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1. No Probate Savings via Limited Grant: C.A.

In [Pollock v. Manitoba](#), 2006 MBCA 78, the court considered whether the executor of an estate could obtain a limited grant of probate pursuant to [s. 12 of The Court of Queen's Bench Surrogate Practice Act](#) in order to save the estate some \$75 000 in probate fees. The decision reviews the development of the limited grant and applies the test from *In the Goods of William Watts*, (1860) 1 Sw. & Tr. 538, 164 E.R. 850 which states that "These grants are entirely exceptional, and should not be made unless some very strong reason be given."

2. Obligations of an Attorney: Q.B

The court in [J.L. v. S.L.L. et al](#), 2006 MBQB 170 is asked to make an order removing an attorney and/or order an accounting pursuant to [s. 24 of The Powers of Attorneys Act](#). The decision summarizes the obligations of an attorney as follows:

- (i) in taking any steps with respect to a donor's property, the welfare of the donor must be paramount;
- (ii) although the welfare of the donor must be paramount, the wishes of the donor must also be taken into account. It must always be remembered that the donor, when competent, wanted his or her affairs looked after by specific attorneys as opposed to some other stranger or court-appointed trustee;
- (iii) as required by s. 19(2) of the *Act* an attorney acting without compensation must exercise the judgment and care that a person of "prudence, discretion and intelligence would exercise in the conduct of his or her own affairs";
- (iv) an attorney has a duty to act impartially and even-handedly and cannot treat the property simply as if it were his or her own property.

3. Powers of Attorney in Canada

The article [Powers of Attorney: Moving Toward Best Practices in Canada](#) by Laura Watts of the Canadian Centre for Elder Law Studies and Kevin Zakreski of the British Columbia Law Institute identifies three best practices for lawyers preparing powers of attorney for their clients:

1. Meet with your client alone.

2. Explain the nature and scope of the authority granted under the power of attorney.
3. Explain other types of powers of attorney and instruments available in your jurisdiction.

Also appended to the article is a useful chart that summarizes powers of attorney legislation across Canada.

4. The Future of Real Estate Practice

On September 25, 2006, The Law Society of Manitoba will present *The Future of Real Estate Practice*, an essential half-day CLE program for real estate practitioners. For more information or to register, visit our [website](#).

5. New Resources at The Property Registry

[The Property Registry](#) has added a number of new resources to its website under the heading of [Commonly Encountered Conveyancing Concerns](#). Topics include:

- [Corporate Execution Rules for Land Titles Documents](#)
- [Easements \(Including Party Walls and Rights of Way\)](#)
- [Lapsing of Instruments/Encumbrances](#)
- [Powers of Attorney](#)

There are a total of 24 topics currently listed. The next time a land titles registry question arises in your practice, be sure to check this site first for the answer.

6. Passing Accounts Q. & A.

Senior Master Rick Lee of the Court of Queen's Bench will be fielding questions on passing of accounts in a October 6, 2006 lunchtime CLE program organized by the Wills & Estates Law Section of the Manitoba Bar Association. For details or to register, [contact the MBA](#).

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