

# **BERWITZ & DiTATA LLP**

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## **GUARDIANSHIP ABC's**

A Guardianship proceeding seeks a Court determination whether an individual is incapable of caring for his or her financial and/or personal needs and, if so, to appoint a guardian to act on behalf of the individual. Not only is it costly, the time delay can result in 10s of thousands of dollars being lost.

You can expect a Guardianship proceeding to cost \$7,500.00 or more. The costs include filing and attorney fees, the doctor's fee for evaluating the alleged incapacitated person and the Court Evaluator, who is appointed by the Court to investigate and report back to the Court whether a guardian is required and who should serve in that capacity.

It is not unusual for the entire proceeding to take months to complete. During this time, without an appropriate power of attorney and health care proxy, no financial or health decisions can be made on behalf of the alleged incapacitated person. During this time, no Medicaid planning can be implemented on his or her behalf. We have seen uncontested Guardianships take as long as ten months to resolve because of Court delays. This kind of a delay could cost a family over one hundred thousand dollars because of the inability to implement Medicaid planning during the pendency of the Guardianship proceeding.

These are just some of the reasons Berwitz & DiTata LLP strongly encourages all of our clients and friends to have power of attorney, health care proxy and living will. This not only allows the retention of control over these important decisions, but also allows for the expression of intentions that reduce family stress and dissension.