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Estate Planning and Elder Law

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WILLS vs. TRUSTS, an OVERVIEW

LAST WILL AND TESTAMENT

Testator/Testatrix - creator of the will

Executor/Executrix - manager of the will

Beneficiary - person(s) who are entitled to the assets which pass through the will

A WILL passes your assets to those you have indicated in this document at the time of your death. A Will is proven in the Surrogate's Court through a process called probate.

A WILL is a revocable transfer that takes effect on death. Wills have been with us since the first days of recorded history. Archaeologists have found 4,500-year-old hieroglyphics leaving property to others in Egyptian tombs.

- public record
- probate – process whereby your Will is proved in Court
 - surrogate decides
 - potential Will contests
 - costs involved
 - time consuming

TRUST

Settlor - creator of the trust

Trustee - manager of the trust

Beneficiary - person(s) who are entitled to the assets which pass through the trust

A TRUST is a private document that does not go through probate. A trust can be as simple or creative as you like and can be used to pass property at the time of your death, as well as during your lifetime.

- private
- quick transfers of wealth at the time of death
- some trusts may protect assets from death/estate/inheritance taxes
- avoids probate
- tax returns may need to be filed for trusts which may have separate tax identification numbers

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