

## What Do Estate Planning and Shoes have in Common?

Surprisingly, estate planning and footwear share many similarities. Let's see how:

- Like estate plans, shoes protect you from unexpected obstacles in your path. Like a great pair of shoes, a good estate plan prepares you for any contingency.
- When choosing shoes, you need to consider the whole wardrobe. When designing an estate plan, you must consider all assets, even those which will not be governed by the Will or Trust, such as retirement plans and joint tenancy property.
- In order to stay in style, your shoes must be updated periodically. Estate plans, too, must be updated periodically. Changes in circumstances and laws necessitate revisiting your plan periodically.
- Most importantly, a good fit is essential with a pair of shoes and with an estate plan. A poor-fitting pair of shoes, even if attractive, can leave you and your feet miserable. Likewise, an estate plan that does not fit your current situation will not achieve your goals.

Obviously, choosing an estate plan that is right for you is a bit more complicated than choosing a pair of shoes. A basic estate plan consists of a well thought out, integrated plan which should include the following documents:

- **Trust.** This holds title to your property and avoids probate and public scrutiny of your affairs. It can be extremely flexible and provide direction for your assets and heirs for years to come.
- **Will.** At death, this can transfer any remaining assets to your Trust.
- **Financial Power of Attorney.** This appoints a trusted person to make financial decisions if you are unable to make them for yourself.
- **Living Will.** This authorizes termination of life support if you are terminally ill and would not live if not for life support machines.
- **Health Care Power of Attorney.** This appoints a trusted person to make health care decisions for you when you are unable to make them for yourself.
- **HIPAA Authorization Form.** This designates those individuals who are allowed access to your protected health information. Without this important power, a health care provider like a hospital may refuse to provide any information to your family, including whether you are even in their care.

At the Deason Law Firm, we are focused on estate planning and can help you craft a plan that is tailored to your unique needs. For finding a good pair of shoes - you're on your own! **CALL Mary at 783-4575 to schedule an appointment with one of our attorneys.**

Deason Law Firm  
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## All I Need is a Power of Attorney - Right?

Many times a client will request a Power of Attorney along with a Will, believing that when incapacity arises, there will be no problems. Unfortunately, when a person becomes incapacitated, and already has a Power of Attorney, many times what follows is a protective proceeding like a Guardianship or Conservatorship. So, why have a Power of Attorney at all?

A Power of Attorney is an Agency relationship, where a Principal names another person to act on his behalf, with specified powers to carry out particular action. Powers of Attorney can be *immediate*, meaning that the Agents power to act is effective upon the Principals signing the document. Or, the Power of Attorney can be "springing" which means that the Agents powers only exist upon the occurrence of a specific event.

Two very common types of Powers of Attorney are Springing Durable Health Care Powers of Attorney and Financial Powers of Attorney. For the most part, a Health Care Power of Attorney will be "Springing" because one would not want to turn over health care decisions to another. But, these are not the only types that exists. Sometimes there are Specific Powers of Attorney that can be drafted for a very limited and unique purpose. Many Specific Powers of Attorney are seen in the context of real estate transactions.

A well drafted and comprehensive estate plan will include both Health Care Powers of Attorney and Financial Powers of Attorney. In Arizona, it is important however that if the Health Care Power of Attorney is to be used potentially for Medicaid planning, then the Agent must have the specific powers to make transfers and take other necessary actions relative to obtaining Arizona Long Term Care Services (ALTCS) eligibility. Otherwise, Arizona law will prohibit actions that may ultimately result in self-dealing.

By contrast, when an individual creates an estate plan, a client should discuss with his attorney whether the Financial Power of Attorney will be available for use in all situations regarding one's assets. Since there is no law in Arizona requiring a third party to accept a power of attorney, it is suggested that an additional non-probate estate planning entity such as a trust be prepared. The reason here is that if a Power of Attorney is rejected and assets are in the name of an incapacitated person, then a family member will need to petition the court for a conservatorship. But, with a trust, the need for a conservatorship is avoided because a Successor Trustee will be able to step in and manage assets as the Fiduciary of the trust estate without court appointment. Nevertheless, a Power of Attorney is a necessary piece in planning an estate.

If you are interested in scheduling an appointment to discuss these issues or others, then call (928) 783-4466 to schedule an appointment with Robert M. Way. Mr. Way is a member of the Board of Directors of the Arizona Chapter of the National Academy of Elder Law Attorneys (NAELA).



Larry Deason

At the Deason Law Firm, we will work with you to customize your unique estate plan to protect, preserve and pass your legacy to your family and loved ones exactly how you desire. To eliminate the risk of planning, all our estate plans come with a 100% service satisfaction guarantee. It's very simple, *estate planning is what we do...* and we look forward to your family joining our family.



Robert Way

*Larry Deason and Robert Way are members of the American Academy of Estate Planning Attorneys. The AAEP is a member organization serving the needs of legal professionals concentrating on estate planning. Through the Academy's comprehensive training and education programs on state-of-the-art estate planning law techniques, it fosters excellence in estate planning among its members and helps them deliver the highest possible service to their clients.*

This is a complimentary, educational newsletter. If you are NOT interested in receiving this information in the future, please contact Mary at 783-4575.

*Or current resident*

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Estate Planning... It's What We Do!  
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