



Why was my Power of Attorney Denied?

While Powers of Attorney are crucial estate planning tools, allowing someone to act on your behalf for legal and financial matters, they are sometimes rejected by the very institutions they're intended for - banks and other financial entities. You may wonder, "Why isn't this working as intended?"

Consider this example: Our client appointed his niece as Agent under a Power of Attorney with immediate authority to act on his behalf. Years later, as he was diagnosed with dementia and his disease progressed, it became more routine for his niece to step up and act as the document allows. The niece went to the client's credit union to close an account using the Power of Attorney document, and the document was unexpectedly denied.

In this instance, the bank was concerned that the Agent's Certification, the statement the Agent signs certifying that they understand and accept the duties, responsibilities, and limitations of authority granted to them by the creator of the document, wasn't witnessed and notarized. By Delaware state statute, the Agent's Certification does not have to be witnessed or notarized to be valid. The bank had great intentions to protect our mutual client, and spot issues with his legal documents, they just didn't understand the law.

The niece came to our team for help and our first step was to have a conversation with the bank explaining the Power of Attorney, the language within, and the signing formalities required by law. Once the document and state statutes were understood, the bank accepted it, allowing the niece to accomplish her goal. This situation highlights reasons why Powers of Attorney may face hurdles at financial institutions:

1. One Size Doesn't Fit All: Not all Powers of Attorney are the same. Some grant very specific authorities, so review yours carefully. There are also two types of authority - "immediate" allowing instant action, and "springing" only allowing action upon proof of incapacitation. Our attorneys promote immediate authority under most circumstances noting clients may need support long before being considered fully incapacitated by way of a physician's note. Also, if clients are naming the right people for the job, then why would we want to limit their ability to help their loved one.

2. Know What to Expect: Make an appointment

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with a knowledgeable bank representative. Calling ahead will also ensure you know what documents and supporting information to bring. Most institutions have a legal department that reviews these documents, potentially delaying acceptance for days or weeks. Your understanding of what will be required will create a better transaction for everyone involved.

3. State Statutes Matter: Each state has specific execution requirements for a valid Power of Attorney, like the number of witnesses required and notarization. In Delaware, the Agent's signature is also required, though unnotarized. If a document meets state requirements, unreasonably refusing to accept it can make the institution financially liable to cover the fees required to prove its validity.

4. Seek Professional Guidance: Rather than leaning on loved ones as our instincts sometimes suggest, consult the estate planning firm that created the document. They can best explain its legally binding nature to the Agent and any financial institution involved. This is one more reason to have a relationship with your trusted professional(s) and a reason to introduce them to your important people.

Additionally, some estate planning documents provide similar benefits. Without being instructed otherwise, an Agent might be trying to use a Power of Attorney, in an instance when presenting the Trust document, and acting as Trustee, is what's actually needed. Thorough counsel helps families navigate the difference.

5. Consider an Update: When your needs or wishes change, and if there are changes to state laws, it's important to update your estate planning documents. Maintaining your plan over time can also help you identify opportunities to make your plan more robust with legal documents that increase protections, privacy, and future support.

A Power of Attorney offers invaluable assistance to loved ones, but financial institutions scrutinize these documents carefully. We think it's important to pause and remember that this scrutiny is well intentioned. Still, understanding potential hurdles and knowing where to turn for support increases the likelihood of a Power of Attorney working as intended.

Our offices will be closed on
Thursday, July 4th and Monday,
September 2nd.



A note from the attorneys...

The ocean waves are beckoning us, and we are as eager as children awaiting the end of the school year to answer the call. Summer provides an opportunity to unwind and focus on what truly matters. We anticipate sunny days, cherished moments with our families, and toes in the sand. We hope this season brings you the chance to create lasting memories with your loved ones.

Michele & Owen

TIME OUT — STAFF PROFILE

Ashley M. Adams
Accounts Manager



ON THE CLOCK: Ashley has always had a passion for numbers and mathematics. She joined the firm in 2013, after graduating from the University of Delaware with a B.S. in Finance. In 2014, she transitioned into her current position of Accounts Manager, seamlessly blending financial acumen with managerial finesse.

In her role, Ashley finds joy in exploring ways to enhance efficiency within the firm's financial operations. Her dedication to streamlining processes ensures that the team can focus more on delivering exceptional legal services to clients.

OFF THE CLOCK: Outside of her professional endeavors, Ashley thrives on the simple pleasures in life, and enjoys spending time with her husband, Matt, and their furry companion, Paco. Embracing the sun-drenched days of the summer, she delights in leisurely outings on their boat and basking in the sun.

LEGAL MUMBO JUMBO

Legal Language in Layman's Terms

LEGACY CONTACT

A legacy contact refers to a person designated by the account owner to have access to manage their digital accounts, data, and online presence after their death or incapacitation. The legacy contact acts as a digital heir, possessing authority to access the deceased's emails, social media profiles, cloud storage, online subscriptions, and other digital assets. This arrangement aims to provide a legal and systematic way for an appointed individual to preserve, memorialize, or deactivate the digital footprint and accounts of the deceased, ensuring their digital legacy aligns with their wishes.

BELLA'S BRIEF

The Office from a Dog's Perspective

The sound of the crack of a bat never gets old. For years I loved standing along the fence taking in America's pastime. The food; the competition; the coaching; and the freedom! Lately I've been itching to get back to ballpark, but I've heard a different sound in the air, like a whirring or buzzing noise. Vertigo? No, that's the echo of a growing population of helicopter parents. You know the type: their kids are covered in protective gear; they hover over their kids to divert all risks and block potential obstacles; they coach the coach; they demand participation awards; and for the love of God, they carry their kids' equipment. If you are starting to feel defensive, stop reading because the fireworks are about to start. Your kid sucks at something. It might be sports or academics or telling a story; whatever it is I can assure you it's okay for them to try and fail. Sometimes repeatedly.



Children crave independence and need it to thrive. The urge to protect kids at all costs is making them anxious. Giving them awards that they haven't earned is lowering their self-esteem. Coddling them is stealing their autonomy. Parents being overly involved in their kids' lives makes it more difficult for them to make decisions about relationships and be able to cope with conflict and the curve balls that are sure to come.

Mother dogs are natural at this stuff. We carry pups by the scruff of the neck. It looks brutal but we don't fight the instinct that tells us where and how much pressure it takes to move our kids safely. Instinctively, we also know when to stop picking them up this way so they can walk on their own.

Let's celebrate everyone, but especially our kids being able to face whatever's on deck with confidence.

Happy 4th of July!

XOXO, Bella 

PWW FRIDGE-WORTHY

John Wells: A Coaching Legacy



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When John Wells took the helm of Sussex Central High School's softball team in the spring of 1991, he never imagined it would be the start of a remarkable 26-season journey. Today, Wells is celebrated not only for his longevity but for his exceptional success, guiding the Golden Knights to three state championships in softball. Our managing partner, Michele Procino-Wells, Esq., thinks John's pretty exceptional, too. John and Michele have been married 19 years and she's proud to put John's coaching accomplishments on the fridge.

An Unexpected Beginning

Wells' softball coaching career began unexpectedly. In 1991, just two weeks before the season's start, the softball coach at Sussex Central Junior High School resigned. Despite his initial reluctance—his focus was on football, basketball, and his summer job as a Bethany Beach lifeguard—Wells stepped up to the challenge.

His decision proved fortuitous. In his first year, the team finished undefeated. But it wasn't the perfect record that kept him hooked; it was his players' incredible work ethic and dedication. After another undefeated season and a 10-1 record in his third year, Wells was encouraged by his former athletes to apply for the high school head coaching position in 1994.

Building a Dynasty

From there, Wells built a softball dynasty at Sussex Central High School. His teams have clinched three state championships—in 1995, 2005 (a week before John and Michele's wedding), and 2008. This success is a testament to his coaching philosophy, which extends beyond the diamond.

As put by one of the District's Athletic Directors, "It's not just about the game itself. It's the little parts of the game. It's the mental parts. He makes sure that his athletes are well-rounded and they know the game mentally and physically."

Wells is known for instilling confidence in his players. Phrases like "we're that dern good" and "cream of the crop" are staples in his motivational toolkit. One of his former players affirms, "He makes sure that we believe it. He believes we're that good."

A Career of Milestones

Wells' career is punctuated by impressive milestones. On May 1, 2021, he recorded his 400th win with a 10-0 victory over Newark Charter. "The 400 wins is crazy to think about," Wells reflected. "I think what it really means to me is the gratitude and recognition that all those players and coaches during that span deserve."

His impact extends beyond wins and losses. In 2016, Wells was inducted into the Delaware Diamond Extravaganza, an award given by Delaware State University to those who exemplify a commitment to excellence in women's athletics and education.

More Than Just Softball

While this column focuses on his softball achievements, it's worth noting that Wells is a dual-sport coaching powerhouse. He's been Sussex Central's head football coach for 25 years, leading the Golden Knights to state titles in 2018 and 2020. His football accolades include being named Delaware Football Division I Coach of the Year four times—in 2006, 2007, 2018, and 2020.

THERE'S MORE...

A Heart for Teaching

Wells' coaching journey began with a simple act of kindness. At 12, he taught his 7-year-old sister, Wendy, how to play baseball. This experience sparked his passion for teaching sports. After receiving an award from his high school PE teacher for being his best assistant, Wells shifted his career focus from math to physical education.

His commitment to his students extends beyond sports. "I tell kids all the time that if this was a business, I would hire football and softball players because of their dedication year-round to the weight room, their attendance, their efforts," he says. "That's what employers want. That's what helps make a successful society."

The 2024 Season

This year, Wells led the Sussex Central softball team to another strong season, finishing as state runners-up with a 19-4 record. In a hard-fought championship game against Caravel, the Golden Knights fell just short, losing 2-0.

Despite the heartbreaking loss, Wells' pride in his team is evident. "It was an amazing run," he said about his seniors. "Division titles, state runners-up three out of four years... just an amazing run."

A Lasting Impact

After nearly three decades coaching softball at Sussex Central, John Wells' impact is indelible. From unexpected beginnings to becoming a Delaware coaching legend, his journey is a testament to passion, perseverance, and the profound influence a dedicated coach can have on young lives. As Wells continues to inspire new generations of student-athletes, his legacy is secure—not just in championship trophies, but in the countless lives he's shaped both on and off the field.



OFF THE CLOCK

We would like to thank our featured referrer of the month:



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