



WILLS

Matter

EXCELLING AS EXECUTOR—PART I

In previous editions of *Wills Matter* we have briefly addressed the duties and responsibilities of the person(s) whom you name as Executor in your Will. In these next few editions, we address this topic in more detail.

Many Executors choose to retain lawyers to carry out the administration of the Estate on their behalf. This might be the case:

- (a) with a very large Estate;
- (b) where there are many legal issues to be sorted out;
- (c) where there is potential for conflict between the beneficiaries and the Estate; or
- (d) just simply where the Executor doesn't have the ability/desire to expel the time and energy needed to carry out the Executor's duties;

Keep in mind that when a lawyer is hired by an Executor, the lawyer is representing the Estate and the Executor. The lawyer is independent from and is not the lawyer for the beneficiaries.

The lawyer's fees for legal services are paid for out of the Estate itself, and must ultimately be approved of by the beneficiaries. However, where the lawyer carries out the Executor's duties, the Executor is responsible for payment of the legal account for that work. The Executor is able to claim "executor fees" from the estate, which can be used to pay the lawyer's account.

Retaining a lawyer is sometimes the best choice for an Executor. We will continue our discussion in later editions of *Wills Matter*.

Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

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BY DONALD KNAPP



BY LYLE BACKMAN, Q.C.



BY DANIEL CARROLL



WILLS & ESTATES LAWYERS

DON KNAPP
DENNIS HORI
RICK HENEY

LYLE BACKMAN, Q.C.
NICK WEISER
DAN CARROLL



300 - 350 Lansdowne St., Kamloops, BC Phone: 250-372-5542 Fax: 250-851-2300

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