

Should I name multiple people as my Power of Attorney?

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Sometimes while meeting with a client, they express how they trust each of their children equally and unequivocally or they want to be perceived as “fair” so request to name multiple children as their power of attorney.

What is a Durable Power of Attorney (DPOA)?

A DPOA is a legal document in which you designate who you want to make legal and financial decisions for you if you cannot make them for yourself. For example, who will pay your bills or withdraw funds from your bank accounts if you cannot? “Durable” means that the power of attorney will survive the incapacity of the principal (the person who created the power of attorney). This should ensure that when you need your agent to act on your behalf, they will be able to.

Can I name multiple people as my power of attorney?

Yes, you can name more than one person as your durable power of attorney, but we generally advise against it under most circumstances.

We discourage it unless you have a specific reason and have considered the potential problems that can ensue. The reason why we do not advise more than one is in the event of a conflict. With multiple named attorneys-in-fact, there is a fear that with conflict comes indecision. Conflicts may mean

paralysis result in delays as each decisionmaker can overrule the other and in some cases the only way out would typically be a conservatorship proceeding (a lengthy, costly, and public court process). Who is in charge with multiple powers of attorney if a conflict occurs? Answer: The answer is no one (or everyone)! We generally prefer that you to name one person at a time in descending order – i.e., start at your spouse and move to children in order of priority.

What if I give each attorney-in-fact independent authority?

A client may want to give each attorney-in-fact independent authority, which means that either can take care of any financial task authorized by the power of attorney document without consulting the other.

Often financial institutions are wary of such language in a power of attorney. Therefore, they will require all attorneys-in-fact to sign off on each and every transaction, thereby defeating your intent.

If, nevertheless, you choose to name multiple attorneys-in-fact, you should be sure that your power of attorney document provides for a method of dispute resolution to avoid court. As you can see, drafting your estate planning documents, including a power of attorney, takes thought and informed decisions. Seek advice from a qualified estate planning attorney.

Do you have a suggestion for a future article topic for Attorney Walecka? Reach out to him directly with a question or topic you think would be helpful to readers.

The information contained in this article is not intended to make you an expert on estate planning nor is this article intended to replace the need for the advice of a professional. Rather, this article is simply intended to provide a basic understanding of why estate planning is important for everybody and a basic understanding of some of the more common

estate planning tools. This article does not constitute legal advice.