

NEWS > TRUST & ESTATES SEMINAR

Testamentary independence, public policy and the morality of disinheriting children



JORDAN ATIN: The Judge

The scenario being adjudicated before the moot court involves a father who disinherited his son for marrying outside the Jewish faith.

Since 2006, B'nai Brith Canada's Trust and Estates Group has been providing seminars to lawyers and accountants on issues of interest. Attendees are able to claim Continuing Professional Development hours and the presence of leading members



IAN HULL: Estate's lawyer

of the profession addressing topics of concern have made these events popular within the legal and accounting communities.

The format of the seminar will be a summary trial. The fact situation before the court is an amalgamation of several cases from Ohio, Illinois and Quebec. In each instance, the testator disinherited a child for marrying outside the Jewish faith. The argument before

the court will balance the right of a testator to determine who is entitled to his bounty weighed against provisions that might offend public policy and the moral duty of a parent to include a child in his inheritance. The courts in all of these jurisdictions have set aside trusts and/or testamentary documents that discriminate against parties on account of their faith because they viewed such provisions as offending public policy.

In British Columbia, the courts have varied wills because they understand that the moral duty of a parent to include a child in their will is a legal duty. In



Charles WAGNER

some jurisdictions in Europe there are forced heirship laws requiring a certain percentage of every estate to be bequeathed to the testator's spouse and children. To date, there is no case in Ontario where a court has revised a will to the benefit of a healthy adult child beneficiary. However, certain cases like the Court of Appeal decision in Cummings suggest that Ontario courts will be taking the moral entitlement of adult children dependants into account when reviewing competing claims.

The seminar will take the format of a summary trial. The disinherited beneficiary



CRAIG VANDER ZEE: Daughter's lawyer



ARCHIE RABINOWITZ: Son's lawyer



HOWARD BLACK: Disinherited son

will be filing an affidavit explaining why he is challenging the will. The estate will be filing an expert report trying to prove why the fight for Jewish continuity neither offends public policy nor invites an Ontario court to vary the will. At the seminar, Jordan Atin of Hull and Hull LLP is playing the judge. Representing the estate is Ian Hull of Hull and Hull LLP and Kelly Charlebois of Miller Thomson LLP. Representing the daughter is Craig Vander Zee of Torkin Manes LLP. The disinherited son is represented by Archie Rabinowitz of Fraser Milner Casgrain LLP, Kimberly Whaley of Whaley Estate Litigation and Charles B. Wagner of Wagner Sidlofsky LLP.

As part of the presentation, the estate will be calling in expert witness Rabbi Mordechai Torczyner, Rosh Kollel, YU Kollel in Toronto whose expert report will speak to why a clause promoting Jewish continuity



RABBI MICHAEL TORCZYNER: Expert witness

does not offend public policy. He will be cross-examined by Rabinowitz. Howard Black of Minden Gross will be playing the disinherited son. He will be cross-examined by Vander Zee.

The event will take place on June 5, 2012 at Shaarei Shomayim Synagogue, 470 Glencairn Ave., Toronto, ON M5N 1V8. Registration is at 7:30 a.m. and the moot court will begin at 8 a.m. The event is open to lawyers and accountants. Those lawyers and/or accountants interested in attending, should contact Anita Bromberg, B'nai Brith Canada, at (416) 633-6224 and/or at abromberg@bnaibrith.ca.

Charles B. Wagner is a partner at Wagner Sidlofsky LLP and is certified by the Law Society of Upper Canada as a specialist in Estates & Trusts Law. Wagner Sidlofsky LLP is a boutique litigation law firm whose practice is focused on estate, commercial and tax litigation.



כחול לבן
WWW.KACHOL-LAVAN.COM

THE CENTRE FOR HEBREW AND ISRAELI STUDIES
המרכז ללימודי עברית וישראל

SUNDAY SCHOOL
An experience you'll cherish forever

FROM JK TO HIGH SCHOOL

- Hebrew
- Bar/Bat Mitzvah Program
- Jewish Traditions
- Israeli Culture
- High School Hebrew Credit
- Choir

ADULTS CLASSES

- Hebrew
- Choir and Café Kachol Lavan

THREE LOCATIONS

1 THORNHILL WOODS
Thornhill Woods P.S.
341 Thornhill Woods Drive

2 THORNHILL
Leo Baeck Day School
36 Atkinson Avenue, Thornhill

3 TORONTO
Bialik Hebrew Day School
2760 Bathurst Street, Toronto

REGISTRATION
www.kachol-lavan.com
info@kachol-lavan.com
416-985-1216



KENSINGTON HEALTH'S NOT-FOR-PROFIT CHARITABLE ORGANIZATIONS:

The Kensington Health Centre, a 350-bed long term care facility, Kensington Gardens

The Kensington Hospice, a 10-bed residential hospice

The Kensington Eye Institute, an Academic Centre of Excellence for ambulatory cataract surgery

The Kensington Screening Clinic, a colonoscopy/gastroscopy screening centre

The Kensington Foundation, providing financial support for the Kensington Health organizations as well as community grants to support community health

The Kensington Research Institute, providing financial support to the Kensington entities for Research and Education and the advancement of knowledge

Kensington
HEALTH

*We Salute Israel
on its
64th Anniversary*