

IMPORTANT REASONS WHY YOU NEED AN ESTATE PLAN

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INTRODUCTION



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ESTATE PLANNING DOCUMENTS

Estate planning documents include:

- ▶ Trust
- ▶ Pour-over will
- ▶ Power of Attorney
- ▶ Health Care Documents





CONS OF NOT HAVING ESTATE PLANNING DOCUMENTS

Probate is:

a court-administered process used to transfer a decedent's assets to his or her beneficiaries in accordance with Florida Statutes, if no will exists.

If you do not have a will, your estate passes to heirs according to Florida Statute.





WHY AND HOW TO AVOID PROBATE

- ✓ To avoid time and costs of probate
- ✓ To avoid confusion and arguments
- ✓ Titling assets properly





WHAT IS AN ASSET?



Investopedia.com defines an **asset** as:

“anything of value that can be converted into cash.”

- Cash, certificates of deposit, checking and savings accounts, money market accounts, physical cash, Treasury bills;
- Real property – land and any structure that is permanently attached to it;
- Personal property – everything that you own that is not real property such as boats, collectibles, household furnishings, jewelry, vehicles;
- Investments – annuities, bonds, cash value of life insurance policies, mutual funds, pensions, retirement plans, and . . . investments.

SOURCE: Investopedia.com



WHAT IS A TRUST?

A **Trust** (also known as a “**trust agreement**”) is a document you create to:

- manage your assets during your lifetime; and,
- instruct a trustee how to distribute the assets after your death.





FUNDING THE REVOCABLE LIVING TRUST



Procedure to properly fund a trust:

1. Change of Title/Ownership
2. Assignment of Ownership Rights
3. Change of Beneficiary



FORGOT TO TRANSFER AN ASSET INTO A TRUST?



Use A
“Pour Over”
Will



BENEFITS OF A TRUST?

The most important benefits of a trust include:

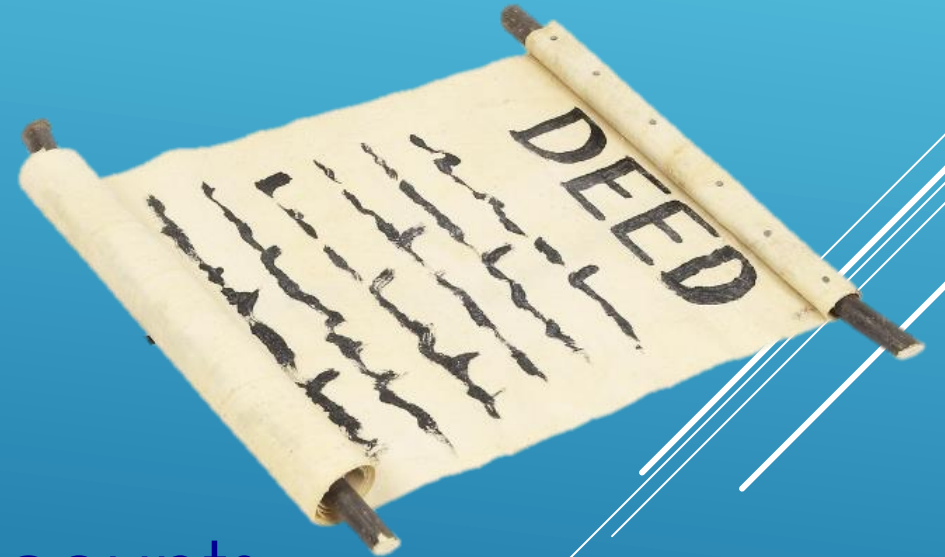
- Bypassing the probate process (public record)
- Keeping your estate plan private (not public record)
- Distribution of assets directly to the beneficiaries upon grantor's death





OTHERS WAY TO AVOID PROBATE WITHOUT UTILIZING A TRUST

- lady bird deed
- deed with right of survivorship
- husband and wife on deed
- POD
- beneficiaries on designated accounts





WHAT IS A WILL?



A will is a written document that directs the court to distribute your personal and real property to your beneficiaries upon your death



WHAT IS A POWER OF ATTORNEY?

A power of attorney is a written document appointing a person to make decisions and act on your behalf when you are unable to do so.





TYPES OF ADVANCE HEALTH CARE DIRECTIVES



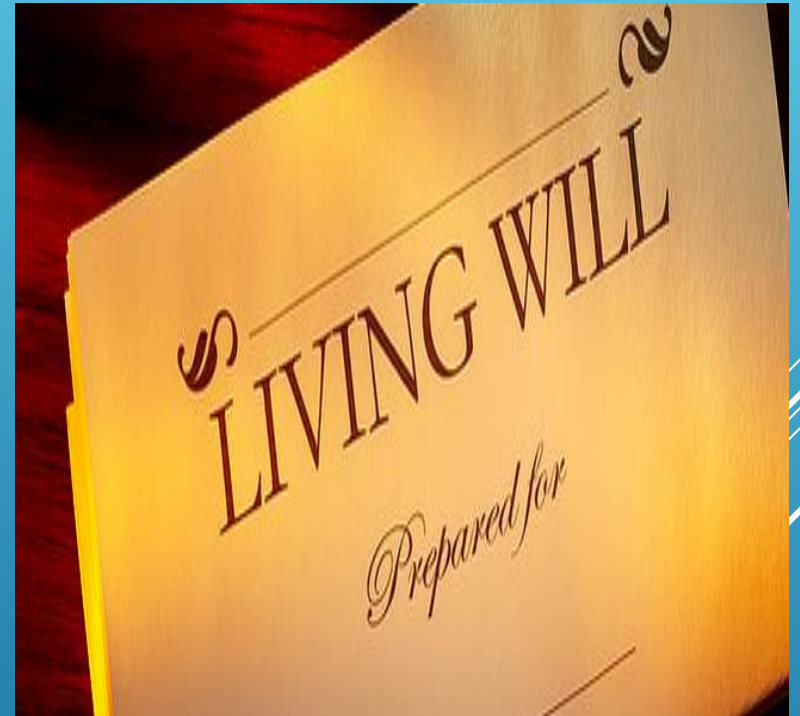
- ▶ Living Will
- ▶ Healthcare Surrogate
- ▶ Pre need Guardianship



WHAT IS A LIVING WILL?

A Living Will provides your family and healthcare team with details regarding your wishes to choose or refuse medical treatment when you reach a:

- terminal condition
- end-stage condition or
- persistent vegetative state



WHAT IS A HEALTHCARE SURROGATE?



A representative of your choice whom you trust and authorize to oversee your wishes and makes the decisions regarding your medical care and treatment when you are unable to communicate



WHAT IS A PRE NEED GUARDIANSHIP?

A Designation of Pre need Guardianship is a document identifying the name a person you selected to handle your medical and financial affairs in the event you become mentally or physically incapacitated and are unable to do so on your own.





WHAT HAPPENS IF I DO NOT HAVE THESE ADVANCE HEALTH CARE DIRECTIVES?

Decisions about your medical care may be made for you by

- ▶ your spouse (even if you're separated),
- ▶ your adult child,
- ▶ your parent,
- ▶ your adult sibling,
- ▶ an adult relative,
- ▶ a close friend, or
- ▶ a court-appointed guardian.



WHO CAN/SHOULD YOU APPOINT TO THESE ROLES?



A representative of your choice whom you trust and authorize to oversee the wishes you've either set out in these documents or made known during your life

A background image for the title card showing a wooden gavel with a silver band resting on a stack of books. An open book is visible in the background, slightly out of focus. The entire scene is set against a light blue background.

UNDERSTANDING THE FLORIDA PROBATE PROCESS



TYPES OF PROBATE ADMINISTRATION

- Ancillary Administration
- Summary Administration
- Formal Administration





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ANCILLARY ADMINISTRATION



When the decedent is domiciled in another state on the date of death but owns property in Florida.



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SUMMARY ADMINISTRATION



When an estate qualifies

- The decedent passed away more than two years ago, or
- ▶ the value of the total probate assets does not exceed \$75,000 (excluding exempt assets)

Pros

A personal representative is not permitted

Less costly and time consuming than a Formal Administration



FORMAL ADMINISTRATION

Required when non-exempt assets exceed \$75,000, and it has been less than 2 years since the date of decedent's death

Recommended when:

- there are multiple creditors, or
- a Personal Representative needs to be appointed to handle certain affairs of the estate (e.g., contract issues, mortgage/lienholder negotiations, litigation, etc.)



STAGES IN THE PROBATE PROCESS

- Starts with filing a petition to open the estate
- In formal administration, a Personal Representative will be appointed
- administering the estate
- closing the estate
 - Minimum time to complete process = 5 months
 - Maximum time = years



Contact Information

If you need help or legal advice regarding a Living Will or Health Care Directive, trusts or estate planning, feel free to contact Kimberly Soto, Esq. for your free 15-minute consultation at:



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