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## **MISTAKES AND MISCONCEPTIONS: STILL NEED A WILL**

*Estate planning, whether simple or complex, requires careful attention to details which, if overlooked or misunderstood, can undermine the plan's effectiveness. We will devote space in each issue to highlight common estate planning mistakes and misconceptions.*

Don't be fooled into thinking that, if you create and implement a Living Trust, you will not need a Last Will and Testament. While a Living Trust is considered a "testamentary substitute," a way of transferring assets while avoiding the probate process, a Will is still an important part of your estate plan.

If you have minor children, the Will names the person whom you wish to be appointed as their guardian in the event of your death. Even if you have no children - or they have already grown - no estate plan is complete without a Will.

A Trust will avoid probate only as to the assets that have been transferred to it before your death. Sometimes, we forget to transfer all of our assets. Sometimes, assets become part of our estate after we die. For instance, a rebate check, health insurance reimbursement, or repayment of a debt after death is not part of the Trust. If we die as the result of an accident or malpractice, and a lawsuit results, the recovery against the responsible party is outside of the Trust. The Will appoints an executor who will collect the assets, or commence the suit, and directs the disposition of the "new" assets. The Will may simply direct that the assets "pour-over" to the Trust, so that they are

distributed in accordance with your plan, but it is still an integral part of your estate plan.