



# WILLS

## Matter

### I'M SEPARATED, WHAT ABOUT ME?

In the last edition of *Wills Matter*, we discussed common law spouses. Whether you are a common law or legal spouse, you might think that when you separate from your spouse, your legal rights and obligations regarding the other spouse end. You might be wrong.

In Estate Law, a separated spouse, in certain circumstances, has a claim to the property of the other spouse when the other spouse dies.

There are many considerations in determining whether a separated spouse has a claim. For example, if you die without a Will, your separated spouse might be entitled to share in your property. Or, if your spouse dies with a Will, but leaves nothing to you, even if you were separated when your spouse died, you still might have a claim under the *Wills Variation Act* to a portion of his or her property.

Even a separation agreement or a pre-nuptial agreement does not automatically mean that a separated spouse has no claim against the deceased spouse's property.

The legal issues regarding when a separated spouse has a claim against the deceased spouse's property are complex. Whether you are planning your Estate or thinking about making a claim, an experienced Wills and Estate lawyer can help you sort out these legal issues.

Finally, it is important to remember that there are "limitation periods" that apply to most claims. It is important to talk to an experienced Estate lawyer, sooner rather than later, to determine if you have a possible claim, or you risk losing your right to make a claim altogether.

### 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



**FULTON &  
COMPANY** LLP

LAWYERS & TRADE-MARK AGENTS

### WILLS & ESTATES LAWYERS

DON KNAPP

LYLE BACKMAN, Q.C.

DENNIS HORI

NICK WEISER

RICK HENEY

DAN CARROLL

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

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