

# The Power of a Power of Attorney

by CPT Thomas A. Mengesha, Esq.

With the significant increase in deployments of active, reserve and Guard service members since September 11, 2001, full-time and part-time military families have had to figure out the best ways to make things work while their loved one is overseas.

In many cases, service members choose to designate a power of attorney to a loved one to help oversee legal or financial matters at home. But knowing when and to whom to designate a power of attorney is of the utmost importance—never underestimate the power of a POA!



181st Fighter Wing member Lt Col Riegler, JAG, explains Wills and Power of Attorney to Marine Corporal Debacourt before he departs for overseas deployment. Indiana ANG photo by SMSgt John S. Chapman

When considering granting a power of attorney, know there are two types from which to choose:

**A general power of attorney** gives another person broad and far reaching authority to handle your affairs.

**A special power of attorney** only provides for specifically limited handling of your affairs such as selling your vehicle or house or preparing your taxes.

Regardless of the type of power of attorney you give, there should be a specific termination date. As an attorney, I recommend powers of attorney terminate after one year has passed.

The following two “case scenarios” should provide a clearer illustration of the power of POAs:

## Case Scenario 1

“John” was ordered to active duty to be deployed to Iraq in support of Operation Iraqi Freedom. John has been married for 18 years to a wonderful person, “Jane.”

John loved Jane very much and wanted to ensure Jane was able to take care of things in John’s absence. Prior to his deployment, John gave Jane a power of attorney.

Do to the stress and temptations during John’s absence, Jane files for divorce. However, due to John not

fully understanding the difference between a general power of attorney and a special power of attorney, John gave Jane a general power of attorney.

What do you think happened? In this case scenario, since Jane was given a general power of attorney, she had far-reaching authority to act on John's behalf. Jane withdrew \$10,000 from John's savings account, sold his 1965 Cobra, and withdrew money at will from his checking account. Jane did this while filing for divorce from John and receiving all of the military housing allowance that totaled nearly \$2,000 per month. Needless to say that when John returned from deployment, he was depressed and had to seek counseling. Not to mention, all of John's assets were gone and he had little recourse, as John had given Jane a general power of attorney.

## Case Scenario 2

"Bill" was ordered to active duty to deploy to Afghanistan in support of Operation Enduring Freedom. Bill has been married for 5 years to a wonderful person, "Betty".

Bill loved Betty very much and wanted to ensure she could take care of things in his absence. Prior to his deployment, Bill granted Betty a power of attorney. Due to the stress and temptations of Bill's absence, Betty files for divorce. Sound familiar? But the similarities between the two scenarios end there.

Prior to deploying to Afghanistan, Bill read my book, ***The Service Member's Guide to Deployment; what every Soldier, Sailor, Airmen and Marine should know prior to being deployed.*** Copyright 2008. Armed with knowledge, Bill gave Betty a special power of attorney.

So although Bill was obviously unhappy about getting a divorce, he was very happy about his decision

to obtain a special power of attorney to handle the very limited duty of ensuring taxes were paid during his absence. With a special power of attorney, the person who receives the power can only carry out the specific instructions laid out in the document. Consequently, Betty did not have control over Bill's other assets, to include his bank account, their house and his vehicles.



USMC reservist LCPL Vasquez, left, is briefed on issues of power of attorney by USAF SSGT Kim Thomas at the Judge Advocate facilities at Los Angeles AFB in preparation for possible deployment.

As a licensed and practicing attorney in the State of Michigan, I strongly recommend giving only specific power of attorney to handle those very limited situations

that may arise during a deployment. I cannot think of any reason that a service member would want to give a general power of attorney to anyone. Remember it is easier to add or broaden the power than cut back—particularly if the person who has the general power of attorney is acting in bad faith. ●

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*Base Support Battalion-North at Camp Beuhring in Kuwait. He also is the author of the new book *The Service Member's Guide to Deployment; what every Soldier, Sailor, Airmen and Marine should know prior to being deployed.* Copyright 2008. For more information, visit [www.mengesha.com](http://www.mengesha.com)*