



What I've Learned from Avvo

BY BILL HUBBARD

If you don't know what AVVO is, go to www.avvo.com and find out. It's a website that lists attorneys. It allows another attorney or someone looking for an attorney to find one. If you don't have an AVVO listing, you probably should. It can be both a source of clients and referrals to and from other attorneys. Because I live and practice in Pagosa Springs and there are a lot of retirees here, I use AVVO to find attorneys in other areas when I can't help a client, usually because they are from another state and own real estate there.

AVVO also allows people who have, or think they have, a legal problem to post a question, which will then be answered by one or more attorneys. There is a disclaimer stating that there is no attorney-client relationship with the

answering attorney and most answers contain advice that the person asking should consult an attorney who has some degree of expertise in the area of the questioner's problem.

So, what have I learned? For one thing, people who want or need advice can reduce some of the most complex problems to about 200 words or less, or some use way more. A typical answer may say that the attorney just does not have enough information.

Some of the most complex problems deal with wills, trusts, and financial powers of attorney: "Can the agent named in a power of attorney change the principal's will either before or after the principal dies?" "My Dad died 10 years ago and his real estate is still in his name." "I am the beneficiary of a trust, but

I don't know anything about it and no one will answer my questions." Testators and settlors tend to be secretive about what they want to happen from a will or trust. They need to tell someone they trust what they want done, but many just put these documents somewhere and no one even knows they exist.

Many questions also involve thorny family matters: "My wife's mother took our children away from us and won't give them back." "What do I do if my ex-spouse won't pay his or her debts, child support, alimony or maintenance, won't sign over car titles, or sign a deed?" "My ex-spouse ran off with the children and I can't find them." People just don't know what to do when confronted with these problems and want to talk to an attorney that can provide advice. And a solution.


A real-life scenario, with an embellishment or two, is the client who has divorced, remarried, and has children from both marriages and stepchildren. If this person were still alive, one of us could sit down and work out a plan. Well, maybe. Alas, this person has passed away, and the new spouse will not share information with the stepchildren, will not provide a copy of the will, the trust agreement, or the financial

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power of attorney (which is no longer in effect but the new spouse thinks it is), is not about to share any financial information, and seems to be spending a lot of money.¹ A personal representative or a trustee has duties he or she probably does not know about.² The stepchildren want you to "fix" this. So, you're off to the courthouse and the expenses are beginning to mount.

Can this be fixed? Yes, of course, it can—well, maybe, but it's not going to be easy and it's not going to be cheap. Could this have been avoided? Are there conflicts between the documents? We have all seen documents of this type with conflicts. Clients get documents online and go from attorney to attorney, or website to website, without saying anything about that power of attorney or will they downloaded from somewhere.

You can't keep people from just being downright nasty when it's time to divide up an estate or trust. My purpose is not to tell you how to avoid these problems but to make you aware that there is a resource where people talk about real problems that we didn't talk about in law school. You can try to avoid these problems but only if your client is willing. Remember that Howard Hughes died intestate.

This article has provided examples from my areas of interest, but you can select the issues you want to read about. There are a lot of categories, and you can subscribe to those that match your practice, or maybe just your curiosity. I believe you will be a better lawyer if you read some of these problems and will be better able to advise your clients by reading the answers. Give it a try. It's kind of fun (for attorneys) and is almost always interesting and educational. 

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NOTES

1. "A trustee shall invest and manage trust assets as a prudent investor would, by considering the purposes, terms, distribution requirements, and other circumstances of the trust. In satisfying this standard, a fiduciary shall exercise reasonable care, skill, and caution." CRS § 15-1.1-102(a).
2. "A fiduciary is a person having a duty, created by his or her undertaking, to act primarily for the benefit of another in matters connected with the undertaking. A fiduciary's obligations include a duty of loyalty, a duty to exercise reasonable care and skill, and a duty to deal impartially with beneficiaries." *Tepley v. Public Employees Retirement Assn.*, 955 P.2d 573, 577 (Colo.App. 1997); *Restatement (Third) of Trusts*, vol. 3 § 79 (American Law Institute 2007). See CRS § 15-1.1-106.

The SideBar is an informal space where members can share their thoughts, advice, and perspectives on issues impacting Colorado lawyers. Send your SideBar submissions to Susie Klein at sklein@cobar.org.



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”
 – Thomas Edison

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