



## **Estate Planning Pitfall Someone may challenge your durable power of attorney**

You're getting ready to sign a durable power of attorney for property to appoint someone you trust to handle a broad range of financial transactions, from paying bills to managing your portfolio to selling your real estate, should you become incapacitated. But you're afraid a family member may disagree with the person you're designating as your agent and will question your competency.

A relative could, in fact, take action to challenge your durable power of attorney in court. So before you're dragged into a legal battle, use these strategies to protect your agent choice:

**Consult an estate planning lawyer.** Doing so gives you peace of mind that you have the proper documents in place.

**Get a note from your doctor.** Your doctor can attest to your mental competency in writing. Be sure that he or she signs and dates the statement and ask your attorney to attach it to your durable power of attorney document as proof that you were mentally competent at the time of the signing. If necessary, your attorney also can testify that you were of sound mind.

**Round up witnesses.** Sign critical documents in the presence of witnesses. Then ask each witness to sign a statement declaring that you signed the documents voluntarily and with a sound mind. Statements from your witnesses can serve as further proof of your competency should challenges to your durable power of attorney for property arise.

**Show and tell.** Adding a second layer of protection with a videotaped statement of your intent to make and sign the durable power of attorney can be a good idea.

*For more information, please contact us via phone or e-mail, or visit us on the World-Wide Web:*

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