



## Legally Speaking - New Year's Resolution: Get Your "Affairs" in Order by Jackie Morris



A Power of Attorney is only one of three basic legal documents needed for many people to have their "affairs in order".

Sometimes people don't think ahead and plan for the inevitable: we will all die and some of us will become incapacitated. Instead, I get a call: "I have cancer" or "Uncle Joe isn't paying his bills." Suddenly, the person or the family has realized that some legal documents are needed, and quickly too.

It can be stressful to meet with the person, get the necessary details, write up the documents, review them with the person and get them signed in a short period of time. It can also be traumatic for my client, who may not know or accept how ill they are. An even greater stress for the person and the family is when the person no longer has the necessary mental capacity to go ahead with legal documents.

Their affairs cannot be put in order as they might have wished and future legal costs will be more. The Public Guardian and Trustee or the Court may become involved.

### **The three basic legal documents are:**

1. A Will ensures that your instructions are clearly and validly expressed for the transfer of your estate after your death with a minimum of taxes and legal and administrative expenses.
2. An Enduring Power of Attorney ensures that a trusted person can act for you on financial and legal matters while you are alive when you cannot act for yourself (e.g. if you are out of town or you are temporarily or permanently incapable).

3. A Representation Agreement ensures that a trusted person can make decisions for you on personal care and medical issues, based on your directions when you cannot make those decisions yourself due to illness or accident. A Representation Agreement includes a Living Will which provides your views about some medical treatments, especially when you are near the end of your life.

In my opinion, everyone needs a Will and a Power of Attorney. If you do not have a capable spouse or child or your family has serious differences of opinion on health care and end-of-life decisions, you may need a Representation Agreement.

Get your affairs in order when you are relatively healthy. You can always get new documents done, as your circumstances change. It is easier to do a new Will when you have already done one!