

Essential Estate Planning Documents

| Name of Documents | What It Is and What It Does | Common Misunderstanding | When It has Authority | Notes |
|------------------------------|--|--|---|--|
| Will | A will is a written document that is signed and witnessed. It distributes property/assets owned by you. | A will has no authority over joint property, retirement plans or life insurance. | A will is considered a "death" document as it only goes into effect when you die. | An original will has to be filed with Court after death, and it goes through "probate." Probate is a public process and the contents of a will also becomes public. |
| Revocable or Living Trust | <p>A trust is a legal document, signed and witnessed. It holds assets during lifetime and name the people who will receive the trust property after your death.</p> <p>In a trust, there are a grantor (the person who creates the trust), a trustee (the person who manages the trust), a trust estate (the property held in the name of the trust) and a beneficiary. In a typical scenario, the grantor, trustee and beneficiary are the same person.</p> | <p>It does not remove assets in the trust from the grantor's estate.</p> <p>Putting assets in a revocable or living trust does not protect such assets from creditors.</p> | A trust is effective during your lifetime, during any period of disability, and after death. This is an essential tool for life planning. | <p>Assets in the trust are not subject to probate, thus it minimizes probate.</p> <p>It provides privacy regarding estate distribution as this is a private document.</p> <p>There are irrevocable trusts.</p> |
| Financial Power of Attorney | It appoints a trusted family member, friend or advisor as your agent to make financial decisions on your behalf if you become physically or mentally unable to do so. Person granting the power can tailor what powers to give. | <p>It has to be signed prior to incapacitation.</p> <p>It terminates upon death.</p> | It can be effective upon execution, or can be drafted to come into effect upon incapacity. | IL has a statutory form, however, careful drafting is important in certain circumstances to avoid unintended consequences. |
| Healthcare Power of Attorney | It appoints someone you trust to make medical decisions when you are unable to do so. | It terminates at death. | It is effective during the lifetime of the person granting the power. | IL has a statutory form. |
| Living Will | It expresses specific wishes about certain aspects of end-of-life care. | It does not grant authority to the agent, but expresses your wishes for the agent to follow. | It has authority during the lifetime of the person granting the power. | IL has a statutory form. |