

STATE OF NEW MEXICO
COUNTY OF BERNALILLO
SECOND JUDICIAL DISTRICT COURT

████████████████████,

Petitioner,

vs.

No. ██

██,

Respondent.

MOTION TO DECLARE DURABLE POWER OF ATTORNEY VALID

COMES NOW ██ by and through his attorneys, Leigh & Dougherty, P.C. (Tiffany Oliver Leigh) and for his Motion states:

1. The Court has jurisdiction over the subject matter herein and the parties hereto.
2. On July 23, 2021, ██ filed a *Verified Petition for Dissolution of Marriage* on behalf of his father, ██.
3. ██ has been empowered to act on behalf of ██ with respect to “claims and litigation” via a validly executed Durable Power of Attorney dated February 25, 2014.
4. Pursuant to NMSA 1978, Section 46B-1-212(A), language in a power of attorney granting general authority with respect to “claims and litigation” authorizes the agent to “assert and maintain before a court [] a claim, claim for relief, [or] cause of action” which would include a divorce action.
5. ██ was personally served in Hampshire County, West Virginia on August 7, 2021 as evidenced by the Return of Service filed with this Court on August 12, 2021.

6. Despite personal service being completed by a West Virginia Process Server who swore to the same in front of a notary public, [REDACTED] denied being personally served and insisted she be served again, this time by the Hampshire County Sheriff's Department.

7. On August 25, 2021, [REDACTED] was personally served by the Chief Deputy of the Hampshire County Sheriff's Department as evidenced by the second Return of Service filed with this Court on August 25, 2021.

8. On September 7, 2021, [REDACTED] filed an *Answer to Petition for Dissolution of Marriage* in which she then turned her focus to questioning the validity of the Durable Power of Attorney signed by [REDACTED] in 2014.

9. This Court should hold a hearing to confirm the validity of the Durable Power of Attorney signed by [REDACTED] in 2014 under which [REDACTED] filed the *Verified Petition for Dissolution of Marriage*.

10. [REDACTED] has incurred costs and attorney's fees in bringing this matter before the Court and [REDACTED] should be ordered to pay his costs and attorney's fees incurred.

11. Concurrence with this Motion was sought and was not granted.

WHEREFORE, [REDACTED] prays that the Court:

A. Validate the Durable Power of Attorney dated February 25, 2014;

B. Order [REDACTED] to pay the costs and attorney's fees incurred by

[REDACTED]; and

C. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted:
LEIGH & DOUGHERTY, P.C.

/s/ Tiffany Oliver Leigh

Tiffany Oliver Leigh

Attorneys for [REDACTED]

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I HEREBY CERTIFY that a true and correct copy of the foregoing pleading was provided to counsel of record by email this 20th day of September 2021.

/s/ Tiffany Oliver Leigh

Tiffany Oliver Leigh