

## CAPACITY TO EXECUTE DOCUMENTS

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A diagnosis of Alzheimer's Disease or dementia does not necessarily mean the person can no longer execute legal documents. Therefore it may not be too late to begin the very important long term care and disability planning after the diagnosis.

In a 1997 New York case, a child contested the validity of documents executed by his parents. He claimed his sister took advantage of their parents and induced them to sign documents they didn't understand. The contesting child argued that his parents suffered from Alzheimer's Disease at the time of the signing and therefore lacked the capacity to sign valid legal documents. The court said that a diagnosis of Alzheimer's does not by itself mean that a person lacks capacity to understand legal documents. Other proof is required. In this case, the attorneys that oversaw the execution of the documents testified that the parents did understand what they were signing.

A person who is only able to make a mark or who needs assistance to make a mark may still execute a valid document. The important question is whether the person intends to sign, requests assistance, and has sufficient capacity to understand what is being signed.