

**DAVENPORT'S  
FLORIDA WILLS  
AND ESTATE PLANNING  
LEGAL FORMS**

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# CHAPTER 1

## GUIDE TO FORMS AND BOOK USERS

### IN THIS BOOK ARE 11 FORMS BUT MOST PEOPLE ONLY USE A FEW

In this book 11 forms are provided but most people only use a few. The forms are:

**Form 1. Last Will And Testament (Standard)** (this controls things after death like property and money, picks an executor to handle things, and say less costly options can be used);

**Form 2. Last Will And Testament (Guardians)** (this is a Will to control things after death with a Guardians paragraph for those with minor child or giving things to persons under 18);

**Form 3. Self-Proving Affidavit** (often done to later help show a Will was signed correctly);

**Form 4. Tangible Personal Property List** (lets a person easily write down outside a Will wanted gifts of “tangible personal property” like clothes, furniture, tools, cars, and jewelry);

**Form 5. Living Will** (lets person say if ever in extreme bad health that treatment of little help should not be given, and if wanted lets a person be named “surrogate” to control this);

**Form 6. Health Care Surrogate** (lets person be named “surrogate” to control if needed health care (in general not just extreme situations), and also lets instructions be given);

**Form 7. Do Not Resuscitate Order** (often called a D.N.R. this shows paramedics and others not to try restarting the heart or breathing (cardiopulmonary resuscitation/CPR);

**Form 8. Final Wishes** (lets orders about funeral, burial, and related matters be given);

**Form 9. Codicil** (lets one make changes to an existing Will, but most just do a new Will);

**Form 10. Durable Power Of Attorney** (also called “Financial Power Of Attorney” lets power over money, property, and more be shared with someone so they can do things);

**Form 11. Power Of Attorney Of Parent** (lets parent give power to someone over a child such as school, medical care, school, and home matters to help if parents are not near).

# **CHAPTER 6**

## **FORM 1: LAST WILL AND TESTAMENT (STANDARD)**

### **FORM 1 IS A WILL WITH GUARDIAN PARAGRAPH**

Form 1 is a Will to help control things after a person's death. Form 1 has no "Guardians" paragraph so is for a person without child under age 18 and also not giving property or money to any minor under age 18. A Will is often called a "Last Will And Testament" and a person writing it called "Testator". Anyone of sound mind at least age 18 can write a Will.

### **WILL IN FORM 1 HAS BASIC LAYOUT WITH SEVERAL PARTS**

The Will in Form 1 has a basic layout with several parts.

Right away in the Will there is a place for the person making the Will who is called the Testator to write his or her name and last county of residence in the state.

The 1st paragraph, "Gifts", has many spaces to use if wanted to write gifts of specific property, or general gifts of money or categories of things.

The 2nd paragraph, "Gift Lists", says any gift lists people did should be followed.

The 3rd paragraph, "Residue", has the helpful "residue clause" to give anything not given elsewhere to persons who are named in this paragraph.

The 4th paragraph, "Administration", has space to name a Personal Representative (also called an executor) to handle matters after the Will maker's death.

The 5th paragraph, "Guardians", lets one name a "Guardian Of The Person" to if needed care for children under 18, and lets one name a "Guardian Of The Property" to if needed manage and spend on them a child's or other minor's property until 18.

The 6th paragraph, "Miscellaneous", has several sentences of legal language written to help avoid certain legal problems.

Finally, there is a place for person doing the Will and 2 witnesses to sign. Please note, by signatures are spots for names of people to be written in by pen or computer.

### **RESIDUE CLAUSE HAS 2 PLACES TO NAME PERSONS**

Please read earlier in this book about the residue clause. In a Will residue clause anything leftover not gifted earlier in a Will goes to those named here. This often is called a "catch-all" or "left-over" clause. Many use a residue clause to gift most things as it has less

# LAST WILL AND TESTAMENT

I, \_\_\_\_\_ of \_\_\_\_\_ County, Florida, hereby make, publish, and declare this as my Last Will and Testament (called here my "Will"), and I hereby revoke any Wills and Codicils earlier made by me.

**1. GIFTS.** I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only for those who survive to get the gifts to them.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. GIFT LISTS.** I may leave a list or other writing giving tangible personal property as allowed by Florida or other law, and I authorize any such list and make the gifts described. Gifts in a writing not found by 60 days after my death shall abate and be of no effect.

**3. RESIDUE.** I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to \_\_\_\_\_ **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to \_\_\_\_\_ **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

# CHAPTER 10

## FORM 5: LIVING WILL

### FORM 5 CONTROLS LIFE-EXTENDING CARE THAT WOULD NOT HELP

Form 5 is a standard form found written in Florida law, and this book's form also has a question on artificial feeding that is standard to add. The form mainly lets a person give instructions about life-extending health care which would not help other than delay death.

### FORMS APPLY ONLY IF PERSON IS LATER UNABLE TO CONTROL CARE

Any where a person gives orders on health care is called an "Advance Directive". Such forms apply when doctors find a person is unable to control health care themselves which is called being "incapacitated" (like due to unconsciousness, inability to think clearly, or inability to communicate).

### LIVING WILL FORM CAN GIVE ORDERS ABOUT STOPPING CARE

In the Living Will a person can order if there is "no reasonable medical probability of recovery" then care that only "prolongs artificially the process of dying" should not be given. People usually picks all 3 form options about when this order to stop care applies, saying it applies when: a) they have a terminal condition, b) have an end-state condition, or c) are in a persistent vegetation state. Therefore this form only applies if serious medical conditions clearly exist so it may not apply to many situations, and some people use other forms instead. The form has a place to initial to decide about artificial feeding and water (i.e. by tube), and most people say when recovery is so unlikely artificial feeding and water is not to be given. Even if a Living Will is done pain relief and comfort is still available so those pain should still seek help. More instructions can be put on a form that family and doctors must follow.

### CAN NAME SURROGATE TO CARRY OUT FORM INSTRUCTIONS

In the form is wanted a person can name someone as "surrogate" (also called "agent") to carry out the form instructions. Many people pick for this a spouse, adult child, or friend. If no surrogate is named Florida law gives power to control health care to (in order) a spouse, adult children, parents, and then other family, but naming a person in a form speeds things and can avoid problems and costs.

# LAST WILL AND TESTAMENT

I, Sharon Ann Ford of Dade County, Florida, hereby make, publish, and declare this as my Last Will and Testament (called here my "Will"), and I hereby revoke any Wills and Codicils earlier made by me.

**1. GIFTS.** I give in this section these specific gifts and general gifts including of money to the following beneficiaries but only for those who survive to get the gifts to them.

I give real property at 63 Farm Rd., Lundy, FL to Greta Olivia Smith.

I give \$12,000 to John David Walker .

I give 1.5 carat ring and all earrings to Zelda Grace Jones .

I give all my clothes to Hannah Beverly Pidoski

I give U.S. Bank account ending in #8923 to John Hatcher my cousin

I give brown couch to Ann Hill my art teacher.

I give 1998 Ford truck and 2010 Toyota car to Wilbur Frost .

I give \_\_\_\_\_ to \_\_\_\_\_.

**2. GIFT LISTS.** I may leave a list or other writing giving tangible personal property as allowed by Florida or other law, and I authorize any such list and make the gifts described. Gifts in a writing not found by 60 days after my death shall abate and be of no effect.

**3. RESIDUE.** I give the residue and remainder of my property and estate not already transferred by the preceding provisions of this Will, of any kind and nature and wherever located, whether now owned or later acquired, as follows:

a) to Gregory Henry Ford **only if they survive me** with those of these persons who survive taking the share of non-surviving persons, and

b) if none of these just named persons do survive I give this to 40% to Jo Ann Ford, 40% to Reba Ann Ford, and 20% to Jon Cobb **or their lineal descendants** which descendants shall take the share of their non-surviving relative.

## TANGIBLE PERSONAL PROPERTY GIFT LIST

I wish this to be a separate writing with gifts of tangible personal property to be carried out after my death as allowed by Florida Statutes § 732.515 or similar laws.

I know property used in a trade or business, money or coin, real property, and non-tangible property cannot be given by this writing.

I give an item listed below only if the named recipient survives me and if no specific gift in my Will gives the item.

This writing has no effect if not found by 60 days after my death.

### PROPERTY

### RECIPIENTS

<u>1998 Ford Truck</u>	is given to	<u>Samantha Bell</u>
<u>1.3 carat diamond ring</u>	is given to	<u>Rebecca Stewart</u>
<u>Italian silver jewelry</u>	is given to	<u>Ann Reed and Samantha Bell</u>
<u>14 ft power boat and kayak with paddles</u>	is given to	<u>Luke Mark Wheeler</u>
<u>Parkhurst-style bench</u>	is given to	<u>Rebecca Stewart</u>
<u>glass table and its wood chairs</u>	is given to	<u>Sue Bobiak my old neighbor</u>
<u>set of 18 silver candlesticks</u>	is given to	<u>Kara, Ann and Lucy Smith</u>
<u>my wedding dress and shoes</u>	is given to	<u>Samantha Bell</u>
<u>chainsaw serial no. 382937</u>	is given to	<u>Rebecca Stewart</u>
<u>chainsaw serial no. 89976</u>	is given to	<u>John Killian</u>
<u>antique lanterns and repair kits for them</u>	is given to	<u>Kevin Richards</u>
<u>Tucker my pet dog and all his supplies</u>	is given to	<u>Wendy Lovington</u>
<u>all sewing machines and fabrics</u>	is given to	<u>Rebecca Stewart</u>
<u>rocking chair bought in Oregon</u>	is given to	<u>Carla Rubiak</u>
<u>all fishing poles and fishing equipment</u>	is given to	<u>Ned Waterman</u>
<u>tea cup collection in 8 glass cases</u>	is given to	<u>Helen Troy</u>
_____	is given to	_____
_____	is given to	_____
_____	is given to	_____

DATE: May 22, 2018

SIGNED: Mary Laura Maxwell



# LIVING WILL

(Florida Statutes Section 765.303)

Declaration made this 7th day of May, 2015, I Brenda Gertrude Hoffsted, willfully and voluntarily make known my desire that my dying not be artificially prolonged under the circumstances set forth below, and I do hereby declare that: if at any time I am incapacitated and

BGH (initial) I have a terminal condition

or BGH (initial) I have an end-stage condition

or BGH (initial) I am in a persistent vegetative state

and if my attending or treating physician and another consulting physician have determined that there is no reasonable medical probability of my recovery from such condition, I direct that life-prolonging procedures be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying, and that I be permitted to die naturally with only administration of medication or the performance of any medical procedure deemed necessary to provide me with comfort care or to alleviate pain.

I do BGH, I do not \_\_\_\_\_ desire that nutrition and hydration (food and water) be withheld or withdrawn when the application of such procedures would serve only to prolong artificially the process of dying.

It is my intention that this declaration be honored by my family and physician as the final expression of my legal right to refuse medical or surgical treatment and to accept the consequences for such refusal.

In the event that I have been determined to be unable to provide express and informed consent regarding the withholding, withdrawal, or continuation of life-prolonging procedures, I wish to designate, as my surrogate to carry out the provisions of this declaration:

Name: Joseph Henry Hoffsted

Address: 739 178th Street, Brooksville, FL Zip Code: 34604

Phone: (850) 555-8484

I understand the full import of this declaration, and I am emotionally and mentally competent to make this declaration.

Additional Instructions (optional): \_\_\_\_\_

Signed: *Brenda Gertrude Hoffsted*

Witness: *Sallie Mae Quincy*

Address: 23 Broadway Street  
Pensacola, FL 32502

Phone: 850-555-2801

Witness: *Julie Mary Jacobs*

Address: 837 Lake Drive  
Pensacola, FL 32502

Phone: 850-555-2801

# DESIGNATION OF HEALTH CARE SURROGATE

(Florida Statutes Section 765.203)

Name: Baker Alice H  
(Last) (First) (Middle Initial)

In the event that I have been determined to be incapacitated to provide informed consent for medical treatment and surgical and diagnostic procedures, I wish to designate as my surrogate for health care decisions:

Name: Robert Harry Baker  
Address: 9237 Hatchfield Street, Jupiter, FL Zip Code: 34604  
Phone Number ( 850 ) 555-7770

If my surrogate is unwilling or unable to perform his or her duties, I wish to designate as my alternate surrogate:

Name: \_\_\_\_\_ Address: \_\_\_\_\_  
Phone Number ( \_\_\_\_ ) \_\_\_\_\_

I fully understand that this designation will permit my designee to make health care decisions and to provide, withhold, or withdraw consent on my behalf; to apply for public benefits to defray the cost of health care; and to authorize my admission to or transfer from a health care facility.

Additional instructions (optional): My surrogate has power to decide all things but I do order here rather than in a Living Will if I have a terminal condition, end-stage condition, or am in a persistent vegetative state and if doctors find there is no reasonable medical probability I will recover 1) I want life-prolonging procedures to stop that only artificially prolong the dying process and want to die naturally, and 2) I do not want food and water by procedures that only serve to artificially prolong the dying process.

If not too costly I want to stay at hospitals near my home.  
I know hip surgery may help but I do not want it due to pain and long recovery.  
My husband who I named here my surrogate knows my feelings on other care.

I further affirm that this designation is not being made as a condition of treatment or admission to a health care facility. I will notify and send a copy of this document to the following persons other than my surrogate, so they may know who my surrogate is.

Name: Wanda Kay Maxwell Name: \_\_\_\_\_

Signed: Alice Harriet Baker Date: Dec. 2, 2015

Witness 1: Sallie Mae Quincy Witness 2: Julie Mary Jacobs