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## WHY YOU SHOULD HAVE A WILL



Legal Advice Series, Vol. 1, Issue 2 | Peter C. Pappas, Esq.

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## **Introduction**

Few of us want to talk about what the world will be like after we leave it, but all of us should.

A Last Will and Testament is one of the most affordable legal documents to have prepared yet more than 70% of Americans don't have one.

And the cost of not having a will is potentially much greater than the money you will spend to have one properly prepared.

This short paper discusses the reasons why everyone should have a will and why everyone, especially those who are married and/or have children, should take the time to consider what will happen to their loved ones and their assets after they have shuffled off this mortal coil.

*Some of us shutter at the thought of our children being raised by crazy Aunt Sally and her creepy husband Uncle Mort.*

## **Last Will and Testament**

Most of us think we know what a Will is, but do we really?

If you said that a Will is a document whereby a person declares who gets his assets upon his death, you are only partially correct.

A Will does much more than that.

## ***Guardianship of Your Minor Children***

Some of us shutter at the thought of our children being raised by crazy Aunt Sally and her creepy husband Uncle Mort.

If you have children who under the age of 18, a Will is the place where you declare whom you want to be their guardian in the event of your death.

The Courts will decide who gets custody of your minor children based on what is in your children's best interests, but judges will give great weight to the stated wishes of a child's natural parents.

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Judges can't do this unless you've stated those wishes. And the place to state them is your Will.

## **Administration of Your Estate**

You don't have to be rich to want to ensure that after your death your property and assets are not squandered or stolen.

A Will is the place where you appoint someone you trust to administer, manage and distribute your assets.

If you don't appoint someone to do this for you, the Court will appoint a total stranger to serve in this capacity for a fee.

## **Guardianship of Your Children's Property**

Minors do not have the capacity to contract and, therefore, do not have full ownership rights to property.

An adult must be appointed to manage a minor's property until the minor becomes of age.

*A Will is where you not only decide who gets your property, but when and how they will get it.*

But even after your children reach the age of 18, you probably won't want them to have full ownership rights to your property because, if they are anything like I was when I was 18, they'll probably blow it all on beer.

A Will, then, is where you not only decide who gets your property, but when and how they will get it.

For example, say you have a twelve year old daughter and want to leave \$100,000 to her upon your death.

Since you don't want her to have all of that money when she turns 18 you might choose to establish a trust in your Will that contains the following distribution schedule:

- \$20,000 at age 20
- \$20,000 upon graduation from college

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- \$20,000 upon marriage or at age 30
- \$40,000 at age 35.

### Separate Writing

Florida allows you to keep a list of special items you wish to leave to certain beneficiaries upon your death. This list may be updated by you at anytime without the need for revision of or amendment to your Will.

Some special items that clients have bequeathed through separate writing are:

- An engagement ring to a favorite niece
- A baseball card collection to a special nephew
- A library to an intellectual grandson
- A photo album to a dear brother

### Living Will

Sounds like a contradiction in terms, right?

Well, a Living Will is a document that tells your healthcare provider under what conditions you wish *not* to be revived.

It is an essential part of your estate plan.

In it you will name one or more health care surrogates who are empowered by you to make decisions about your health in the event you are incapable of doing so.

*A Living Will is a document that tells your healthcare provider under what conditions you wish not to be revived.*

### Durable Power of Attorney

A durable power of attorney is a document that you execute authorizing someone of your choosing (usually a close relative or trusted friend) to handle your affairs in the event you become incapable of doing so.

Like the Living Will, this is an essential part of your estate plan.

### Advanced Estate Planning

As of the writing of this paper there is no federal estate tax and, therefore, little need for advanced estate tax planning.

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But everyone expects Congress to enact an estate tax next year. The only question that remains is what form the new estate tax law will take.

When the new estate tax is enacted, advance estate planning will again be an integral part of the financial planning of those taxpayers who are subject to it.

This will likely be those individuals who have a net worth of more than \$1,000,000, including expected life insurance proceeds.

There are a number of basic tax planning techniques that can be applied to reduce or eliminate the federal estate tax. They include, but are not limited to:

- A lifetime gifting program to reduce your taxable estate
- The establishment of a credit shelter trust
- The establishment of an irrevocable life insurance trust to remove your life insurance proceeds from your taxable estate
- The establishment of a charitable remainder trust

### **Final Comments**

Anyone who owns property, has a regular job or has loved ones should have a Will.

This is why everyone who works for *Pappas Law Group* is required to have a Will, Living Will and Durable Power of Attorney as a condition of their continued employment with the firm.

*Anyone who owns property, has a regular job or has loved ones should have a Will.*

We are, of course, in the business of preparing and advising clients on their estate planning needs and, therefore, would benefit by your decision to hire us to advise you.

But even though we benefit from your decision to have us prepare your Will, that fact in no way lessens the wisdom of your having one.

Any legal or financial advisor worthy of the name will advise you to have a Will.

### **About the Author**

*Peter C. Pappas is an attorney and CPA with more than twenty years of experience preparing Wills, Trusts and Estate Plans for the clients of Pappas Law Group. Peter can be reached at 407-648-2555.*