

## Publisher's Note

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### ESTATE LITIGATION

**Brian A. Schnurr**  
**Release No. 5, July 2022**

#### Publisher's Special Release Note 2021

The pages in this work were reissued in November 2021 and updated to reflect that date in the release line. Please note that we did not review the content on every page of this work in the November 2021 release. We will continue to review and update the content according to the work's publication schedule. This will ensure that subscribers are reading commentary that incorporates developments in the law as soon as possible after they have happened or as the author deems them significant.

Changes to chapter and heading numbering may have occurred. Please refer to the Correlation Table in the front matter if you wish to confirm references.

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*Estate Litigation, 2<sup>nd</sup> 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:**

In this release, a new memorandum has been added to Appendix IF (Issues in Focus) and Appendix IF:18 has been updated to February 1, 2022. Appendix A (Legislation) has also been updated in this release. Finally, many of the forms contained in Appendix A34 (Rules of Civil Procedure Forms) have been updated to June 1, 2022.

### **Highlights Include:**

**APPENDIX IF—ISSUES IN FOCUS—IF:69**—The memorandum titled “*Are pour-over clauses valid in the context of transferring or paying estate residue to an inter vivos trust?*” has been added to this release. This memo focuses on the approaches taken by British Columbia, Ontario, and Nova Scotia with regard to the validity of pour-over clauses which purport to transfer estate property to inter vivos trusts. The memo considers recent and developing case law, the doctrine of incorporation by reference, the doctrine of facts of independent significance and curative legislative provisions.

**APPENDIX IF—ISSUES IN FOCUS—IF:18**—The memorandum titled “*What are the circumstances in which Ontario courts will strike down a bequest for being against public policy?*” has been updated to February 1, 2022 in this release. The memo addresses testamentary freedom and bequests containing conditions which contravene public policy.

**APPENDIX A—LEGISLATION**—The legislation in the following Acts has been updated:

- A6: Children’s Law Reform Act
- A7: Criminal Code Bill C-14, An Act to amend the Criminal Code and to make related amendments to other Acts (medical assistance in dying)
- A8: Crown Administration of Estates Act
- A10: Escheats Act
- A14: Estates Administration Act
- A15: Evidence Act
- A16: Family Law Act and Regulation
- A18: Health Care Consent Act and Regulation

### **ProView Developments**

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work

- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable
- Footnote text only appears in ProView-generated PDFs of entire sections and pages

