

# CLE for Lawyers & Accountants 100 Questions about a Will Challenge

Tuesday, June 2, 2015

## PRESENTERS



**Charles Wagner**

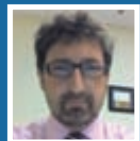
Wagner Sidlofsky LLP, Chair, Trusts & Estates group



**Jordan Atin**  
Hull & Hull LLP



**Clare Burns**  
WeirFoulds LLP



**John Clegg**  
Scotia Private Client Group



**Brendan Donovan**  
Wagner Sidlofsky LLP



**Heather Hogan**  
Whaley Estate Litigation



**Ian Hull**  
Hull & Hull LLP



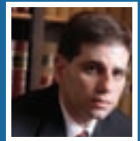
**David Lobl**  
Dentons Canada LLP



**Archie Rabinowitz**  
Dentons Canada LLP



**Kenneth Shulman,**  
MD, SM, FRCPPsych, FRCPC(C)  
Affiliate scientist, Sunnybrook  
Research Institute



**Gregory Sidlofsky**  
Wagner Sidlofsky LLP



**Debra Stephens**  
Goddard Gamage Stephens LLP



**Rabbi Mordechai  
Torczyner**  
Rosh Kollel, YU Kollel, Toronto



**Craig Vander Zee**  
Torkin Manes LLP



**Kimberly Whaley**  
Whaley Estate Litigation

## UNDUE INFLUENCE AND THE WILL CHALLENGE

As regular readers of this column undoubtedly know, there is a seminar set for June 2nd, 2015.



**Charles Wagner**

For the purpose of this column, I want to focus on one aspect of the seminar being organized by

B'nai Brith Canada's Estates & Trusts, Lawyers Division that deals with undue influence. Since 2006, B'nai Brith Canada has been providing seminars to lawyers and accountants on issues of interest. In the context of a will challenge, it is very prevalent that one side will allege that undue influence was exerted on the testator in the making of a will which



**John Clegg**

invalidates the testamentary document. In our case scenario, the allegation by the daughter is that her brother unduly

influenced their mother to make a will that disinherited the sister. Ordinarily, the sister would have the onus to prove undue influence unless there are suspicious circumstances that reverse the onus. In our case, arguably suspicious circumstance exists because the mother had Alzheimer's at the time that she signed the will, she was illiterate and her lawyer took only 10 minutes to translate and explain a complicated will. It is therefore debatable that the onus has shifted and it is up to the brother to prove that there was

no undue influence. In order to highlight these issues and the test to prove undue influence, a



**Deb Stephens**

portion of the moot court will include an examination of the brother (played by John Clegg of Scotia Private

Client Group) by Debra Stephens of Goddard Gamage Stephens. Kimberly Whaley of Whaley Litigation will be cross examining the witness. The event will take place on June 2nd, 2015 at Shaarei Shomayim Synagogue at 470 Glencairn Avenue, Toronto, Ontario M5N 1V8. Registration is at 7:30am and the moot court will begin at 8:00am. The event is



**Kim Whaley**

open to lawyers and accountants. Those lawyers and/or accountants interested in attending may contact Elyse Gruenspan at

B'nai Brith Canada at (416) 633-6224 or email at [egruenspan@bnaibrith.ca](mailto:egruenspan@bnaibrith.ca). Charles B. Wagner, of Wagner Sidlofsky LLP, is a certified specialist in Estates & Trusts Law. He chairs the Estate and Trusts Group, Lawyers Division of B'nai Brith Canada that created and runs this annual continuing legal education program for professionals dealing with estate and trust issues.

**Sponsored By:** B'nai Brith Canada, Bank of Nova Scotia Trust Company, Hull & Hull LLP, Wagner Sidlofsky LLP and Whaley Estate Litigation



**WagnerSidlofsky**  
LLP



**HULL & HULL LLP**  
Barristers and Solicitors  
Trust Experience



**Shaarei Shomayim Synagogue 470 Glencairn Ave., Toronto**

Registration & Breakfast: 7:30 am Program: 8:00 am – 12:00 noon Cost \$100+tax  
To register, please contact Elyse Gruenspan at 416-633-6224 x109 [egruenspan@bnaibrith.ca](mailto:egruenspan@bnaibrith.ca)  
This program is eligible for substantive CPD hours required of Lawyers by the LSUC