

## POWERS of ATTORNEY

This is the third in the series of articles on basic estate planning. In the previous articles I wrote about the need for a will and a living will. This article discusses the benefits of having a well drafted power of attorney. Simply put, a power of attorney (POA) is a document wherein a person referred to as the principal, authorizes another person, called the agent, to handle personal and or business matters for the principal. The power of attorney ends upon the principals death. However the POA can provide the necessary mechanism to manage a person's financial affairs if they become mentally or physically incapacitated.

A POA can be written for one specific transaction such as a sale of real estate or it can be very broad covering all aspects of a person's financial life. The POA can be drafted so that it only lasts for a specific time or lasts for life. The POA can also provide that it takes effect immediately upon it being signed by the principal or only upon the principals incapacitation. There are numerous other options a person has when preparing a power of attorney which should be discussed with your own attorney when discussing your estate planning needs.

The most important reasons to have a POA are to save cost and time in the event you are unable to care

for your financial matters due to a mental or physical disability. When a person becomes incapacitated and does not have a valid POA that person nor anyone on the persons behalf is able to transact any type of financial business, from writing a check for paying a bill to liquidating an investment. If you become incompetent without a POA it may become necessary to file an action in the Superior Court to have the person declared incompetent. That proceeding is expensive. The party bringing the action must have two doctors examine the person and testify in court that the person is incompetent. Also in addition to hiring an attorney to bring the action it will be necessary to pay for the services of an attorney appointed by the court to represent the interest of the alleged incompetent. Additionally if you are bringing the action on behalf of your spouse or another loved one the process is emotionally draining. As with all estate planning, being prepared for the inevitable as well as the possibilities is the most cost effective use of your financial resources.

Many clients have a concern that if they give someone a POA the person may take advantage of that authority and squander the principals life savings. From time to time we read news stories about a person loosing money as the result of an unscrupulous agent named as a power of attorney. Fortunately these

horror stories a few. It is most important to name a person as your agent in whom you have the utmost faith and trust or consider naming two persons as your single agent. This latter method will create a "checks and balances" against the agent abusing authority. Customarily a person will name their spouse or a child. Another preventive measure you can take is to keep the POA in your control, only letting your agent know where they can get it if needed.