

BAKER & STALZER

Attorneys at Law

Will & Trust Basics

Basic Documents Everyone Should Have

- ✓ Last Will and Testament
- ✓ Durable Financial Power of Attorney
- ✓ Health Care Directive (*New Georgia Law as of July 1, 2007*)

What Is a Will?

A Last Will and Testament is a legal document, signed and witnessed in accordance with Georgia law, designating:

- ✓ Who will receive your Property after your death
- ✓ Who will be the Guardian of your minor children
- ✓ Who will be the Executor of your estate

What If I Die Without a Will?

Then state law will control, and the court will make decisions for you. In many cases, the results may not be what you would have wished. Without a Will, your estate will be distributed according to a formula set by Georgia law. This may cause especially serious issues if you have children from a prior marriage.

Without a Will, a court will choose the Guardian for your minor children, and your children will receive their entire inheritance at age 18, which may lead to loss of the assets due to lack of maturity. With a Will, you can place assets in trust for your children, until they are of a more suitable age to manage the money.

Without a Will, you also cannot plan for avoiding the federal estate tax. Since the current federal estate tax rate is 45%, this is a tax you want to avoid. So, to protect the most important things in your life - your family and the assets you have worked so hard to acquire - everyone should have an up-to-date Will.

What Is a Durable Financial Power of Attorney?

A legal document that authorizes someone you trust to pay your bills and handle all of your financial affairs, if you become incapacitated. This document is very important, to help you avoid a costly court Conservatorship proceeding, in the event of an unexpected accident or illness.

What Is a Health Care Directive?

A legal document that authorizes someone you trust to make medical decisions for you, which may include life and death decisions, if you are incapacitated. Without this document, the persons you would prefer to make these decisions may not be allowed to do so, and your wishes may never be known or honored. Previously, Georgia law provided for a Health Care Power of Attorney and a separate Living Will. Now, these two documents have been combined into one comprehensive Health Care Directive.

What Is a Living Trust?

It's a Revocable Trust that you set up while you are alive. Many of our clients are choosing Living Trusts to avoid the costs and potential delays of the probate process. Living Trusts are not necessary for everyone, but can help to avoid unnecessary costs and delays if you own real estate outside Georgia, if there is any concern that someone may contest or object to the terms of your Will, if you are concerned about becoming incapacitated and want to be sure that someone can manage your affairs, or if you value privacy and want to avoid any public court filings when your estate is settled. There is also generally a net cost savings, since you should be able to avoid the legal fees and court costs associated with probate.

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