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BUSINESS LAW, EMPLOYMENT LAW, REAL ESTATE,  
WILLS, TRUSTS & ESTATE PLANNING, PROBATE

## Your Important Estate & Disability Documents & Instructions for Your Loved Ones

In the event of an emergency [or your incapacitation or death], do your loved ones know where to locate your important Estate & Disability Plan Documents? Here is a checklist of the important documents *you should have* and *you should locate* in a place that is known to your loved ones:

- ✓ **Health Care Power of Attorney**—this document designates who can make health care decisions for you when you are unable or incapacitated to do so for yourself.
- ✓ **General Power of Attorney**—this document designates who can make financial and other important life-decisions for you when you are unable or incapacitated to do so for yourself.
- ✓ **Tax Returns for the last 3 years**—these documents will help show a road map of your most current and recent financial life.
- ✓ **Living Will**—this document provides your wishes about the use of life sustaining medical treatments when you have been medically determined to be in a persistent, unchangeable, unresponsive condition.
- ✓ **Last Will & Testament**—provides your plan of distribution of your assets at death—including real estate, personal property, stocks, bonds, automobiles, etc. CAUTION: Decisions made at the bank can inadvertently and unintentionally UNDO the decisions you expressed when you made your will. For example, bank accounts that are signed up as “joint & survivorship” or “payable upon death” can UNDO your decision to distribute the money in your account equally to all of your children if only one child’s name is on the signature card at the bank as the surviving sole owner. A person’s Last Will & Testament must be processed through the Probate Court. However, distribution of a person’s assets can be made outside the Probate Court process—thereby avoiding probate fees, costs and public recording of your personal assets—if a Trust is established and if the Trust is funded by a person. See “Trust” below;

- ✓ **Trust**—a legal entity established by a person who wishes to avoid the Probate Court process of distributing his or her assets at death by describing his or her wishes in a legal document that identifies a Trustee to act on behalf of the individual to hold and distribute the assets controlled by the Trust.
- ✓ **Life Insurance**—at death the proceeds of the insurance policy are distributed to the policy holder’s Named Beneficiary—which can be an individual or a Trust. It is critical to be sure the Named Beneficiary is up-to-date with your wishes, especially if the insurance funds are meant to fund the Trust and then to be distributed under the terms of the Trust. **CAUTION:** Do not leave one child as the named beneficiary of an insurance policy and expect that they will equally distribute the funds to their siblings. Your intention can be defeated two ways if you do this: 1) if the tax rate of the named beneficiary is higher than their siblings and the insurance is taxable, the amount to distribute to the siblings will be reduced by the taxes paid by the named beneficiary; or 2) the Named Beneficiary is under no legal obligation to actually distribute the insurance proceeds equally to his or her siblings, despite your intentions. The Named Beneficiary designation controls the distribution rights to the insurance proceeds.
- ✓ **Safe Deposit Box**—if you have safe deposit boxes, do your loved ones know of their existence and do they have a key or access code to open them?
- ✓ **Automobile Title**—if your automobile title has not been transferred to a Trust, do your loved ones know where your automobile title is located? Note: there are spousal rights to transfer a vehicle without Probate court action and a car title can contain a transfer on death [TOD] designation to transfer that specific vehicle without involving the Probate court.
- ✓ **List of Current Debts**—Outline and periodically update your list of creditors, if any, to make it easier on your Trustee or the Administrator of your Estate to pay such creditors.
- ✓ **Disposition of Bodily Remains**—in Ohio, this is a document that describes your instructions or preferences for your funeral, burial and religious observances, if any, at your death.
- ✓ **List of Bank Accounts**—list all bank, financial and investment accounts and the names of all financial institutions with their account numbers, pin numbers, passwords or other means of accessing the account information
- ✓ **Digital Assets**—if you have a Google account, Facebook page, Twitter Account, iTunes or other social media accounts, you will need to determine what to do with the content of such accounts/ sites at your death. Passwords and log-in information, as well as your intentions for removal or management of the accounts should be addressed according to the social media account agreement, i.e. when you registered or opened the account, as well as in your General Power of Attorney, and in your Will.