



# WILLS

# Matter

FULTON & COMPANY LLP

— celebrates 125 years —

## EXECUTORS & BENEFICIARIES

The work involved in being an executor can be onerous and the potential for liability can be great. Yet, acting as an executor for a friend or family member can be a meaningful experience. It is also a necessary task that someone must do. As an executor, you are doing a great service to the deceased, helping carry out the deceased's final wishes and ensuring that friends and family receive what was intended for them.

Your relationship with these beneficiaries can determine whether your time as an executor is trouble-free or regrettable. Sometimes, confrontation between executors and beneficiaries is inevitable. The executor must act in the best interests of all of the beneficiaries, but there is often more than one beneficiary and more often than not, the executor is also a beneficiary. To make matters worse, some beneficiaries may be more demanding than others or suspicious of the executor.

There can also be conflict where one beneficiary receives income from an asset, but another is entitled to the asset itself. Should the executor sell the asset to pay expenses or use only the income? Either option may create an unhappy beneficiary. The executor should, to the best of his or her ability, act with an even hand to ensure that all beneficiaries receive equal treatment. Decisions should be considered carefully to determine the effect on each beneficiary.

An executor should also be aware that taking advantage of their position as executor for their own benefit can create personal liability. If, for example, the executor believes that he/she should be receiving more as a beneficiary than the Will says, he/she cannot use their position as executor to "equalize" matters. Instead, the executor should step aside from the role as an executor and challenge the Will.

Keep in mind, however, that executors are entitled to a modest fee for their time and trouble administering the estate (even if they are also a beneficiary under the Will), and this fee is set by statute.

Both executors and beneficiaries have options if they are unsatisfied with the Will and/or the administration of the Will. They should consult with an experienced Wills and Estates lawyer to ensure that the estate is being administered properly and everyone's rights are upheld.

### Contact Fulton & Company's Wills & Estates Team

if you have any questions regarding wills or estate matters.

To view past articles, visit our web site.



BY DONALD KNAPP



BY DANIEL CARROLL



BY LEAH CARD



est. 1885

## FULTON & COMPANY<sub>LLP</sub>

LAWYERS & TRADE-MARK AGENTS

### WILLS & ESTATES LAWYERS

DONALD KNAPP	LEAH CARD
DENNIS HORI	EDWIN MARK
RICK HENEY	DAN CARROLL



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

\*This article has been provided by Fulton & Company LLP for informational purposes only and is not to be relied upon as legal advice. For legal advice on specific cases, please contact Fulton & Company LLP.

www.fultonco.com