

Attorney Timothy P. Crawford, CPA, CELA*, CAP**
wanted to share this information with you.

COURT OF APPEALS DECISION AFFECTING YOUR EXISTING FINANCIAL POWER OF ATTORNEY

GREATER MILWAUKEE AREA OFFICES IN BROOKFIELD, GLENDALE, MILWAUKEE, OAK CREEK & RACINE

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This is One Reason Why You May Need a Level III™ Financial Power of Attorney

A Wisconsin Court of Appeals decision issued August 14, 2002 makes your existing Financial Power of Attorney out of date. Your Agent (your son) is extremely restricted under your current Financial Power of Attorney on what your son can do to help you protect your home and other assets from the high cost of nursing home care.

Most Financial Powers of Attorney do not authorize gifting. If they do authorize gifting, very little gifting is permitted. However, when you are incompetent, you may want your son to be able to gift nearly all of your assets to reduce the amount of assets you need to spend on nursing home care.

Because of the recent Court decision which reversed a son's previous actions in making gifts, the Court made it clear that a Financial Power of Attorney needs special language inside it to permit your son to gift away your assets to protect your assets. Attorney Timothy P. Crawford's new language can protect your son from being challenged by the government for trying to protect your assets.

THE IMPACT OF THE APPEALS COURT DECISION
ON THE ABILITY OF YOUR SON TO USE YOUR EXISTING
FINANCIAL POWER OF ATTORNEY TO DO GIFTING.

WHAT WAS THE PROBLEM?

1. THE FINANCIAL POWER OF ATTORNEY DID NOT PERMIT GIFTING THUS, THE SON COULD NOT GIFT.
2. IF THE FINANCIAL POWER OF ATTORNEY HAD PROVIDED FOR GIFTING, THE SON STILL COULD NOT HAVE GIFTED BECAUSE THE FINANCIAL POWER OF ATTORNEY WAS NOT SPECIFIC ABOUT GIFTING.
3. IF THE FINANCIAL POWER OF ATTORNEY HAD PROVIDED FOR GIFTING TO THE SON, THEN THE SON STILL COULD NOT HAVE GIFTED TO HIMSELF BECAUSE THAT WOULD BE SELF-DEALING AND SELF-DEALING WAS NOT AUTHORIZED BY THE FINANCIAL POWER OF ATTORNEY.
4. IF THE FINANCIAL POWER OF ATTORNEY WOULD HAVE AUTHORIZED SELF-DEALING, THE SON STILL COULD NOT HAVE GIFTED TO HIMSELF AS THE SON WOULD BE BREACHING THE HIS OBLIGATION TO DO WHAT IS IN DAD'S BEST INTEREST INSTEAD OF DOING WHAT IS IN THE FAMILY'S BEST INTEREST.
5. IF THE FINANCIAL POWER OF ATTORNEY WOULD HAVE PROVIDED FOR WAIVING THIS FIDUCIARY DUTY, THEN THE SON COULD HAVE GIFTED AS PART OF A PLAN TO PROTECT THE ASSETS. THE SON COULD HAVE GIFTED TO HIMSELF. THUS, THE SON COULD HAVE SHARED IN THE GIFTS THAT DAD WANTED TO MAKE EQUALLY TO ALL THREE KIDS. THE SON COULD HAVE DONE THIS WITHOUT GETTING INTO TROUBLE AND WITHOUT REQUIRING HIM TO REPAY THE GIFTED AMOUNT TO DAD, AND THUS, REQUIRE DAD TO SPEND THE MONEY ON DAD'S NURSING HOME CARE COSTS.

**“Those Who Plan Ahead Win.
Those Who Don't Plan Ahead Lose.”**

This article is for informational purpose only and is not intended as legal advice. It is recommended that you call Timothy P. Crawford for a free conference to discuss your situation in more detail. Attorney Crawford can be reached at 1-262-634-6659. Please refer to this article when you call.

*Attorney Timothy P. Crawford is a Nationally Board Certified Elder Law Attorney (**CELA**). He has been Board Certified by the National Elder Law Foundation which has been approved as the Sole Certifying Organization for Elder Law Attorneys by the American Bar Association.

Timothy P. Crawford was invited to join the Council of Advanced Practitioners (CAP**) of the National Academy of Elder Law Attorneys (**NAELA**) in August of 2005. **CAP** is a small group of premier elder law attorneys, all of whom have been members of NAELA for at least 10 years, are certified as elder law attorneys by the National Elder Law Foundation, and are AV rated by Martindale Hubbell, a service that provides an independent rating of the quality of attorneys, as one of the top attorneys in the nation.

Attorney Timothy P. Crawford has been selected as a **Fellow** of NAELA. **Fellow** is the highest honor bestowed by the Academy. Selection as a **Fellow** signifies that his peers recognize the lawyer as a model for others and as an exceptional lawyer and leader.

Attorney Timothy P. Crawford has a superb rating of 10 out of 10 with A V V O.

A V V O has awarded to Attorney Timothy P. Crawford the A V V O Client's Choice Award.

**YOUR ASSET PROTECTION LAW FIRM WITH GREATER MILWAUKEE AREA OFFICES
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**"Helping Families in Wisconsin for Over 40 Years
to Protect Their Assets from Nursing Home Care Costs"**

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