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# Best in Law: Estate Planning Essential for Business Owners, Too

Damian Northcutt Explains in the *Riverside Press-Enterprise* How an Estate Plan Can Provide for How a Business Will be Run After Death or Retirement



By Damian Northcutt

While business owners frequently devote substantial resources to growing their business, they often forget to think of themselves along the way.

A solid bottom line is important; however, equally important, is that business owners properly manage their own personal health and financial affairs. A good estate plan can accomplish both of these goals, while also providing for how a business will be run after death or retirement.

An estate plan should include a will, a trust, an advanced healthcare directive and a power of attorney for finances.

## Will

A will is a legal instrument that allows a person to specifically gift property after their death. It can also identify burial wishes and designate guardians for minor children.

The benefit of a will is that it allows an individual to dictate how an estate will be distributed once he or she has passed. If a person dies without a will in California, their property generally passes to their heirs (or ultimately to the state of California if none exist).

While a will is a necessary component of any estate plan, having one will not necessarily avoid probate.

## Trust

In California, subject to a few exclusions, all estates that have a gross value more than \$150,000 are subject to probate. The probate process involves numerous court hearings and can be lengthy and expensive. So, it's preferable to avoid probate when possible.

## People



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One way to do this is to put personal and business assets into a trust. For business owners, a trust can be extremely beneficial as it can clarify who owns the business after death, provide a succession plan and further guide how the business will continue to run.

### **Advanced health care directive**

An advanced health care directive allows a person to decide their health care wishes in advance of a medical condition in the future. An agent is designated to act on their behalf to make health care decisions should the person become incapacitated. It also allows for end-of-life preferences, such as whether to use a feeding tube or ventilator.

### **Power of attorney for finances**

A power of attorney for finances allows a person to dictate what should happen to their finances if they ultimately become incapacitated. A designated agent can have authority to write checks, pay bills, pay taxes, etc. This can be particularly useful for small business owners if they ultimately are incapacitated and have not decided who will run their business in their absence.

Having an estate plan is a smart decision. It's important to have mechanisms in place that protect you and your business. With proper estate planning, you can ensure that your health care and financial decisions are known. You can protect your family from a lengthy and costly probate process, and ensure that your business is properly handled after your death.

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