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# Wills and Estate Planning

## What You Need to Know



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### Firm Profile

Steffan & Associates, P.C. is a general practice firm, so we are able to meet our clients' needs in many types of matters. We assist our clients in:

- Business Law
- Real Estate
- Estate Planning (Wills)
- Estate Administration (Probate)
- Family Law
- Personal Injuries
- Workers' Compensation
- Civil Trials

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**Attorneys at Law**

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### Do I Need a Living Trust to “Avoid Probate”?

Reading this answer will save you thousands of dollars—in North Carolina, NO. Some states have probate processes that are very long and extremely expensive. In those states, like Florida, it makes perfect sense to incur the significant expense of setting up a living trust to have your assets pass outside of probate. In NC, by comparison, probate is relatively simple and inexpensive. You will likely spend more on setting up and maintaining your living trust (e.g., preparing deeds, completing annual tax returns for the trust) than you would in probating your estate in NC. Selling people in NC on the idea that they need a living trust to avoid probate needlessly increases a client's legal fees by thousands of dollars. There may be other good reasons to set up living trusts in rare cases (which an attorney can explain based upon your situation), but avoiding probate in NC is not one of them.





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#### Why Do I Need A Will?

You need a Will to determine where your property goes after your death. Without a will, the N.C. General Statutes decide who gets what from your estate – this may not be what you want. A Will also makes things easier for your family after you are gone, by reducing the time and expense involved in probate.

#### What About Minor Children?

If you have minor children, a Will lets you decide who will serve as guardian if you are gone, and who will manage their inheritance for them. Without a Will, the Clerk of Court decides these things. A Will also saves expense for your trustee and guardian.

#### Why Should an Attorney Prepare My Will?

State laws vary on what is required in a Will, and what will make a Will easiest and least expensive to probate. Attorneys know the best way to accomplish what you really want, and to insure that probate is as easy and inexpensive as possible. Attorneys also have the kind of information that can save you money on estate taxes. You are paying the attorney for his/her knowledge of how best to prepare your will, not so much for typing up your Will.

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#### What is a Durable Power of Attorney?

A “durable” or “financial” Power of Attorney appoints someone to handle your business and financial affairs only in the event you are unable to do that yourself. Even between spouses, there are some assets and rights (like applying for Social Security benefits) that cannot be jointly titled, even if we wanted to. If you need someone to handle your financial matters and you do not have a Power of Attorney, your family will have to go to court to have a guardian appointed, which is expensive and time consuming.

#### What is a Health Care Power of Attorney?

A Health Care power of Attorney appoints someone to make medical decisions for you only in the event you are unable to do that yourself. If you need someone to do this for you and you do not have a Health Care Power of Attorney, your family will have to go to court to have a guardian appointed, which is costly and time consuming. A Health Care Power of Attorney keeps family members from fighting over whether to keep a loved one on life support **and over other important decisions.**

#### What is a Living Will?

A Living Will is a declaration of your instruction or preference that your life not be preserved by extraordinary measures if you suffer dementia, are in a vegetative state, are terminally ill, or are in a coma thought to be permanent. A Living Will relieves your family members of the burden on making such difficult decisions, and prevents disagreements between family members. A Living Will can be included in your Health Care Power of Attorney.

#### What Else is Involved in Estate Planning?

When we counsel clients on estate planning, we encourage them to be sure their life insurance beneficiary designations are up to date, as well as beneficiaries on pension plans and payable-on-death accounts. Also, minor children should NOT be named as life insurance beneficiaries; instead, a trust must be used since the minor children cannot legally own property. An attorney can explain different options for solving this problem.