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**ESTATE & BUSINESS PLANNING • FAMILY LAW • REAL ESTATE**

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## Timely Talk on Advance Directives

Sadly, our current reality with Covid-19 requires a hard look at this topic. No one wants to think about worst case scenarios, but everyone is forced to right now. So with a firm belief that factual information is helpful in times like these, let's discuss *Advanced Directives*. The term *Advanced Directive* refers to the broad category of legal and medical documents which leave instructions to your designee to carry out on your behalf in the case of your incapacity. They are intended to be used only if you are incapacitated and cannot communicate your own thoughts/wishes and, importantly, they cease to be effective when you die (because then your *Will/Trust* dictates what should be done). There are a number of different documents under the broad spectrum of *Advance Directives*:



**Durable Power of Attorney (for Health Care Matters)/Health Care Surrogate:** designates someone to make medical decisions for you if you are incapacitated and states what type of matters that designee can handle (such as speaking to doctors, accessing medical records, applying for benefits and/or transferring you to a different facility, etc.).

**Durable Power of Attorney (for Financial Matters):** designates someone to act as your "Attorney-in- Fact" ("AIF") and is NOT revoked upon incapacity. If you become incapacitated due to accident or illness and are then unable to handle your own affairs, your designated AIF is legally authorized to act in your stead. Absent a DPA, an incapacitated person would be unable to, for example, sell or buy a home because of a then-inability to sign the Contract, Deed and/or other Closing documents/Mortgage.

**Living Will:** confirms your choice to decline medical care which serves only to postpone the moment of death, even if declining means you may not survive the underlying injury, disease or illness (such as a debilitating illnesses like cancer or situations like Parkinson's or Alzheimer's Disease). If you don't have a *Living Will*, medical care providers typically seek to prolong life by artificial means (like an artificial respirator or forced intravenous feeding). That means, given today's technology, a patient can be sustained for days and weeks, if not months or years. **NOTE:** A *Living Will* is different than a *Last Will and Testament* (which is NOT an *Advanced Directive* and governs what happens to your assets and who is in charge when you die).

**Do Not Resuscitate Order ("DNR"):** a doctor's order instructing medical personnel to refrain from performing CPR or using a defibrillator if the patient goes into cardiac arrest. There are two types of DNRs, one for in-hospital and one for outside the hospital. Both are prepared by a doctor as opposed to all of the above other documents which are typically prepared by an attorney. It is important that appropriate family members and medical providers are aware of and have a copy of the DNR in case electronic records are not accessible.

**Organ Donation Form:** confirms your preference to donate certain organs at the time of death. Registration is available through a variety of sources including the FL DHSMV office when you apply for or renew a license or via [organize.org](http://organize.org) which offers a national registry database.



The CARE Act signed into law last week may be extremely beneficial to you if you have been laid off or furloughed, have a 401k or other retirement account or are taking required minimum distributions ("RMD") from retirement accounts. Ask us how we can help navigate the legal implications of the new law or refer you to a reputable financial planner or accountant to do so.

## Our Office



### *Providing Peace of Mind by Solving Problems with Integrity & Compassion*

#### **ESTATE & BUSINESS PLANNING**

Wills & Trusts • Powers of Attorney • Health Care Surrogates • Living Wills • Probate Estates • Succession Planning • Contracts & Purchase/Sale Agreements

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#### **REAL ESTATE**

Community Association Law • Residential & Commercial Transactions • Deeds • Closings



Attorney Adam S. Gumson of **JUPITER LAW CENTER** graduated from *Duke University (1988)* and the *University of Florida College of Law (1991 with Honors)*. In addition to preparing and reviewing Contracts, he primarily handles matters involving *Estate and Business Planning (including Wills, Trusts, Durable Powers of Attorney, Health Care Surrogates, Living Wills, Succession Planning, Contracts & Purchase/Sale Agreements)*, *Probate Estates, Family Law (Divorce, Custody, Alimony, Timesharing, Same-Sex relationships, Pre/Postnuptial Agreements, Modification actions and Collaborative Law)* and *Real Estate (Community Association, Residential/ Commercial Transactions, Deeds, Closings)*. He is married and resides in Jupiter with his wife and three children.

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