



**Woodinville Law**

Real Estate & Estate Planning Attorneys

# PROTECTING WHAT'S IMPORTANT

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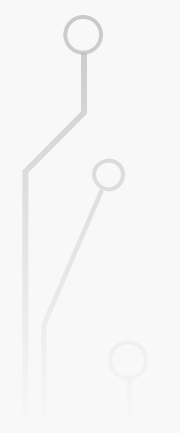
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# ABOUT US


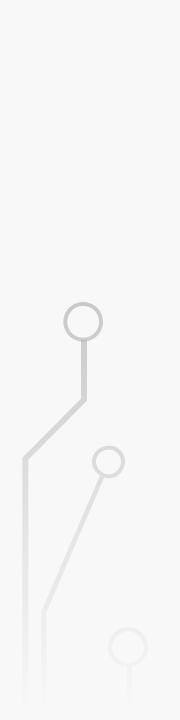


- The Woodinville Law is a small boutique practice located in downtown Woodinville.
  - Focus is primarily on Estate Planning and Real Estate matters
  - Estate Planning Matters
    - Wills, Revocable Living Trusts, Durable Power of Attorney, Health Care Power of Attorney, Living Wills.
  - Real Estate Matters
    - Purchase Sale agreements, Lease agreements, LLCs
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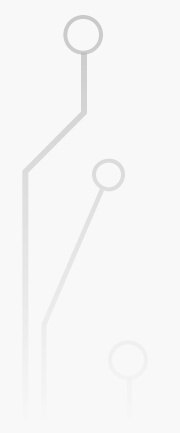
# ESTATE PLANNING OVERVIEW



- Last Will and Testament vs. Revocable Living Trust
  - Probate
  - Durable Power of Attorney
  - Healthcare Power of Attorney
  - Healthcare Directives
  - Firearm Trust
  - Limited Liability Companies
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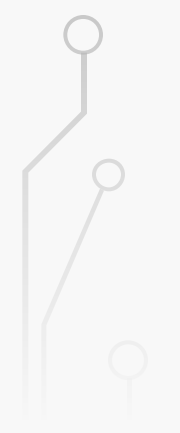
# LAST WILL AND TESTAMENT

- A Last Will and Testament is a legal document instructing your “Personal Representative” aka “Executor” to distribute assets to named individuals
  - You must be 18 years of age and of sound mind to execute a Will
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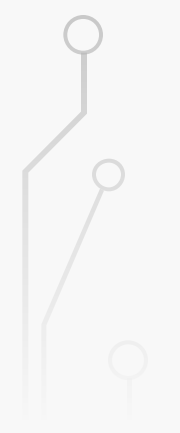
# LAST WILL AND TESTAMENT



- Three requirements in Washington
    - In Writing
    - Signed by the testator
    - Attest by two or more competent witnesses
    - Plus notary\*
  - Wills only going into effect after your death
    - During life, they have no control over any of your assets
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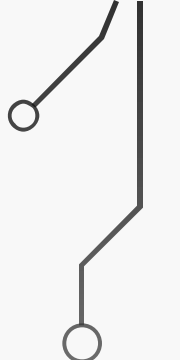

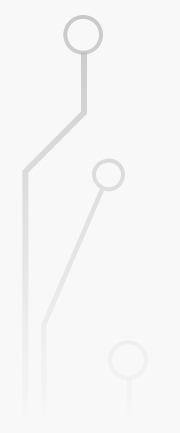


# PROBATE 101

- What is probate?
  - Probate is the type of lawsuit that gives an executor or administrator legal authority to act on behalf of the deceased person in order to transfer their assets to the new owners
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# PROBATE 101

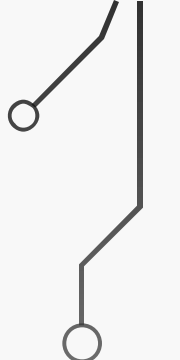

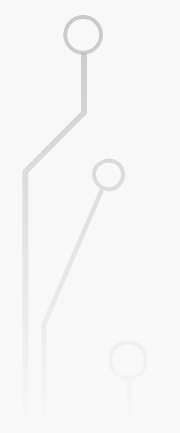
- A Will has no legal effect until a judge accepts it and officially opens probate
  - Court will issue a single piece of paper called “Letters Testamentary” (died with a Will) or “Letters of Administration” (died without a Will)
  - These documents give someone legal authority to sign listing agreements, purchase and sale contracts, and do all other things for estate administration
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# PROBATE 101

- Is Probate Required?
- It depends. When the 1<sup>st</sup> spouse dies, it is very rare that a probate will be required
- “Lack of probate affidavit” or “Surviving spouse affidavit” generally works unless:
  - Real estate titled just in deceased spouse’s name
  - Bank account titled just in deceased spouse’s name
  - No beneficiary listed on account where required


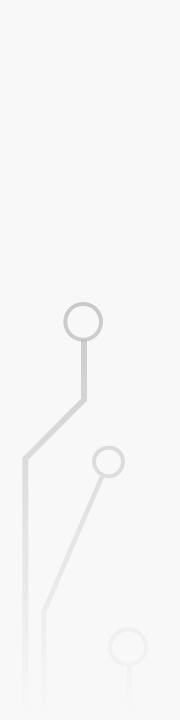


# PROBATE 101

- Fastest possible Probate is 4 months and 2 days, practically 6 months
  - As soon as letters are issued, sales can happen
  - Sale proceeds should not be distributed to heirs until statute of limitations has run for creditors (4 months), proceeds instead are just deposited into the estate checking account
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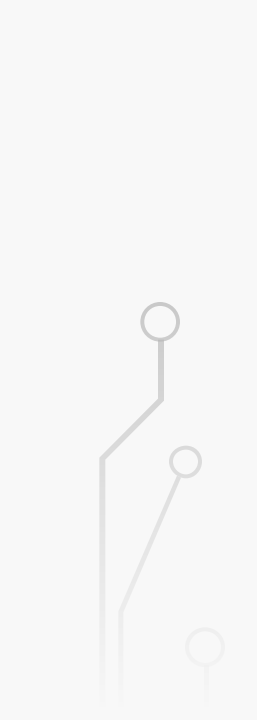


# ADVANTAGES OF A WILL

- They are simpler
  - A Will is less expensive
  - Requires less maintenance
  - A Will requires Probate to be initiated resulting in a standardized set of steps to be followed
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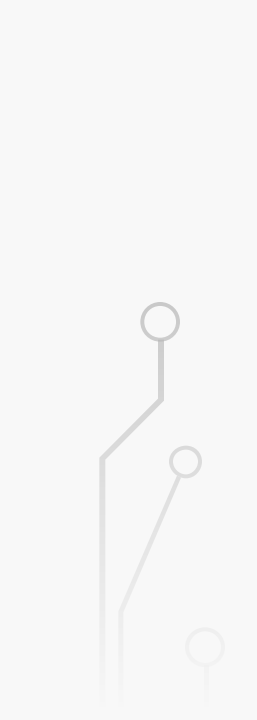


# REVOCABLE LIVING TRUST

- Another Estate Planning tool which provides direction to your “Trustee” on how to distribute assets
  - Unlike a Will, a Revocable Living Trust goes into effect during your lifetime
  - Your trust “owns” your assets and allows your Trustee to manage your assets as needed
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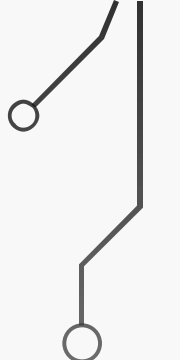


# ADVANTAGES OF A REVOCABLE LIVING TRUST

- Avoids probate
  - Manages assets during an individual's incapacity
  - Privacy – This isn't bulletproof, but it helps
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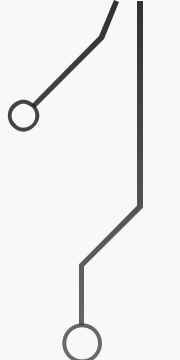


# LIVING TRUST FAQ<sub>s</sub>

- What happens if all my assets are not in the trust?
    - Pour-Over Will, Probate is triggered
  - Does a trust protect assets from creditors or lawsuits?
    - It depends.
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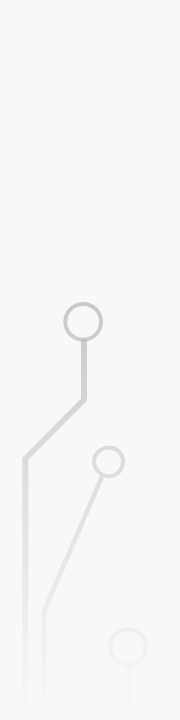


# WHICH CHOICE IS BEST?

- The answer is personal, but things to consider are
    - Categories and locations of assets
    - Plans to have property in multiple states
    - Plans to move around a lot
    - Double level of incapacity protection
    - Privacy (life privacy, death privacy)
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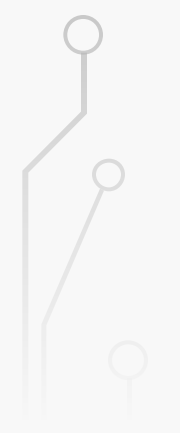


# DURABLE POWER OF ATTORNEY

- Appoint someone known as your “Agent” or “Attorney in Fact” to act on your behalf
  - Financial affairs only – No authority to act for health care matters
  - Will have ability to act on your behalf without you being present
  - Vital if you become incapacitated
    - Pay bills
    - Receive mail
    - Deal with real estate or other investment matters
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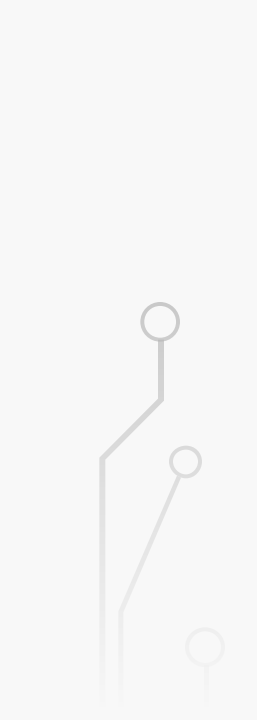


# DURABLE POWER OF ATTORNEY - BENEFITS

- Saves an incredible amount of expense and hassle
  - Without a Durable Power of Attorney, those responsible must go to court and be appointed as your guardian
    - Attorney fees far outweigh the cost of a Durable Power of Attorney set up cost
    - Very cumbersome and court is then involved
  - Can have uses outside of incapacity such authority to act while you are away on vacation, etc.
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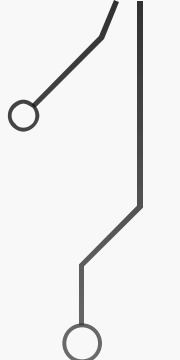


# DURABLE POWER OF ATTORNEY- RISKS

- You must be able to absolutely trust the person that you name as your agent
  - They will have the power that you have over all of your financial affairs
  - There are some safeguards
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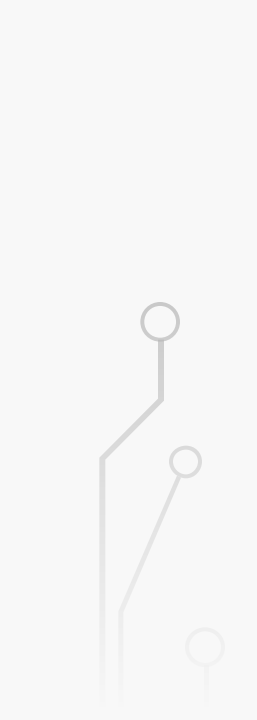


# METHODS TO REDUCE RISK

- “Springing” vs. Immediate Powers
    - Can also make the document take effect upon “incapacity”
    - Can make the Durable Power of Attorney take effect upon signing
  - Multiple Agents
    - May be good if there is no clear choice on whom to appoint as a single agent
    - Can have majority or unanimous consent required
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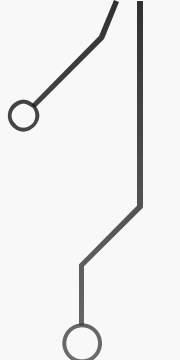


# HEALTHCARE POWER OF ATTORNEY

- Appoint someone as your "Healthcare Agent"
  - If you cannot make your own healthcare decisions due to incapacity your agent will make them for you
  - Generally, someone close in location is best
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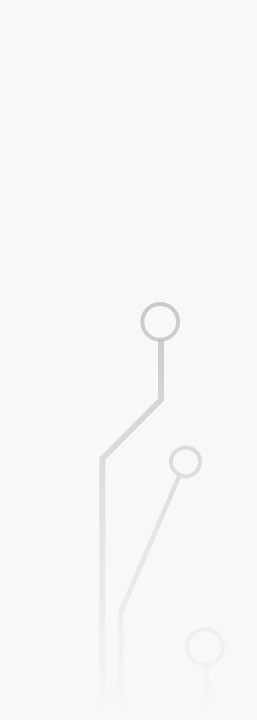


# HEALTHCARE DIRECTIVE

- Also known as a Living Will
  - Used to help a decision maker/agent make sometimes very hard end of life decisions
  - Usually only take effect if the client is in a “persistent vegetative state” or “irreversible coma”
    - There are third party forms out there that go through many more scenarios
  - Outlines what types of medical care you wish to have and what kind of medical care that you do not wish to have
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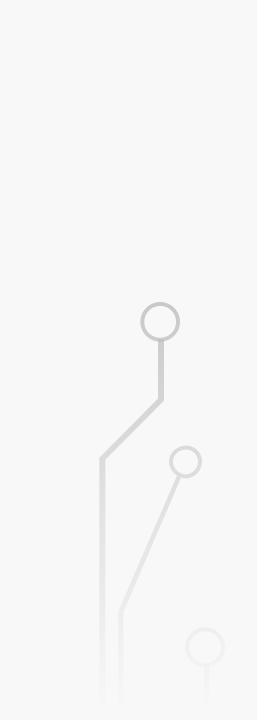
# HEALTHCARE POWER OF ATTORNEY VS. LIVING WILL

- If your healthcare power of attorney does not agree with the choices on your living will, then what?
  - There's a predetermined prevailing party
  - Generally, the recommendation is to allow your healthcare power of attorney to have the final say
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# ANATOMICAL GIFT FORM



- Another part of a living will
  - Outlines what, if any, organs or body parts should be donated
    - Whole body or useable organs, etc.
  - Outlines what the donations can be used for
    - Research or transplant
  - Also outlines wishes for burial or for cremation
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# QUESTIONS?

**Disclaimer:** Everything in this presentation is for educational purposes only and does not constitute legal advice.