



## ESTATE PLANNING: COVERING ALL YOUR BASES

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Estate planning encompasses an area of law that is designed to help a player manage their assets, finances, liability exposure, medical emergencies, and retirement issues. Estate planning is a prudent protection strategy because professional athletes have unique earning opportunities, are targets for investment schemes, suffer from a high rate of divorce, and need privacy protection.

Specifically, estate planning:

- Plans for the management and protection of an individual's assets and business interests during their lifetime
- Plans for healthcare decisions in the event of a medical emergency
- Safeguards the distribution of the individual's assets upon their divorce or death

### COMMON ESTATE PLANNING MISCONCEPTIONS

#### **Misconception #1: Estate planning only comes into play when a person dies.**

Estate planning includes asset protection, liability minimization, privacy protections, and business and tax planning for individuals and families. All of these topics are relevant during a person's lifetime.

#### **Misconception #2: Estate planning is just for the wealthy.**

While estate planning can provide significant estate tax benefits, most estate planning involves setting forth one's wishes in the event: you can no longer make decisions on your own; are unavailable for a period of time; want to make provisions for the smooth operation of your business; want to decide how your assets will be split in case of a divorce; or want to outline how your estate should be distributed upon your death.

#### **Misconception #3: Estate planning is just for married people with children.**

The need to engage in estate planning is applicable to all, especially those who are single. Without proper estate planning, today's laws do not adequately protect individuals desirous of financially providing for their fiancée, specific family members, or protecting a child from future creditors. Further, depending on which state laws are applied, the decisions concerning the administration of life prolonging medical treatment may be thrust upon an adversarial or disinterested family member.

## THE CORE ESTATE PLANNING DOCUMENTS (C.E.P.D.)

- “Pour Over” Will
- Trust
- Healthcare Power of Attorney
- Business Power of Attorney
- Living Will
- HIPAA Designation
- Limited Liability Entities
- Marital Agreements

### WILL

A **will** is a legal document whereby an individual sets forth how and to whom they want their estate to be transferred following their death. A **pour-over will** refers to a type of will whereby the will document specifically sets forth that the individual’s assets passing under the terms of the will are to be “poured over” into the individual’s trust and distributed according to the terms of the trust. The term **estate** generally describes an individual’s assets, including the personal belongings and real estate owned by the person at the time of their death.

#### Major Detriment of NOT Preparing a Will

If you do not prepare a valid will, you are relying on your Resident State to determine who shall receive your assets. As the State does not know you, your family situation, who you would like to receive your estate or how you would like your business affairs handled, the State should not be empowered to make those decisions for you.

#### Major Detriment of Preparing a Will and NOT a Pour Over Will

Further, by failing to execute a pour over will in conjunction with your trust, your will and trust documents may contain conflicting terms, which could greatly affect the distribution of your estate.

#### Major Detriment of ONLY Preparing a Will without a Trust

Preparation of a will alone does not avoid the administrative requirements associated with probate. The term **probate** describes the court’s process of wrapping up and distributing an individual’s estate after their death. Since the probate process involves the court system, all documents filed with the court are considered part of the public record. This unlimited access to your probate documents allows for the general public to review your assets and how they are to be distributed. Further, probate can be a costly and time intensive process. Therefore, if privacy is a concern to you and your family, you should take the necessary steps to avoid public exposure and the unnecessary court and attorney fees associated with the probate process. One of the simplest ways to avoid probate is to execute and fund a trust in conjunction with a pour over will.

### TRUST

A **trust** is a legal entity that is used to hold legal title to an individual’s property (e.g. your residence, real estate holdings, bank accounts, investment accounts). A **trustee** is an individual or institution who is appointed in the trust document to safeguard the trust property for the trust’s beneficiaries. Trust **beneficiaries** are the individuals who benefit from the distribution of the trust’s assets.

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## Major Benefits of Preparing a Trust

- 1) Avoids probate
- 2) If out of state property (e.g. a second home) is an asset titled into the decedent's estate and the trust is properly funded, the family or trustee will not have to probate the property in the out of state jurisdiction where the property is located
- 3) Allows you to establish rules specifying to whom, when and how a beneficiary can inherit trust property. For example, if you name your children as trust beneficiaries, the trust can contain guidelines establishing the ages the beneficiaries can receive a distribution of their inheritance as well as how the children can spend their inheritance
- 4) Provides tax saving benefits through tax minimization planning
- 5) Provides a cost effective method for estate planning when compared to the costs associated with probating an estate
- 6) Allows for protections against a beneficiary's creditors in the event of their divorce

## HEALTHCARE POWER OF ATTORNEY

A **Healthcare Power of Attorney** is a revocable document authorizing an appointed agent to make medical decisions in the event the person creating the power of attorney is unable to make medical decisions for themselves. This type of document is commonly executed between family members.

## BUSINESS POWER OF ATTORNEY

A **Business Power of Attorney** is a document that is used by an individual to appoint an agent to act on their behalf. A business power of attorney is a very powerful document requiring the careful drafting of its terms. Failure to properly prepare a business power of attorney could result in the granting of unnecessary powers to the agent. Conversely, failure to create a business power of attorney could result in the inability to perform necessary business functions in the event of incapacitation or an inability to physically sign time sensitive documents.

While the scope of a business power of attorney can vary, the powers included will range from being able to manage all of a person's financial affairs (called a **general business power of attorney**) to only performing specific tasks (called a **limited business power of attorney**). Although these documents can generally be revoked at any time, they are powerful documents requiring careful consideration when selecting an agent and the scope of their authority.

## LIVING WILL

A **Living Will** is a document that informs your doctors as to the medical measures you want or do not want taken in the event you can no longer make these decisions for yourself. Specifically, this document deals with the decisions concerning whether you want life prolonging medical procedures taken, or only those procedures used to alleviate pain and promote comfort. This document is used in conjunction with a healthcare power of attorney. As evidenced by the highly publicized and controversial Terri Schiavo case, failure to prepare a living will and healthcare power of attorney can result in unintended consequences.

## HIPAA DESIGNATION

A **Health Insurance Portability and Accountability Act (HIPAA)** designation is a document that allows for the release of protected healthcare information to identified individuals in order to assist them in making informed decisions about medical treatment and the payment of medical bills.

## LIMITED LIABILITY ENTITIES

**Limited Liability Entities** are types of business entities that limit the liability of its members. These entities play an important role in asset protection, tax planning, and privacy protection planning. Unfortunately, not all entities provide the same protections to their members, due to differing state laws. Therefore, it is important to consult with an experienced asset protection attorney to ensure that the correct entity is utilized to provide liability protection, asset protection, and privacy protection for your specific situation.

## MARITAL AGREEMENTS

**Premarital or Postmarital Agreement** is simply an agreement between two people, prior to or after their marriage, setting forth how the assets they acquire during their marriage are to be divided in the event of a divorce or death. Further, a marital agreement can also be used to maintain the separate nature of property acquired prior to marriage. Marital agreements have a negative connotation, but they can be very helpful especially when considering the alternative, which is to file a law suit to stop the state or federal government from dictating how your marital assets are to be divided.

## CONCLUSION

By properly implementing these Core Estate Planning Documents -- and when required, advanced estate planning documents -- the associated benefits far outweigh the legal uncertainty associated with failing to act. Further, the upfront expenditure of time and money will routinely be far less than the time, energy, and costs associated with probating your estate, especially when dealing with out of state property. Most important, though, is the emotional and financial security that proper estate planning provides to your loved ones. Lastly, a portion of the costs incurred in the estate planning process is tax deductible.

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## ATHLETE WEALTH MANAGEMENT GROUP

The Athlete Wealth Management Group is a Family Office providing professional athletes coordinated financial planning in addressing their cash management, tax, investing, insurance, and estate planning needs.

Headquartered in Los Angeles, AWM Capital serves as your personal Chief Financial Officer in helping you navigate the complexities of wealth so you can remain focused on your career, passions, and loved ones.

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### Company Facts

34 Years of Athlete Wealth Management Experience  
\$1.2 Billion Assets Under Management

### Client Profile

51 Major League Baseball Players  
32 1<sup>st</sup> Round Draft Selections  
28 Median Age

### Advisor Experience

4 Former Professional Athletes  
10 Certified Financial Planners (CFP®)  
3 Certified Public Accountants (CPA®)  
3 Chartered Financial Analysts (CFA®)

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