



THE ADMINISTRATION OF ESTATES PACKET

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Introduction

The Administration of Estates Packet is for the benefit of an Executor (now also called an Estate Trustee) at the time of death of the person who appointed them as Executor and also for the benefit of future Executors. The packet contains information about what the Executor's responsibilities are, what information is needed and what the costs are for administering an estate. As well, the packet contains information to plan beforehand to ensure the administration of the estate is easier and less stressful.

The job of administering an estate can be a very stressful one because of the emotions that naturally occur on the passing of one's loved one, be it a spouse, a parent or a close relative or friend. However, it is really not an overly difficult job. There are just many aspects to it. It is a job that can generally be done satisfactorily by the average person. It is my job, as the lawyer, to advise the executor exactly what his or her duties are as well as complete the many legal aspects of administering an estate. In many cases, my staff and I will take on Executor functions as requested to do by the client.

Proper preparation might substantially reduce legal fees, court processing fees and taxes. I have counseled my clients to take steps to make the job of administering estates easier and less stressful. I have shown them how to leave complete instructions and information for their executors. I developed a manual for my will clients to record up to date information and instructions. I have advised them to register their assets and name their beneficiaries in such a way to reduce legal and court fees and taxes. I have sent their executors a letter with an article about the administration of estates and advised them of the existence of this manual of information.

The packet contains my article [The Administration of Estates](#) which explains the functions of an executor. There is a short memorandum [What to Do When Death Occurs](#) as well as an [Estate Information Form](#) and [Estate Assets, Debts & Benefits Form](#) which asks for basic information necessary to administer an estate. My article [Wills, Powers of Attorney and Estate Definitions](#) explains plainly many of the legal terms that are used in estate matters. To inform an executor about my fees and what I consider to be my role as a lawyer I have written the article [The Lawyer's Role and Legal Fees in the Administration of Estates](#). To let you know more about me I have included my [Resumé](#). To advise named executors as to what they might do to ensure their job is easier and less stressful, I have included my article entitled [Preparing for an Easier Administration of Estates](#).

I encourage my clients to give me their opinions. To obtain more feedback, I have initiated a [Client Survey Contest](#). I invite even non clients to complete the [Administration of Estates Packet Survey](#) and [Choosing a Lawyer Survey](#) and enter the contest.

There is a common misconception among many people that the lawyer who prepared the will is the lawyer who must be the lawyer with respect to the administration of the estate. This is simply not so. Any lawyer can represent the executor, not just the lawyer who prepared the will. I would be pleased to answer your questions about estate matters. I would remind you that my articles are not a substitute for obtaining legal advice but for general information. It is still advisable to consult a lawyer about estate matters.

Disclaimer

My site is copyrighted but please feel free to print any information for personal use. *THE INFORMATION ON MY SITE IS NOT TO BE USED AS A REPLACEMENT FOR LEGAL ADVICE. YOU SHOULD CONSULT A LAWYER.*

Make an Appointment

Family Law: Jenny Mirsky 613-828-2120 ext 101
Wills & Estates: Kerry MacDonell 613-828-2120 ext 120

The purpose of this article is to explain in a brief way what must be done to settle properly the affairs of a person who has died.

The first matter that must be resolved is to choose what person or persons are in charge of administering the estate of the deceased person. If the deceased had a valid will, then the will would name the person in charge. This person is called an estate trustee (formerly called an executor or executrix). If there is no will, then the law has a procedure which allows anyone with a close connection to the deceased to apply to the court to be the person who administers the estate. Generally the closest relative to the deceased will be chosen. The person so approved by the court is called an estate trustee without a will (formerly called an administrator or administratrix). The government's Public Trustee does not automatically administer the estate if there is no will. The Public Trustee will only reluctantly get involved if there is no proper relative or creditor who will step forward to apply for the job of administrator.

An estate trustee gets his or her authority to administer the estate from the will and therefore need not necessarily apply to the court to get the court's authority to act in the estate's name. However, when the value of the assets of the estate are high (generally assets over \$25,000.00 in value) or for certain types of assets such as stocks, the estate trustee will have to apply for court authority. If he or she does not, the people with whom he or she must deal with to transfer assets will not accept his or her authority. The estate trustee applies to the Ontario Court (General Division) to obtain "Certificate of Appointment of Estate Trustee with a Will" (formerly called letters probate). The Certificate of Appointment of Estate Trustee with a Will show to persons dealing with the estate that the will has been duly proved and registered with the Court and that the estate trustee has authority to act on behalf of the estate. In a small estate, a notarial copy of the will (a lawyer certifying that the copy is a true copy of the original will) will often convince people that the estate trustee has authority so that the estate trustee will not have to go to the expense and time of obtaining probate.

If there is no will, the person who wishes to be the "estate trustee without a will" applies to the Court for "Certificate of Appointment of Estate Trustee without a Will". Unfortunately in small estates, if there is no will a Certificate of Appointment of Estate Trustee without a Will will usually have to be obtained because it is the only authority people dealing with the estate accept. Sometimes however those third parties will accept a statutory declaration from a widow or widower that the estate was only a certain size and that the widow or widower is the only person entitled to the assets of the estate.

The first obligation of an estate trustee is to make proper funeral and burial arrangements. Technically, the estate trustee does not have to follow the wishes of the deceased but will do so unless the deceased had a strange request concerning his or her burial which would offend the deceased's family.

The second obligation of the estate trustee is to determine all of the assets of the deceased and make an inventory list. He or she must also manage the assets until they are transferred to the beneficiaries. Determining the assets would also include determining any monies due from insurance policies, death benefits and pension plans due not only to the deceased's estate but to the beneficiaries. For instance, Canada Pension Plan pays a death benefit to the estate and pays a survivor's benefit to the surviving spouse and dependant children. The federal government's superannuation plan pays survivor benefits based on the deceased's contribution to the date of death.

The third obligation of the estate trustee is to settle the deceased's debts and liabilities. The estate trustee would pay all valid claims of creditors. He or she would also defend all claims thought not to be valid. If there is not enough money in the estate to satisfy creditors, the deceased's family is not responsible for those debts but the creditors would get paid less in accordance with the legal rules as to the preference of creditors. A special liability of the estate which might have to be resolved is a claim by a spouse or dependant of the deceased under the Family Law Act for an equalization of assets or for support under the Dependant Relief provisions of the Succession Law Reform Act or claims under both acts. The estate trustee would prepare the final year's income tax return and make sure that all previous years tax returns have been filed. He or she would apply for a final tax clearance certificate. There are no estate taxes or succession duties in Ontario presently but death may result in additional taxes owing in the year of death. For instance, if one dies owning a stock which has increased in value since the time it was bought and the stock is not passed on to the deceased's spouse, then in the year of death there is a deemed disposition, and capital gains tax is payable.

Once all of the debts and liabilities have been paid the estate trustee can distribute the estate as dictated by the will. If there is no will, then the estate trustee without a will distributes the estate to relatives as prescribed by law in the Succession Law Reform Act. The government does not get any share of the estate unless there are no relatives. A spouse does not necessarily get all of the estate but the children may share depending on the amount of the estate.

This has been a very simplified explanation of what an estate trustee does. I did not discuss other obligations estate trustees may have such as administering continuing trusts, tax planning or accounting to the beneficiaries and the courts. I did not discuss what compensation estate trustees are allowed to take for their work.

The role of the lawyer is to advise firstly the estate trustee of his or her duties and all matters in connection with administering the estate. Secondly, if necessary, the lawyer will prepare the application to the court to obtain authority. Thirdly, the lawyer will prepare the documents necessary to transfer assets. And fourthly, the lawyer will prepare relevant documents to be signed by the beneficiaries.

WHAT TO DO WHEN DEATH OCCURS

The following is a simple guide of what to do when death occurs.

- Check the Will Manual for burial instructions, people to notify, location of documents.

Contact the following:

- All Executors (Estate Trustees) named in the Will.
- Clergy if applicable.
- If parts of the body are to be donated for medical or research purposes, contact institutions involved.
- If death occurs as a result of an accident contact a lawyer and police if not already notified (as soon as practical).
- Cancel deliveries, service calls, subscriptions, appointments, etc., on behalf of the deceased.
- Obtain death certificate — usually from the funeral home.
- Arrange to publish death notice in newspaper.
- Contact memorial society or funeral home. The deceased should have left specific instructions regarding mode of burial either in the Will or by memorandum.

Contact a lawyer with respect to administration of the estate. The information which would assist the lawyer at your first appoint includes:

- Copy of the Will
- List of Assets, Debts and Benefits
- Insurance policies
- Death Certificate
- Birth Certificate
- Marriage Certificate
- Social Insurance Number

You do not need to wait to obtain documents before your first appointment.

- Change mailing address

There are two main areas in which people can arrange their affairs to allow their estates to be more easily administered by their estate trustee (formerly called executor). The first deals with information and instructions that should be recorded. The second deals with the registration of assets.

What information should I provide?

A person should put the following information in an easily accessible location:

- the location of the original will;
- a list of all bank accounts, bonds, stocks, term certificates, RRSPs, additional investment instruments and other assets;
- a list of all insurance policies and their beneficiaries;
- a list of all pensions, annuities, RIFFs;
- a list of all employment death benefits;
- the location of any safety deposit boxes;
- a list of all debts and liabilities;
- one's birth certificate and marriage certificate

For all the above, the location of all relevant documents and contact persons also should be clearly noted. This information should be regularly reviewed and revised. Some people make copies of the information and send it to the estate trustee.

If such information is not recorded it is possible that the estate trustee may never locate all the assets and benefits of the deceased. There are over fifty million dollars on deposit with the Bank of Canada in unclaimed accounts. With no records left behind the estate trustee is forced to spend time and perhaps money trying to locate the assets. There will be work and extra costs if later on or after the administration of the estate, the assets and liabilities are found. There might be penalties and interest charges for unpaid taxes. It is also emotionally hard and frustrating for the estate trustee to try to reconstruct the deceased's financial affairs.

What instructions should I leave?

One should leave clear instructions to the estate trustee and family about one's funeral and burial arrangements. This can be done by a written memorandum left with the will, but it is also best to advise the estate trustee of those wishes beforehand. Do not assume that others know or will agree with your ideas. If one wishes to donate body organs then the proper paperwork must be completed. This includes an organ donor card or the completion of the organ donor section on the driver's license. Again the estate trustee and family should be advised beforehand of those instructions. This gives the best possibility that all the instructions are followed and no different arrangements are carried out. It also reduces arguments among the family about what should be done.

A will allows the parent with custody to name who would have custodianship of minor children. This designation is not binding on a court, but will prevail before a court changes it. It is important again that the estate trustee, family and the person or persons appointed custodians are aware beforehand of the designation. This allows for less confusion and less arguments over the children if death occurs suddenly.

How should I register my assets?

It is possible sometimes to arrange one's assets so that on death they pass easily, quickly and with little expense to the beneficiaries. It is not necessary always to have a will approved by the Court and obtain from the Court a "Certificate of Appointment of Estate Trustee with a Will". Applying for the certificate of appointment is really only necessary where the institution holding the asset (such as bank in the case of a savings account) will not allow the estate trustee to deal with the asset without the certificate of appointment. Obtaining the Certificate of Appointment of an Estate Trustee results in greater legal fees and court fees. It may slightly prolong the administration of the estate. It is therefore desirable to arrange one's financial affairs to avoid the necessity of applying to the Court. Depending on the assets this can be done in several ways.

First, especially for a husband and wife on good terms, the assets should be registered in joint ownership. This means that on death the ownership automatically goes to the surviving joint owner. A certificate of appointment is not necessary for that asset. As the court fee is determined by the value of the estate, that estate value does not include jointly owned assets even if the certificate of appointment of an estate trustee is necessary for other assets or considerations.

Second, if possible all insurance policies and RRSPs should have somebody named as beneficiary. This results in those assets going directly to the beneficiaries, thereby reducing the assets to be included in the application for certificate of appointment of an estate trustee with a will. It is also easier for a spouse to have an RRSP automatically "rolled over" on death so that it does not go through the estate to be "rolled over"

Third, as most stock companies require proof of a certificate of appointment it is advisable that those stocks be registered in joint names or if they have minimal value that they be sold. This, of course, is an investment decision but often a person dies holding a lot of old stock certificates that are worth little or nothing at all. Their value should be determined during one's lifetime. I believe that joint ownership with one's spouse is a good idea, but not with one's children or other beneficiaries. One should keep control of one's assets until death as we never know what the future may bring.

CONCLUSION

There are, therefore, several ways of better preparing the administration of one's estate. The information procedures should always be used, whereas the registration of assets should be analyzed for each individual case.

WILL, POWERS OF ATTORNEY & ESTATE DEFINITIONS

Administrator: An administrator is a person appointed by the Court to administer the estate when there is no will, the will did not name an executor, an executor has died, or an executor is unwilling to act. A female administrator, is called the "administratrix". This person is now technically called the "Estate Trustee Without a Will" but the term administrator is still used.

Attorney: The person appointed to look after the donor's financial affairs in the case of a Continuing Power of Attorney for Property or the donor's medical affairs in the case of a Power of Attorney for Personal Care. An attorney does not have to be a lawyer.

Beneficiary: A person who receives a benefit or gift under a will, or a person for whose benefit a trust is created.

Certificate of Appointment of Estate Trustee with a Will: The Court document, which includes a certified copy of the will, whereby the Court confirms the executor named in the Will is entitled to administer the estate. This document was previously called "Letters Probate".

Certificate of Appointment of Estate Trustee without a Will: This Court document, confirms a person, formerly called an administrator, now called the estate trustee without a will, has the authority to administer the estate. This document was previously called Letters of Administration.

Children's Lawyer: The Ontario Government official responsible for looking after the interests of children under the age of 18 for all legal matters, but not generally the management of a child's money. That is done by the Public Guardian and Trustee.

Codicil: An amendment to a will which makes changes or additions. A codicil must be executed with the same formalities that a will is executed.

Continuing Power of Attorney for Property: A written document allowing a person (the donor) to name another person (the attorney) to make financial decisions on behalf of the donor, including if the donor is physically or mentally disabled.

Custodian: The person named in a will to look after one's minor children in case of death. This appointment is not binding upon the Court. The custodian used to be known as the guardian.

Donor: The person appointing an attorney in powers of attorney.

Estate Trustee: The person named in a will to represent the estate of the deceased person. Also known as executor.

Estate Trustee Without a Will: A Court appointed person to administer the estate of a person, where that person died without a will, the executor died, the executor is unable to act, or an executor was not named. The person is also known as an Administrator.

Executor: A person or trust company named in a will to be responsible for managing the winding up of the deceased's estate. Since January of 1995, this person is technically called the Estate Trustee though the term executor is still used in wills. A female executor is called an executrix and more than one female are called executrices.

Family Law Act: The Ontario Governments law that deals with rights of spouses during marriage, separation and upon death.

Intestate: A person who dies without a will. A partial intestacy is where a valid will does not dispose of the whole of the estate.

Issue: All persons who have descended from a common ancestor. It is a broader term than children which is limited to one generation.

Joint Tenants: A form of joint ownership in which the death of one joint owner results in the immediate transfer of ownership to the surviving joint owner or owners. See Tenancy in Common.

Letters of Administration: This is the old term for what is now called "Certificate of Appointment of Estate Trustee without a Will".

Letters Probate: This is the old term for what is now called "Certificate of Appointment of Estate Trustee with a Will".

Notarial Certificate: A certificate which a notary public signs and attaches to a copy of a document to certify that the copy is identical to the original. All lawyers are also notaries.

Notarial Copy: A copy of a document to which a notarial certificate is attached.

Official Guardian: This person is now called the "Children's Lawyer".

Per Stirpes: Division of an estate on the basis of representation of the same lineal stock, or the same family. The beneficiary takes a share to which his or her deceased parent would have been entitled. Therefore, if there are three children of a deceased person, with each child having two children (therefore six grandchildren), then if one child is not alive, each grandchild would get 1/6th of the estate, being $\frac{1}{2}$ of $\frac{1}{3}$.

Power of Attorney for Personal Care: A written document allowing a person (the donor) to appoint another person (the attorney) to look after the donors personal and medical matters if the donor is unable to.

Probate Of Will: Formal proof before the proper officer or court that the will offered is the last will of the testator and confirming the Executor(s) named. This is now called an Application for Certificate of Appointment of Estate Trustee with a Will.

Public Guardian and Trustee: The Ontario Government official who, in the absence of a named executor, administrator or attorney, is responsible for administering an estate, or the affairs of an incompetent person. This official also manages the money of children when no trustee was appointed.

Settlor: A person who establishes a trust.

Succession Law Reform Act: The Ontario Government Act which deals with many issues of estate law, including support of dependants, what happens when a person dies without a will and the rules governing the making of wills.

Survivorship Application: A document a surviving joint tenant registers in the land titles system to transfer the deceased's share of the property to his or her name only.

Tenancy in Common: A form of joint ownership in which the death of one owner does not result in the immediate transfer of ownership to the surviving owner but the deceased's interest becomes part of the deceased's estate.

Testator: A male person who makes a will.

Testatrix: A female person who makes a will.

Transmission Application: A document filed in the land titles office to have title transferred to the name of the personal representative of a deceased owner to enable the personal representative to deal with the property.

Trust: A legal arrangement in which one person (the settlor) transfers title to a person (trustee) to manage the property for the benefit of a person or institution (the beneficiaries). When the trust takes effect on death, it is called a "Testimony Trust". When the trust takes effect during the settlor's lifetime, it is called a "Inter Vivos Trust".

Trustee: The person or trust company that manages property according to the instructions in the trust agreement and the laws governing trustees.

Will: A legal document, prepared by a person, called a testator or testatrix if female, in compliance with formal requirements, which takes affect on his/her death and which states what he/she wants to happen to his/her property on death. The will also decides who manages the property. The will may discuss custody of minor children and the funeral arrangements, though custody is not binding upon the Court and the funeral arrangements do not technically have to be followed by the executor.

Estate Information Form

Estate Accounts - Assets, Debts, Benefits Form

Providing competent and economical legal services is extremely important to me, but in addition, I am committed to delivering products that are innovative and very client-oriented. This has resulted in aspects of my service, which my clients have appreciated, which are not found elsewhere.

Value added features are found at every stage of my services.

I start with my Web Site. The many articles on my website provides a lot of free general information, not just about the substantive law, but about the legal processes. My site has a lot of information about myself, how I operate, and what my fees are. It also explains what information a lawyer needs from his clients to advise them so not just to educate my client but to allow them to gather the information beforehand, therefore, saving some time (and therefore money) when they meet with me. My forms on my site are interactive to allow for a client to easily fill them out and even e-mail them to me before their consultation. I have slide presentations of the first consultations of each practice area so a client knows what will be discussed at their first consultation. There are also some follow up forms on my web site once the file has been closed which may be of interest to clients as well as links to other web sites of interest.

My Legal Packets serve many functions. They contain the specific articles that give an overview of the law in non lawyer's terms. These articles discuss the legal process and one's rights and obligations. The Packets contain the specific information forms to show what facts are required to process that type of file. Knowing something about the law and preparing the information needed beforehand reduces the time spent at the initial consultation and therefore reduces your costs. The Packets contain my detailed **resumé** of my years of experience since 1977 and a schedule of my fees. I believe your anxiety level will be reduced even before our first consultation with all this information about the law, the process, myself, the fees and the facts.

At the client's first appointment I introduce my Manuals. The Manuals serve two important functions. They contain more articles, checklists and work sheets, all with details needed to help you better understand the process. As there is so much to know and remember it is good to have that information in a written, comprehensive and organized form. The Manual is a convenient place to hold letters and the sometime voluminous documentation generated throughout the file. I ensure my clients get copies of everything — you are kept informed. Obtaining and storing this information in an organized fashion allows you to participate and to make better decisions. The Manual also serves as a good record of what occurred after the file is completed. This is also important for necessary follow up work.

In Will and Powers of Attorney files I send letters to the Executors and Attorneys with articles and information that they should know to assist them with their responsibilities.

As I have a sophisticated computer program to easily store, forever, unlimited data about my clients, I would like to have a life time relationship with my clients. I hope to do this by providing a number of free follow up services for clients and to try and keep in touch with my clients with interesting information though at this time I can only suggest to keep visiting my web site.

Follow Up Services

I would like to advise you that I provide my clients with a number of free services even after a file has been completed. They are as follows:

- I will provide free swearing of Affidavits or Statutory Declarations for my clients. This is often needed for insurance claims and when one receives a bequest under a Will. I just ask that the forms be completed and an appointment is made to sign with either me or my secretary.
- I will provide digital copies of any major documents such as Wills, Powers of Attorney, Court Orders, Agreements and Certificate of Appointments if misplaced.
- My website on my Client's Page has replacement forms for your Will and Powers of Attorney Manuals. They are found at [pdfs/willmanualforms.pdf](#)
- My web site has a sample **Consent to Travel** form which I will sign for free for your former spouse if you just call before hand and have the form all filled out.
- I will hold onto completed Will information forms in your digital file.
- I will hold onto your Will in my fire proof safe.
- I will recommend or help you find a lawyer in Ottawa for an area of law you may need but that I do not practice.
- I am available to provide legal services to your friends and relatives.
- My comprehensive web site has many articles on Family Law, Wills, Powers of Attorney and the Administration of Estates.
- If you have an appropriate website for your own business I could feature it and have a link to it from my Resource Page on my website.
- I will try and send follow up emails to remind clients of work they were to do after their file is closed.

I am continually striving to improve my services. That is why at all stages of my service I encourage opinions and have client surveys. I have **Client Survey Contests** with prizes to obtain that important feedback from clients and or even prospective clients. Many good ideas have come from clients that have resulted in improvements to my service - I listen to my clients.

Many law firms are beginning to advertise and to market their services aggressively even using professional advertising agencies. Some of their ads will promise a commitment to excellent client service at a reasonable price. What firm, what business, would not say that it provides good service at a fair cost ? I invite you to compare the actual features, and not the rhetoric, of other lawyers's services with mine. I believe that I have given you concrete examples of how I provide innovative and client-oriented legal services.

With my new program, when a client calls me after the file is closed, I can quickly obtain the major particulars of their file. I can probably answer questions faster and not have to wait to get the file from storage. I encourage clients to call me any time after the file is complete with brief questions - yes, even though I am not getting paid for this additional work. My magnetic business card, which should be on one's refrigerator, means my phone number is always close at hand.

Email: lpascoe@thepascoedifference.com

Birth Date: October 22, 1949

Birth Place: Toronto, Ontario

Education and Professional Qualifications:

- Bachelor of Laws, Dalhousie University (1975)
- Bachelor of Commerce (Honours), Dalhousie University(1972)
- Ontario Bar Admission Course (1977)
- Family Mediation Training Course (1990)
- Collaborative Lawyers Training Course (2001-2002)



Specific Areas of Practice:

- *Family Law*: I advise clients of their rights and obligations when they separate or are thinking of separating from their spouse. The major issues being custody and access, dividing their assets and support for the spouse and children. I also advise my clients about the many processes that may be used to resolve the issue of a separation and I represent them in the process they choose. I will represent them at mediation, collaborative law, motions, arbitrations, case conferences, motions and settlement conferences but if the matter goes to trial, I will assist a matrimonial trial lawyer. I also advise and prepare clients with respect to marriage contracts and cohabitation agreements (often referred to as prenuptial agreements).
- *Wills and Powers of Attorney*: I advise with respect to and draft Wills and Powers of Attorneys and provide advice on; how to ensure that on their death their assets go to the appropriate desired beneficiary; ensuring that the appropriate person or persons look after the estate; reducing problems and conflicts that may arise in administering the estate; provide basic advice on minimizing the amount of payments the estate pays for taxes and advise how to properly reduce probate fees.
- *Administration of Estates*: I advise the personal representative of an estate (executor) as to what is required to administer the estate and then, as directed by him or her, administer the estate, which might involve applying to the court for the Certificate of Appointment (probate), dealing with the assets, paying debts, and accounting to beneficiaries.

Organization Affiliates:

- Canadian Bar Association
- American Bar Association
- County of Carleton Law Association
- Law Society of Upper Canada
- Member of Annual Family Law Institute Organizing Committee (1999 to present)
- Member of Collaborative Law Network
- Previous Member of Bench & Bar
- Previous Member of Annual Family Law Institute

Teaching Experience:

Course instructor

- Algonquin College, Legal Assistant Program (1978-1980)

Seminar leader

- Ontario Bar Admission Course Family Law (1986)
- Law Society Continuing Education Program on Pensions and Family Law (1988, 1994)
- Ontario Bar Admission Course Practice skills (Family Law),(1989, 1990); Negotiating Skills (1993, 1996)

Speaker at Legal Conferences

- Ontario Bar Admission Course; dependent's relief claims in estates (1988 - 1990)
- Ontario Law Society Continuing Education Program dealing with estate litigation (Dependent's Relief Claims), 1987
- Ontario Law Society Continuing Education Program; marriage contracts (1987 - 1988)
- Canadian Bar Association Annual Institute Program; Pensions and Family Law (1989)
- Law Society Continuing Education Program for Legal Secretaries; preparing Financial statements
- Law Society Continuing Education Program for Family Law Lawyers; Employment Benefit Clauses (1990)
- Canadian Society for the Advancement of Legal Technology (1994, 1996)>
- Family Law Motions: Practice and Strategy (1994)
- Institute of Family Law, The Life Insurance Clause in Separation Agreements (1996)
- Federation of Law Societies, The Life Insurance Clause in Separation Agreements (1998)

- County of Carleton Law Association and Law Society Continuing Education Program, Determining Income of the Self-Employed under the Child Support Guidelines (1999)
- Law Society Continuing Education Program, Basic Management Principles for Lawyers (May 2000)
- Law Society Technology for Lawyers conference, Some Thoughts on Producing and Marketing a Law Firm's Web Site (November 2003)
- Law Society and Ontario Bar Association's Annual Solo on Small Firm Conference and Expo - Lawyers Can Be Different - Providing Innovative Legal Services (2006)
- Law Society and Ontario Bar Association's Annual Solo on Small Firm Conference and Expo - Some Thoughts About Using Technology to Market Legal Services (2007)
- Institute of Family Law - Stress Management for Lawyers (2007)

Public Speaking:

Ontario Provincial Employees Association, Canada Post, Alta Vista Synagogue, Ukrainian Orthodox Church, Class for new Canadians, Laurentian High School, Ottawa Community Credit Union Ltd., Children's Hospital of Eastern Ontario, London Life Insurance Agents, Ottawa/Skyline T.V. Cable Phone-in Law Program on Family Law, a Divorce Support, National Capital Retirement Education Association, National Council of Jewish Women Palliative Care Seminar, Ottawa Valley Adjusters Association, The Ottawa Citizen Retirement Education Programme, Retirement Education Program Carleton Separate School Board, Retirement Education Program, City of Nepean (now City of Ottawa), The Ottawa Civic Hospital Employees, University of Ottawa Law School, Royal Ottawa Hospital, Unacad Canada Ltd., Money Concepts, Canterbury High School, A.J.A 50 Plus, Edward Jones.

Written Articles

- Support (unpublished except on Web site)
- Custody and Access (unpublished except on Web site)
- Powers of Attorney (unpublished except on Web site)
- Changing your Will (unpublished except on Web site)
- Reasons for Having a Will (C.J. Journal South and Women's Credit Union Handbook)
- Professional Negligence and Responsibility Issues for lawyer's in dealing with Marriage Contracts (Ontario Law Society Continuing Education Program in 1987 published by Carswell Company in 1988 in a book entitled Marriage Contracts (1988)
- Administration of Estates (C.J. Journal South)
- Custody and Access to Children (C.J. Journal South)
- Family Mediation O.A.F.M. Newsletter)
- Division of Assets (Clarion Newspaper, April, 1989)
- Wills and Minor Children Clarion Newspaper, May, 1989)
- Separation and Divorce Clarion Newspaper, Sept., 1989)
- Division of Pensions on Marriage Breakdown (Clarion Newspaper, Jan. 1990)
- Marriage Contracts (Clarion Newspaper, March, 1990)
- Employment Benefits Law Society Continuing Education, April, 1990)
- Updating your Will (Clarion Newspaper, Summer, 1990)
- Lawyer Client Relationship (Clarion Newspaper, Autumn, 1990)
- Preparing For An Easier Administration of an Estate (Clarion Newspaper, Winter 1991)
- Divorce Mediation (Clarion Newspaper, April, 1991)
- Agreements of Purchase and Sale (Clarion Newspaper, August 1991)
- Lawyer's Role When Purchasing a Home (Clarion Newspaper, Sept.,1991)
- Lawyer's Role When Selling a Home (Clarion Newspaper, Oct., 1991)
- The Legal Process in Matrimonial Disputes - Part 1 (Clarion Newspaper, Nov., Dec. 1992, Jan. 1993)
- Using Technology to Improve Marketing of Legal Services (CSALT Annual Conference, April, 1994)
- Family Law Motions: Practice and Strategy (Law Society Continuing Education) (June, 1994)
- Marketing, Technology & The Sole Practitioner/Small Law Firm CSALT Annual Conference, May 1996)
- The Life Insurance Clause in Separation Agreements (Family Law Annual Institute, May 1996)
- The Life Insurance Clause in Separation Agreements (National Family Law Conference, June 1998)
- Determining Income of the Self-Employed under the Child Support Guidelines (Law Society Continuing Education Program, 1999) Continuing Education, May 2000
- Some Thoughts on Producing and Marketing a Law Firm's Web Site (Law Society Technology for Lawyers conference, November 2003)
- Lawyers Can be Different - Providing Innovative Legal Services (Law Society and Ontario Bar Association, April 2006)
- Some Quick Thoughts on Managing Information and Documentation in Family Law Files (CCLA Family Law Institute, June 2006)
- Some Thoughts About Using Technology to Market Legal Services (Law Society and Ontario Bar Association, 2007)
- Stress Management for Lawyers (Institute of Family Law 2007)

I believe the fairest way to set legal fees is not based upon the size of the estate (which was done in the past by lawyers) but upon the work requested to be done. I therefore have developed an Estate Fee Schedule where I have set out the tasks to be done (it is also a good checklist of what has to be done). I have set out who could be responsible for each task, some of which can be done by either the client or the lawyer. The cost for each task is set out. The cost is not based upon the value of the asset but on the work that generally must be done to complete the task. Therefore, at the beginning of an estate file, the client will decide who is doing what and from that the fee will be calculated. Therefore the client who wants to do some of the work him or herself can save money.

The advantage of having a set fee is that clients know what the cost will be. If it takes more time than usual, which does not happen that often, because of unforeseen difficulties then the lawyer will be allowed to charge more if the time taken is out of the ordinary.

The following are the steps:

- 1. Initial Contact and Consultation:** Obtain information, answer questions and advise as to all the tasks that must be done to administer the estate and advise of compensation issues. Determine whether an application to the court is necessary (this might not be known at this time). Assign which tasks will be done by the client and which tasks will be done by the lawyer. The initial consultation usually takes one hour or more (but less if the client comes prepared with the information and documents requested in the Estate Packet). Cost is \$400 but is subject to an increase if more than an hour consultation, then will be based upon time taken at \$325 per hour (excluding HST). (*Lawyer's task*)
- 2. Setting up the Estate Bank Account:** Either changing an existing bank account to an estate bank account or setting up a new one to receive estate assets and pay estate bills. The estate trustee, not the lawyer, should be the person controlling the payment of all estate monies. (*Client's task*)
- 3. Letters to Government Departments:** To ensure that there is no possibility for identity theft, a number of governments departments should be advised of the testator's death. They include Ministry of Health, Passport Canada, Social Insurance registration, and Ministry of Transportation. The Administration of Estates Manual provides samples of these letters with addresses. The Estate Trustee usually performs this task, but if the Estate Trustee wants the Lawyer to do it, he will, but at a charge of \$30 per letter.
- 4. Application for Appointment of Estate Trustee:** Involves making a list of assets and their values that are subject to the probate fee; preparing the documents to apply for appointment; preparing and sending the notices required by law to the beneficiaries. Cost is \$850 but subject to increase if there are more than five beneficiaries or estate trustees to deal with, if a guarantee bond needs to be obtained or dispensed with, or there are changes to the estate trustees originally appointed. There will be a charge of \$50 for each beneficiary over five. If there is no Will, the cost of applying is \$950. because of the extra work involved. If the Will needs to be obtained from Quebec, the cost of applying is \$950. Hourly rate of \$325 applies if unusual problems obtaining the appointment. (*Lawyer's task*).
- 5. Application for Canada Pension Plan Benefits:** Complete the forms with required documents to obtain CPP Death benefit and survivor's benefit. Cost \$100. The Department of Human Resources responsible for CPP will help client complete the application. (*Lawyer's or Client's task*)
- 6. Transfer of Real Estate to Beneficiaries:** Prepare, sign and register land registry documents: Cost \$175 for legal fees plus approximately \$200 for disbursements, per property. (*Lawyer's task*).
- 7. Transfer of Monetary Assets:** Write banks, credit unions, investment companies, Bank of Canada (Savings Bonds), to advise of death, to confirm amount held in deceased's name and to obtain procedure to transfer the asset to the estate bank account or to a beneficiary. Prepare, sign and arrange to transfer the assets. Cost \$250 per institution, \$25 for each notarial copy made if client is dealing with the bank. (*Lawyer's or Client's task though some forms to transfer may need to be done by the lawyer*)
- 8. Transfer of Automobile:** Advise client as to how to transfer the registration of an automobile. No charge except \$25 for each notarial copy made if client is dealing with car transfer. (*Client's task to attend at Motor Vehicle Licence Bureau*)
- 9. Arrange for Payment of Life Insurance:** Write insurance companies advising of death and prepare documentation to obtain payment of life insurance: Cost \$150 per institution. (*Lawyer's or client's task*). Some Insurance companies' agents will help the client with the application.
- 10. Arrange for Transfer of RRSP's:** Write financial institutions advising of death and prepare documents to transfer the funds. Cost \$150 per institution. (*Lawyer's or client's task*).
- 11. Arrange for Receipt of Pensions and Annuities:** Write institutions advising of death and prepare documents to obtain the pension or annuity. Cost \$250 per institution. Most employers and institutions will help the client with the application and provide a letter explaining all the benefits the surviving spouse has. (*Lawyer's or client's task*)
- 12. Sale of Property or Business:** This task is done by a real estate or commercial lawyer at the regular fees charged for such services.
- 13. Advertise for Creditors:** Arrange for the a creditor's notice to be placed in a local newspaper. This is generally only necessary when the executor is concerned there are unknown debts and wants to protect him or herself from being personally liable. Cost \$100 for lawyer \$200 for newspaper. (*Lawyer's task*).
- 14. Payment of Debts:** Write all financial institutions and persons to whom money is owed to ascertain amount owed and whether debt was life insured, and then arrange to pay the debt. Cost \$100 an institution. (*Lawyer's or client's task*).
- 15. Defending a Claim against the Estate:** If the estate is sued by a person claiming to be a dependant under the Succession Law Reform Act, a spouse under the Family law Act or anyone contesting the validity of the will the cost would be based upon the normal costs of a litigation lawyer defending a law suit.
- 16. Income Tax:** Arranging and providing accountant with information to prepare the terminal tax return and if required, a trust tax return. Cost \$100 (*Lawyer's or client's task*)
- 17. Obtaining Final tax Clearance Certificate:** Preparing the application for a final tax clearance certificate. Cost \$150 (*Lawyer's, Accountant's or Client's task*)
- 18. Keeping the Accounts of the Estate:** Recording all the transactions of the estate in proper court form. Calculating the amounts payable to beneficiaries. Cost \$250 for the interim distribution to the beneficiaries (if there is one), and \$250 for the final distribution to the beneficiaries, subject to an increase if complicated. (*Lawyer's or Client's task*)
- 19. Reporting and Obtaining Releases from the Beneficiaries:** Advising the beneficiaries of the accounting and distribution scheme of the estate, drafting and obtaining from the beneficiaries a Release of the Estate Trustee and indemnification in case of further income tax. Cost \$100 per beneficiary, and extra on a time basis if I have to deal with a beneficiary contesting the amount of their payment. There will also be an extra charge if there is an interim distribution of \$100 per beneficiary. (*Lawyer's task*)

20. **Passing The Accounts Before the Court:** If required by law (beneficiaries are minor children), or a beneficiary requests the estate trustee to have the estate accounts approved by the court, a "passing of accounts" must take place. Cost is charged on a regular hourly basis. *(Lawyer's task)*
21. **Value of Estate:** If the estate's probate value is greater than \$400,000, fees will be increased because of extra liability by charging ½% of the value over \$400,000.
22. **Reporting to the Client:** Confirming with the client in writing after the first consultation as to what has to be done to administer the estate and who will do it. Advising the client in writing at various stages of the administration of the estate of the results of all the tasks performed. \$150 (except if only initial consultation or transferring property). *(Lawyer's task)*



Fees as of January 1st, 2011

All fees shown exclude 13% HST

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Make an Appointment

Family Law: Jenny Mirsky 613-828-2120 ext 101
Wills & Estates: Kerry MacDonell 613-828-2120 ext 120

The Bell Mews, Suite 300, 39 Robertson Road, Ottawa, ON K2H 8R2
Office: 613-828-2120 Fax: 613-596-0881

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SURVEYS

Select the appropriate survey(s) from the links below. You may fill out any of the Adobe PDF forms online and submit the information electronically by clicking the 'submit by email' button at the end of the form. Make sure you save changes as you go along. You can also print a copy for your records. Alternatively, you may print the form out and fill it out by hand. All information is treated in confidence.

[Administration of Estates Survey](#)

[Choosing a Lawyer Survey](#)

Survey Contest

Client feedback is necessary to improve the quality of legal services I provide to my clients. Client surveys are an effective method to obtain that response. These surveys tell me what the client thinks about the way I practice, and allow the client to make suggestions on how service can be improved. Generally, lawyers look at matters through their own eyes rather than from the client's perspective. The same is true for the methods of marketing of legal services. I would therefore appreciate it if you would take some time to fill out the relevant questionnaires above - one dealing with my **packets** and the other with **choosing a lawyer**. It will greatly help me provide better service and improve my marketing.

My experience is that people do not like filling out questionnaires. Therefore, I am offering a contest to obtain a good response. **Annually on January 31st, I will award a prize of a pair of FREE Ottawa Senators tickets PLUS free parking and \$20 for refreshments for the best suggestion** for improvements of services, marketing or packets.

You may mail, fax, e-mail, or deliver to our office your completed survey questionnaire. All information and names of respondents will be kept confidential. You do not need to become a client to enter the contest.

I look forward to reading your comments.

Lawrence S. Pascoe



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