

Publisher's Note

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Previous release was 2018-2

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Schnurr

Estate Litigation

Estate Litigation, 2nd Edition, is a comprehensive, practical work covering all facets of estate litigation including mental incompetency disputes, challenges to wills, *Family Law Act* claims, passing of executors' accounts, presumption of death and dependant support claims. The publication includes extensive precedents along with relevant statutory material.

What's New in this Update:

This release features updates to the case law and commentary in Chapter 5 (Passing of Accounts and Executors' Fees), Chapter 10 (Proceedings Relating to the Presumption of Death), Chapter 14 (Court Proceedings to Ascertain Heirs of an Estate), and Chapter 21 (Solicitors' Negligence In Estate Matters).

Highlights Include:

- **Passing of Accounts and Executors' Fees — Passing of Accounts — Limitation Defence** — In *Shaw v. Wall* the Court addressed the question of whether an estate trustee was entitled to move to strike a beneficiary's Notice of Objection to Accounts based on the *Limitations Act, 2002*, or laches or acquiescence. In this instance, the Court was not satisfied that a Notice of Objection to Accounts was a "claim" within the meaning of the *Limitations Act, 2002*: *Shaw v. Wall*, [2018] O.J. No. 1390.

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- **Passing of Accounts and Executors' Fees — Passing of Accounts — Limitation Defence** — The Ontario Court of Appeal considered the issue of limitation periods in a passing of accounts in the case of *Armitage v. Salvation Army*. The respondent had commenced a passing of accounts application in respect of her accounts as attorney for property and estate trustee. The appellant objected to the attorney accounts on the basis that the claim for compensation was excessive and statute barred. The Ontario Court of Appeal upheld the decision of the application judge in granting the passing of accounts, but provided a different analysis of the issue of limitation periods in passing of account applications: *Armitage v. Salvation Army*, 2016 ONCA 971 (Ont. C.A.).