Litigation begins at the very first meeting between counsel and client, when counsel begins to learn the story of the family, the issues involved, the source of the information that is available or what will be needed, and whether or not the client will be willing and able to try a case. From this initial meeting, counsel will determine whether there is a case, what the client wants, what information is needed to achieve the client’s desired results, and whether such a result is possible. How the case progresses and whether litigation will go forward in an effective manner begins at the very beginning with the initial client interview, progresses through an organization of facts and evidence, and ends with a negotiated or litigated result.

Just as the initial meeting is so critical, so, too, is the need to begin, at the outset, to organize the information and documents in a way that enables them to be retrievable when needed, cataloged so as to be meaningful, and organized to be useful evidence at trial. Additionally, counsel must begin to assess the client as a potential witness, because objectivity about clients and their ability to testify may be lost over time and after working closely with them.

Conducting a trial is a complex and expensive affair. Much planning and strategy are necessary to properly prepare and conduct a winning trial. What are the issues you will litigate? What are the goals of litigation? Who will testify as to the salient facts? Who will be deposed? Is there supporting documentation? Other evidence? Are experts necessary and, if so, can the client afford them? What sort of experts and who will they be?

Once it has been determined that a trial is possible in the case, this first interview is not too early to begin asking these questions and gathering the documentation that will be needed. And, although a case may settle before the ultimate trial, preparing properly for the trial is the best method for reaching successful settlement negotiations and a satisfactory result. Having the case organized at every step of the way, so that both you and the client know the strengths and weaknesses of the client’s position, leads to proper trial preparation and strength in negotiation.