Date of Consultation: _________________________; Meeting with: _____________

SENIOR COUNSEL
Attorneys at Law

Mike Jorgensen, JD, LL.M
James Adam Owens, JD, BCS*
*Board Certified in Elder Law
Bret Kessler, JD
Gregory S. Redmon, JD,MBA

ESTATE PLANNING QUESTIONNAIRE

Name* Nickname DOB

____

* *Please enter names as you want them to appear in your documents*

RESIDENCE ADDRESS

____

____

COUNTY:________

TELEPHONE: (Home)_______(Office) _________(Mobile) __________________________

EMAIL: ____

FAMILY – CHILDREN

Name Nickname DOB

_________________ ____

_________________ ____

_________________ ____

_________________ ____

_________________ ____

_________________ ____

_________________ ____

1. Are you a US veteran, or widower (90 consecutive days of active duty, one day during war time)?

____yes ____no

2. Do you have long term care insurance? ____yes ____no

   If yes, with whom ____

3. Do you have a prepaid funeral arrangement? ____yes ____no

4. Are you a U.S. Citizen? ____yes ____no

5. Do you have a premarital agreement? ____yes ____no

6. While married, if ever, have you ever lived in Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington or Wisconsin? ____yes ____no

7. Have you ever filed a federal gift tax return? ____yes ____no

8. Do you have old estate planning documents? ____yes ___ no

9. Are you expecting a substantial inheritance in the future? ___ yes ____no

10. Are you currently the beneficiary of a trust established by another? ____yes ____no

11. Who referred you to Senior Counsel, Attorneys at Law, PA? _________________

LIFE INSURANCE

	Face Value	Type	Company	CSV	Loans	Premium
TOTAL						

RETIREMENT ACCOUNTS

	Company	**Amount**	**Type**
TOTAL			

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INVESTMENTS NOT CONSIDERED IRA/401K/403B OR QUALIFIED

	Amount	Description

TOTAL ______________

REAL ESTATE (FLORIDA AND OUT OF STATE)

FMV	Mortgage	Description

TOTAL ______________

BUSINESS

	Amount	Description

CASH/CHECKING/SAVINGS/CD/MMA/OTHER

Amount Description

____

____

____

____

TOTAL ______________

SUMMARY

____

Income Questions:

Social Security ______________________________________

Pensions ______________________________________

Required Minimum Distributions______________________________________

Other ______________________________________

TOTAL ______________________________________

The information provided above will be relied upon by Senior Counsel, Attorneys at Law, P.A., in designing an estate plan that meets your goals, and it will be kept strictly confidential. Unless you have specifically directed us to do so, we will not undertake to independently verify the above information, though we reserve the right to do so. By your signature below, you acknowledge that the information provided above is a complete and reasonably accurate list of all your assets and property interests, to the best of your knowledge, as of the date indicated below.

____

Signature
Dated:

Surrogate Designations

Who would you like to be your primary decision maker for financial matters? [name, relationship, address, telephone number]____

____

____

Who would you like to be your alternate decision maker(s) for financial matters? [name, relationship address, telephone number]____

____

____

Who would you like to be your primary decision maker for health decisions? [name, relationship, address, telephone number]____

____

____

Who would you like to be your alternate decision maker(s) for health decisions? [name, relationship, address, telephone number]____

____

Who would you like to be your decision makers should you require a guardianship? [name, relationship, address, telephone numbers of your first and second choices]__________________________

____

Who would you like to be your personal representatives under your last will and testament? [name, relationship, address, telephone numbers of your first and second choices]__________________________

____

Who would you like to be your trustees under your trust documents, if applicable? [name, relationship address, telephone numbers of your first and second choices]______________________________________

____

Memorandum Regarding Advance Directives

We suggest six documents that exercise your Constitutional rights to appoint advocates to reduce possible negative consequences of mental incapacity. We refer to the documents as "Advance Directives." In many cases, the advance directives will prevent the necessity for a court-supervised guardianship. Additionally, we sometimes recommend other documents, i.e., revocable and irrevocable trusts, to reduce the necessity of a court-supervised probate. The directives include:

Durable Power of Attorney: The Durable Power of Attorney ("DPOA") may be the most important estate planning document an attorney can prepare for you. It allows the person holding the power (referred to as the "surrogate" or "attorney-in-fact") to transact almost any financial business that you (referred to as the "principal") could transact on your own behalf. It is extremely powerful.

If a person is deemed to be mentally incapacitated and does not have a DPOA in effect, a guardian for the incapacitated person (referred to as the "ward") may be appointed by the court. The guardian may make some or all decisions for the ward regarding the ward's property and person, and these decisions are subject to the review and validation by the court. The prior designation of your surrogate decision maker leaves your decisions in the hands of friends, and loved ones, rather than with the court. With a prior designation under a written and sufficient DPOA, the loved ones make the decisions without court supervision, unlike in a guardianship, where the court may or may not approve the acts the guardian wishes to do. In addition to court review, the guardian possesses many duties and responsibilities, which include preparing annual accountings, taking guardianship classes and, in some cases, posting a bond. In short, a guardianship is an expensive, time-consuming proceeding that can often be prevented with well drafted advance directives.

Florida's DPOA law significantly changed October 1, 2011 and requires additional acknowledgements by the principal. The prior powers of attorney are "grandfathered" in, but said powers may be interpreted under the new law. One major change is that "springing" powers of attorney will not be allowed under the new law and powers of attorney are immediately effective. Some attorneys craft "escrow letters of instruction" in an attempt to avoid having the powers immediately exercisable. If the escrow agreement is used, the attorney keeps the DPOA and the principal provides the attorney with directions of when and under what circumstances an original DPOA may be released to the Attorney in Fact. We rarely recommend using the escrow letters since such procedures often frustrate the use of the DPOA when needed. The added restrictions may prevent the timely "activation" of the power when it is most needed.

Powers of attorney cease to be effective at the principal's death.

Designation of Health Care Surrogate: The health care surrogate is appointed by the principal to be an alternate decision-maker for health care decisions when the principal is unable to make the decisions due to physical or mental capacity problems. The surrogate designation is different and broader than a living will because the surrogate may make almost all delegated health care decisions for the principal, not only the decisions regarding the refusal or withdrawal of artificial life support. Under a proper written designation, the surrogate overcomes the disclosure restrictions under the **Health Insurance Portability and Accountability Act** of 1996 ("HIPAA") law. Unlike the DPOA, the authority to make health care decisions is only available when the principal is unable to make and communicate these decisions by him or herself. As long as the principal is able to communicate, he or she will continue to make all health care decisions directly with the physician, with or without a written directive. If the principal becomes incapacitated, the naming of the proper health care decision-maker is very important. Regardless of the surrogate's own feelings or beliefs, the health care surrogate is obligated to carry out the principal's wishes.

<u>Living Will</u>: The living will is not a "last will and testament." The living will allows a person or their surrogate to exercise his or her constitutional rights to refuse unwanted medical treatment, including artificial life support. If the principal's intent is expressed in writing, a presumption arises that he or she has met the "clear and convincing" evidentiary standard, which means there is a greater probability that the wishes will be honored. This document also prevents the necessity of obtaining a court order to terminate life support. The living will may allow you to express whether you would like to be an organ donor. Had Terri Schiavo prepared a written living will, several years of litigation may have not been necessary.

<u>Mental Health Directive</u>: Should psychoactive or convulsive therapy treatments and procedures become necessary, the Mental Health directives allow the surrogate to make decisions for the principal if the principal is unable to consent. This is an area of the law that has not kept pace with current medical technology. For example, convulsive therapy has improved significantly over the past sixty years and is becoming more widely used to treat severe depression. The principal is required to give authority to the surrogate to consent to said mental health treatments, otherwise, the principal may require prior court approval before being treated. The directive intends to keep the decision with the principal's loved ones rather than with the courts. It may sometimes act as a "tie-breaker" if the surrogates are in conflict as to whether to proceed with treatment options.

<u>Declaration Naming Preneed Guardian</u>: The principal is allowed to name a preneed Guardian. Should a written designation be made, and if a guardian is needed, the principal's pre-designation of a guardian will most likely be upheld by the courts. This reduces the risk that a guardian may be appointed for the ward that would have been against the ward's wishes. The appointment of a guardian is generally not needed if proper DPOAs and health care surrogates are appointed, but there remain times when a guardianship is the only solution to protect an incapacitated person from personal or financial wrongdoings, or to force placement into a skilled nursing facility (or similar facility).

<u>Appointment of an Agent to Dispose of Remains:</u> It may become important in some situations to appoint an agent that will be responsible for dictating the disposal of your remains. This may allow the court to honor your decisions as to where your remains are placed if there is a conflict among survivors of whom should exercise control and disposition.

Other Possible Documents for Consideration:

<u>Living Trusts and Pour Over Wills</u>: Living trusts allow a person (called the "Grantor") to create and transfer property to a trust during his or her lifetime to be administered by a trustee for the benefit of specified beneficiaries. The major advantages of the living trust are to protect the grantor's beneficiaries, to allow the grantor to transfer property at death without the necessity of a court-supervised probate, and possibly the prevention of a court's interference with assets held in a trust if the grantor should require a guardianship.

A living "revocable" trust (one created during the life of the grantor as opposed to a testamentary trust created in the last will and testament) may be revocable or irrevocable. If the trust is revocable, the grantor does not lose any control over the ownership or management of the assets. The grantor has full use of the trust assets and may amend the trust at any time to change trustees, beneficiaries, or trust assets. Irrevocable Trusts are used to preserve assets.

The "pour over will" is used to "pour over missed assets" into the trust, thus reducing the complexity and risks of probate.

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