

CLE for Lawyers & Accountants POWER OF ATTORNEY DISPUTES TUESDAY, MAY 23, 2017 PRESENTERS



CHARLES WAGNER
Wagner Sidlofsky
LLP Chair, Trusts
& Estates group



ANDREW FELKER
Walker Head Lawyers



GREGORY SIDLOFSKY
Wagner Sidlofsky LLP



JORDAN ATIN
Hull & Hull LLP



THE HON. SUSAN E. GREER
Retired Judge,
Ontario Superior
Court of Justice



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Office of The
Children's Lawyer,
Ministry of the
Attorney General



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WeirFoulds LLP



DR. NATHAN HERRMANN
Sunnybrook Health
Sciences Centre



MARSHALL SWADRON
Swadron Associates



JOHN CLEGG
Scotia Private
Client Group



IAN HULL
Hull & Hull LLP



RABBI MORDECHAI TORCZYNER
Rosh Kollel,
YU Kollel, Toronto



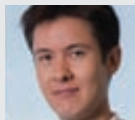
RICHARD COUTINHO
Office of the Public
Guardian and
Trustee, Ministry of
The Attorney General



ARCHIE RABINOWITZ
Gowling WLG



CRAIG VANDER ZEE
Torkin Manes LLP



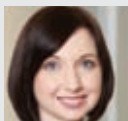
BRENDAN DONOVAN
Wagner Sidlofsky LLP



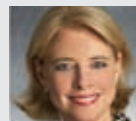
FELICE KIRSH
Schnurr Kirsh
Oelbaum Tator LLP



KIMBERLY WHALEY
WEL Partners



ANGELIQUE MOSS
Casey & Moss LLP



MELANIE YACH
Aird & Berlis LLP

Shaarei Shomayim Synagogue | 470 Glencairn Avenue, Toronto
REGISTRATION & BREAKFAST FOR MAY 23, 2017: 7:30 AM
PROGRAM: 8:00 AM-12:00 NOON. COST \$118 PLUS HST

To register, contact Elyse Gruenspan at 416-633-6224 x109

egruenspan@bnaibrith.ca or online at www.bnaibrith.ca/trustsandestates

***This program is eligible for substantive CPD
hours required of Lawyers by the LSUC***

*Sponsored By: B'nai Brith Canada, Bank of Nova Scotia Trust Company,
Hull & Hull LLP, Torkin Manes LLP, Wagner Sidlofsky LLP and WEL Partners*



Power of Attorney Disputes Romance and the Elderly



Charles Wagner
Wagner Sidlofsky LLP
Chair, Trusts & Estates

In its CLE seminars the B'nai Brith Canada Estates and Trusts Group always includes a segment dealing with ethics, professionalism and Jewish law. This year's seminar on May 23 is no different. Setting the stage for this topic is a vignette where Jordan Atin of Hull & Hull LLP plays the mediator dealing with two fictional litigants arguing over their mother's romance with a younger neighbour.

The brother (played by Craig Vander Zee of Torkin Manes LLP) does not understand why anyone would think it's acceptable that his cognitively compromised mother is romantically involved with this neighbour. He fears that mother cannot protect herself from STIs or from the unscrupulous financial predator.

The sister (played by Felice Kirsh of Schnurr Kirsh Oelbaum Tator LLP) says her brother is being over paternalistic. Mother is happy. The fact that she is forgetful does not allow her children to take away mother's personal autonomy. The sister feels that the brother is just afraid that if their mother marries that he will lose out on his inheritance.

This fictional scenario is based on reported cases with similar fact situations. It raises ethical dilemmas for both the lawyers and the family. Where the capacity of a person is an issue section 3 of the

Substitute Decisions Act (SDA) provides that the Public Guardian and Trustee (PGT) appoints counsel to represent people who do not have legal representation. Regardless of their mental capacity, section 3 of the SDA deems that the person has capacity to instruct counsel. In our scenario mom might instruct her lawyer to oppose any effort to stop the relationship. She likes her boyfriend and is not worried about the dissipation of her assets.

Following the vignette I will be chairing a panel that discusses these issues. Andrew Felker of Walker Head LLP and Marshall Swadron of Swadron Associates will form part of the panel. They are two highly regarded lawyers who are often called upon by the PGT as section 3 counsel. Richard Coutinho of the PGT deals with these type of disputes. I will be asking them how lawyers should deal with the ethical dilemma of when the instructions given by cognitively compromised clients are clearly not in the client's best interests.

The fourth panelist is Rabbi Mordechai Torczyner of the Rosh Kollel, YU Kollel, Toronto. I will ask for his comments on how Jewish law views the ethical dilemma of section 3 counsel. As well, regarding the children, where does the obligation to respect a parent's wishes stop and the obligation to protect them start.



ANDREW FELKER
Walker Head
Lawyers



MARSHALL SWADRON
Swadron Associates



RICHARD COUTINHO
Office of the
Public Guardian
and Trustee



RABBI MORDECHAI TORCZYNER
Rosh Kollel, YU Kollel,
Toronto

The event will take place on May 23rd, 2017 at Shaarei Shomayim-Synagogue at 470 Glencairn Avenue, Toronto, Ontario M5N 1V8 and is open to lawyers and accountants. To reserve your place please contact Elyse Gruenspan at B'nai Brith Canada at (416) 633-6224 or egruenspan@bnaibrith.ca