell you. What I am trying to do now is plan ahead a little.

Let me tell you about a famous hypothetical situation. A husband and wife ask the lawyer to prepare wills for each of them. Just before the wife is going to sign her will, she tells the lawyer in private that she wants some changes and she doesn't want to tell her husband.<sup>24</sup> What is the lawyer to do? Can he change the wife's will without telling the husband? If he doesn't tell the husband and doesn't change the will, can he still represent the wife knowing she is signing the first will without liking it? Many lawyers have written about this. But the problem assumes that the lawyer did not have the kind of conversation with the husband and wife that we are now having.

This hypothetical raises two things. One we talked about before: confidentiality. As we discussed, one of our ground rules would have to be that neither of you would put me in that position. In the hypothetical situation, since the spouses had not agreed ahead of time about not having confidentiality, the lawyer had to assume he had to keep the wife's secrets and thus had to withdraw from representing either of them.

The other issue it raises is something lawyers call conflicts. We don't mean disagreements. We mean differences that may exist

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22. In Washington, the Rules of Professional Conduct 1.6 and 1.7 require the lawyer to obtain each client's written consent to joint representation where the representation of one client may be materially limited by the lawyer's responsibility to another client. WASH. RULES OF PROFESSIONAL CONDUCT Rule 1.6, 1.7 (1996).

23. Clients may choose a very different lifestyle based on distinct core values either individually embraced or ethnically/culturally embraced. They do not consult a lawyer for a lecture on their choices, as if the lawyer knows better. A lawyer is consulted to understand the extent to which the law (public forum and state power) constrains, permits, defines, and impacts a course of conduct.

24. This hypothetical, *The Case of the Unwanted Will*, 65 A.B.A.J. 484 (1979), has been the basis of a number of articles, and most recently it was discussed at length during a 1993 symposium on representation of elderly clients. Bruce A. Green & Nancy Coleman, *Ethical Issues in Representing Older Clients*, 62 FORDHAM L. REV. 961 (1994).

between people. They may occur when one action or decision may have differing impacts on each person by virtue of age, health, skills, and so forth. Thinking of conflicts is a way to remind the lawyer, me, that if I am representing two people jointly, I have to always be sure that I am mindful of the impacts on both of them. In the hypothetical problem, the husband had planned his will based on the wife's will. Since the wife wanted something different, but didn't want the husband to know, the lawyer had a conflict of interest about whom he should be loyal to.

BOB: I follow what you are getting at. If I wanted one thing and then changed my mind, you would have to make sure Ruth knew about it. Best would be if she and I talked it over first, but you would still want to make sure she understood the change. Would that mean that you always have to meet with both of us? I would think that I should be able to call you or vice versa about basic information like birth dates and names.

LAWYER: That's right. It is certainly true for small items. Even for more significant steps, I could take a call and begin preparation. I don't think it always has to be a conference call. But there are times when I will need to ensure that I have given each of you the same information and heard each of your concerns in the presence of the other.

RUTH: But what if I always agree to what Bob chooses, even if you think I shouldn't?

LAWYER: For the most part, if I've had the chance to explain it fully to both of you, I am not going to then second guess you. Remember, my job as a lawyer is to try to accomplish the lawful goals of my client. As a problem-solver, I pose the possible scenarios to anticipate future impacts in a changing world and then let my client choose. The point is not to make things difficult for you or me, but to make sure I know that each of you understands after being fully informed.

Where there is a situation with substantially differing impacts on each of you, I might put the choices and the consequences in writing so that you have time to read it, reflect on it, and make sure that you understand it. This might be the case if you both wanted to convert all of your separate property (what you had before marriage and still have separate control over) into community property (property that is jointly owned and controlled by both of you).<sup>25</sup> On the other hand, if one of you wanted to convert all of your own separate property to the separate property of the other, then I might actually suggest that

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25. WASH. REV. CODE §§ 26.16.010, .030 (West 1994).

you consult with another lawyer, just to make sure you had the opportunity to explore very fully how this would affect you.

BOB: What happens if we don't agree in your presence?

LAWYER: Well, first I would see if there were something I could do to facilitate agreement. But ultimately if you disagree on what I should do, then I would have to withdraw.

BOB: So, if we actually disagreed but didn't show you that disagreement, you could continue?

LAWYER: That's a good question. If I didn't know about the disagreement, then I could keep representing you.

RUTH: I expect you are going to have a concern about our keeping secrets *from* you.

LAWYER: Yes, exactly. Because one reason to use a lawyer is to feel free to reveal reservations you have or the full range of concerns and issues on your mind and be able to discuss them forthrightly.<sup>26</sup> Clearly every person has parts of their life they keep private from others, but one of the good things about having an open lawyer-client relationship is that you can ask the seemingly embarrassing, stupid, or far-fetched question without the lawyer immediately jumping to a negative conclusion about you.

BOB: Okay, so let's see where we are. We don't want confidentiality from each other. There will be times when we need to meet together so you can explain how something we may be thinking of might effect each of us differently. And if we disagree, then you have to withdraw. Would I be correct in thinking that if you withdraw, you have to do so for both of us? Are there any other things we need to think about or be aware of?

LAWYER: It may seem odd to talk of withdrawing now, but of course, life serves up many surprises and people change. If I felt that I had to withdraw, I would explain why to both of you. I would not thereafter represent only one of you, because the other would be justified in feeling I was being very disloyal.

The rules of my profession, which govern all lawyers in Washington, require me to put what we have been discussing in writing whenever I am asked to represent joint clients.<sup>27</sup> I already have a form letter that discusses what we have talked about. So, as you can see, Mrs. Fenster, I have to do this with every couple, and this

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26. One author objects to the clients in a "family" representation setting giving up confidentiality because it leads to superficiality in the lawyer-client relationship. See Shaffer, *supra* note 19.

27. See *supra* note 22.

conversation is not a reflection on your marital choices. Even if there wasn't a requirement that I put it in writing, I would do so. It gives you a chance to look it over and think about it at your leisure.

RUTH: I can see why we needed to talk about this. I think you have been very helpful.

BOB: I think we are going to need some time to talk about this between ourselves, digest it, and then come to a decision.

LAWYER: I think that is a good idea. It is what I would recommend. What I suggest is that you take the letter, the questionnaire, and these papers explaining the documents we might prepare. As you read them and fill them out, think about the issue of our relationship. Think of questions you might have about the relationship in light of what you discuss about your estate plans. Then, if you should choose to go forward with me as your lawyer, we can meet again to take the next steps in actually planning your estates.

You asked me if there was anything else you should be aware of. I would add two things. The first is that even though I cannot represent you as a family, I would always try to be conscious of how your choices could affect your children, when they come along, as well as others in your family. I recognize that family ties are often our most significant relationships.

The second is that I have enjoyed meeting with you. It would be a pleasure to work with you. I have given you my best legal advice on these issues. However, another lawyer may see it differently, and you should feel completely free to seek a second opinion.

This whole exchange if read out loud in conversational tempo only lasts about 20 minutes. If we double or triple that for pauses, meanderings, inarticulateness . . . well, you see what I mean. If we're any good at planning, then we have to plan for the attorney-client relationship, too.

We can now imagine the conversation after the Fensters leave the office.

Version #1

RUTH: Well what do you think? He was very open with us, and I really appreciate that. I wish it were simpler, but I can see that it isn't.

BOB: I don't like having to think about all these problems when we're just asking for legal advice over something we thought was very simple and routine. But I know enough from my business that that's part of what lawyers do. I actually like the fact that he respected us enough to let us think about it and to make our own decisions.

## Version #2

RUTH: Well what do you think? He was very open with us and I really appreciate that. I wish it were simpler, and I don't see why it can't be.

BOB: He doesn't make me feel comfortable. He's always going to be raising things he thinks are problems, and he'll end up causing them. Besides, I thought he was sort of patronizing. Jim and Mary talk about their lawyer as the family lawyer. Let's talk with them.