

Why You Need a Will

Upon the breakdown of a marriage or a long-term relationship, there are a number of issues which normally need to be resolved depending upon the circumstances of the parties. These issues may include: the custody of children, child support, spousal support and the division of property.

If you presently have no valid Will, or if you have not reviewed your Will lately, you should consider meeting with a member of our Wills, Estates and Trust Practice Group to obtain advice on how best to protect your family or loved ones in the event of your death.

The following true-to-life scenarios may help to illustrate some of the dangers of failing to plan for your demise, or proceeding on faulty assumptions as to your present estate plan.

1. You are a 65 year old woman, recently married for the second time to a wealthy man.

You signed a will shortly after the death of your first husband which leaves your entire estate to your



three children, and you see no reason to make any changes to that will, in view of the fact that your new husband has no need of your assets. Did you know that your recent marriage revoked your previous Will, and if you die without making a new will, your husband will inherit a significant portion of your estate?

2. You are a 50 year old man, divorced from your wife of 35 years.

You remain “best friends” and are very much in each other’s lives. You have no children and both of your parents and your only

brother have died. You have two nieces which you barely know. You made a Will 20 years before your divorce which leaves your entire estate to your former wife. In view of your continuing relationship, you see no reason to change the disposition of your estate. Did you know that upon your death, any benefits accruing to your former wife are revoked, absent a contrary intention contained in your Will, and that your estate will devolve upon your nieces?

3. You are a 35 year old male, married with three children ages 1 month to 5 years.

Your wife is a stay-at-home Mom with no job skills and no assets of her own. You have no Will. Did you know that if you die without a Will, your wife will have to share a substantial part of your estate with your children, and may not have enough to live on without being forced into employment to make ends meet? Did you also know that any share to which your children are entitled must be paid into Court and supervised by an official of the Ontario Government until they attain the age of eighteen years?

4. You are married and all of your assets are owned jointly with your spouse.

You have no children, and you see no need to prepare a Will at this time, since on the death of either one of you, the survivor will inherit everything. The survivor would of course prepare a Will at that time. Did you know that if you and your wife die in a common disaster, one-half of your joint estate would be divided among members of your family, which could include parents, siblings, and nieces and nephews, while the other half of your joint estate would be divided in the same fashion among members of your spouse's family? Is this what you would want?

5. Consider the same scenario as above.

Instead imagine that you die immediately in the same disaster, while your spouse survives, but dies from his or her injuries, one day later. Did you know that your entire joint estate would go to your spouse's family?

Make an appointment with one of our skilled professionals today, to ensure that your wishes will be implemented on your death, and further to determine the most cost efficient and practical methods of accomplishing that objective. At the same time, consider planning for potential incapacity by putting Powers of Attorney in place.

If you have questions about your will or would like to draft a will, please contact one of our family law lawyers at (613) 728-8057. You can also contact Gail Nicholls directly at (613) 288-3234 or by e-mail at gailnicholls@tslawyers.ca.



Gail Nicholls,
B.A., LL.B.

Phone: 613-288-3242
E-mail: gnicholls@tslawyers.ca

PRACTICE SUMMARY

Although Gail's practice is primarily devoted to the specialized areas of Wills and Trusts, Estate and Tax Planning, Estate Administration and Wealth Management, she also devotes a significant portion of her professional time to Estate Litigation, Mediation and Arbitration.

Gail has been an instructor at the Bar Admission Course in Estate Planning, has been the Chair and Lecturer at numerous Continuing Legal Education Programs sponsored by the Law Society of Upper Canada, the Canadian Institute and the County of Carleton Law Association.