

# Talk of the Town

## The Importance of Having Proper Legal Documents



James D. Stillman

Last month we touched on the importance of having the right financial advisor for your retirement planning. We also discussed the importance of working with an advisor who is a fiduciary, which we feel generally applies to everyone, but particularly to retirees. Those are definitely two important points to get a handle on when you're looking to get things in order in your later years, but they certainly are not the only things to be thinking about.

That leads me to another issue we come across quite often while meeting with people – **not having proper legal documents in place**. This can be a huge problem when the time comes to pass on your estate or even well before that in certain cases. I will start off by saying that we are not attorneys and we cannot give legal advice. However, as planners who

regularly work with retirees, we have seen firsthand how having or not having legal documents in place can affect families. In our experience, it's best to be sure you've got the right documents in place, because it makes things a lot easier for everyone involved in settling your estate.

In most cases, your documents should be state specific. So, if you've moved to North Carolina from another state, then you should probably have your documents updated to satisfy North Carolina law or at least have them reviewed by a North Carolina attorney to be sure your documents will produce the desired results. In any event, here are the four basic documents that most experts will agree that folks should have in place:

1) **Last Will & Testament** - It's really quite simple. Where do you want your "stuff" to go once you pass away? If you have a Will, then a court probate system will make sure your wishes are met upon your passing by distributing assets based on your instructions. Keep in mind that any accounts or assets with specifically named beneficiaries will not be disbursed through your Will and probate, but rather as designated on each of those accounts. Also note that North Carolina has a Will that goes into effect in the case that you do not have your own Will, but it is likely that your assets will not end up where you wish if you let it default to the Will provided by the state.

2) **Living Will** – This is what is called a health care directive. Pull the plug, don't pull the plug, and treat me this way or that way if I'm no longer capable of making that decision on my own. It's a sad thing to see families fight because this document is not in place.

3) **Health Care Power of Attorney (HCPOA)** - This is a document that gives someone of your choosing the right to execute your Living Will based on your wishes & health.

4) **Durable Power of Attorney (DPOA)** - This document gives someone of your choosing the right to make & execute financial decisions on your behalf, if you are no longer able to do so.

There are some other documents that can be used for more complex estates such as trusts, pour over wills, and restricted beneficiary payout arrangements, but in most cases the first four will probably suffice.

As a retirement-focused firm, our fiduciary responsibility is to not only give you the best financial advice possible, but also to make sure you have the necessary documents in place to protect you and your family. I can't express enough how important it is to have these documents in place! We have resources and referrals available for anyone that is looking to get their legal documents in order. All you have to do is ask. Bottom line is this, if you've not taken care of these documents, get it done!

Be sure to tune in to "The Safe Harbor Retirement Planning Show" every Saturday at 10am and Wednesday at 8am on WSIC AM 1400 & FM 100.7. Also, feel free to check out our website for a ton of information, lists of our free reports, our uploaded radio shows, to request copy of my book "Finding Safe Harbor in Retirement" or a free consultation, or to sign up for any of our upcoming seminars.

**And, as always, remember: The purpose of the money dictates where you put it!**

Until next month,

James D. Stillman

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119-F Poplar Pointe Drive

Mooresville, NC 28117



James D. Stillman is a licensed insurance professional, Registered Financial Consultant, and Investment Advisor Representative. He is the founder and president of two companies: JDS Enterprises, Inc. and JDS Wealth Management Corporation, a Registered Investment Advisory Firm.

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