

Publisher's Note

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COMPENSATION & DUTIES OF ESTATE TRUSTEES, GUARDIANS & ATTORNEYS

Jennifer J. Jenkins
Release No. 1, April 2022

Publisher's Special Release Note 2021

The pages in this work were reissued in August 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 August 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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What's New in this Update:

This release features updates to Chapters 6, 12, 16, 18 and 25 as well as updates to the Index.

Highlights:

- **Chapter 6: Procedures to Pass Accounts**
In *Canada Trust v. Ross*, 2019 ONSC 1165 (Ont. S.C.J.), the court rejected a motion to amend a passing of accounts judgment seeking payment from the estate. This claim was barred by the *Limitations Act, 2002*.
- **Chapter 12: General Duties of Estate Trustees**
Ontario's Court of Appeal in *Walters v. Walters*, 2022 ONCA 38 (Ont. C.A.), decided if trustees had considered improper factors when they exercised their absolute discretion.
- **Chapter 16: Estate Trustee Duties – Estate Creditors, Administration Taxes, Digital Assets**
In *Berner v. Gorgi*, 2021 ONSC 5103 (Ont. S.C.J.), the court declined to replace an estate trustee with an Estate Trustee During Litigation. There was no apparent conflict of interest with a beneficiary or co-trustee.
- **Chapter 18: Common-Law or Equitable Remedies**
In *Mak (Estate) v. Mak*, 2021 ONSC 4415 (Ont. S.C.J.), the court decided that Pecore resulting trust presumptions did not apply to a RIFF designation. The court distinguished the Calmusky decision and reviewed critical commentary.
- **Chapter 25: Advising Attorneys and Guardians on Duties**
New section 25:5 is added: Elder Financial Abuse, Bias and Policy Considerations are reviewed with costs in contested proceedings.

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