New Resource from Sawyer & Sawyer Clarifies Key Differences Between Wills and Trusts in Florida

February 18, 2026

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Estate planning firm Sawyer & Sawyer, P.A. has released a new educational feature titled "Do I Need a Will or a Trust in Florida? Here?s How to Decide", offering clarity for Floridians navigating the often-confusing decision between wills and trusts. The article features insights from attorney Tom Moss, who draws on decades of experience helping families protect their legacies through estate planning, elder law, and special needs trusts. The release comes at a time when local families face growing uncertainty about probate, homestead protections, and the need for personalized legal guidance.

The resource explains that while many believe a simple will is sufficient, a will?no matter how straightforward?must go through probate court. In contrast, a properly funded trust can help families avoid court entirely. ?A will is probate,? Moss explains in the article. ?There?s intestate probate when you don?t have a will, and testate probate when you do. Either way, court oversight is required.? This distinction is often misunderstood, leading families to make estate planning decisions based on incorrect assumptions about the simplicity and effectiveness of wills.

The article emphasizes that estate planning is not one-size-fits-all. Factors such as fiduciary availability,

beneficiary structure, asset types, and family dynamics all influence whether a will or trust is more appropriate. According to Moss, even individuals with modest assets may benefit from the privacy and control a trust offers?especially in cases involving special needs beneficiaries, second marriages, or concerns about creditors and lawsuits. In Florida, where homestead protections and property tax exemptions can complicate estate planning, choosing the right legal tool requires knowledge of local laws.

One of the most common mistakes Moss sees is clients creating a trust but failing to fund it. Without retitling accounts or executing beneficiary designations, the trust has no assets to control?rendering it ineffective at death and subjecting the estate to probate. The article highlights the importance of actively managing and updating trusts, noting that documents must evolve with family changes, legal updates, and shifting goals. A trust that names a minor child as trustee, for example, may be appropriate now but could require revision in the future.

The release also underscores the risks of do-it-yourself estate plans, especially in a state like Florida with unique homestead laws. Improperly executed documents, vague language, or selecting the wrong fiduciary can all lead to outcomes that contradict a person?s wishes. Moss advises that even those with out-of-state documents should have their plans reviewed to ensure alignment with Florida statutes. ?Even if your trust worked in Michigan, it might not work here,? he cautions.

The difference in timing between a will and a trust is another key factor. A will only becomes effective after death and must be validated in court, whereas a trust becomes effective immediately upon signing and funding. This enables a trust to not only avoid probate but also provide protection in the event of incapacity, eliminating the need for guardianship proceedings. Without a trust or durable powers of attorney in place, families may be forced into costly, court-mandated solutions if a loved one becomes unable to manage their own affairs.

In addition to explaining the legal and logistical differences between wills and trusts, the article introduces a broader framework for estate planning. Every Floridian, regardless of the size of their estate, should have foundational documents such as a healthcare surrogate, living will, HIPAA release, and durable power of attorney. These tools allow family members to act during incapacity and complement either a will or a trust upon death.

Sawyer & Sawyer, P.A. offers comprehensive estate planning services for clients across Central Florida, with special attention to those navigating complex family dynamics, special needs considerations, or elder care planning. By releasing this latest article, the firm aims to help residents better understand their options and make confident, informed decisions about how to protect their family, assets, and future.

To access the full article, visit Sawyer & Sawyer. For more information about Sawyer & Sawyer?s estate planning services, visit www.sawyerandsawyerpa.com. Reporters seeking interviews with attorney Tom Moss can contact the firm directly.

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