

CLE for Lawyers & Accountants Estate Disputes & Prenuptial Agreements

Tuesday, June 21, 2016

PRESENTERS



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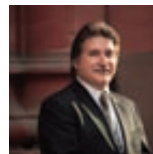
Entitlement to Support despite Prenuptial Agreement

CLE Seminar



Charles Wagner
Wagner Sidlofsky LLP
Chair, Trusts & Estates

Most people would be surprised to find out that the best prenuptial agreement in the world will not stop the surviving spouse from successfully suing the estate for support. In the upcoming B'nai Brith Estates and Trusts CLE seminar, lawyers and accountants will review this issue in a moot court setting.



Charles Ticker
Charles B. Ticker Law Office

When wealthy people marry, their lawyers often advise them to ensure that their fiancé signs a prenuptial agreement. The goal is to protect the wealthy person's family in case, the marriage breaks up and/or the wealthy spouse dies. So, if the couple each hire good lawyers and the prenuptial contract clearly spells out their agreement, is that 'pre-nup' still open to challenge? Maybe. Let's look at the law.

Under the Succession Law Reform Act, a prenuptial agreement is only one factor the court has to take into consideration when deciding if the estate should pay support to a surviving spouse. The legislation specifically provides that the court has the discretion to ignore the agreement.



Brendan Donovan
Wagner Sidlofsky LLP

When a couple sign a prenuptial agreement and the surviving spouse feels she wants to sue the estate, lawyers ask a lot of questions which include: (1) does the prenuptial agreement provide adequate support; (2) if not, does the obligation to support your spouse under the Family Law Act and common law get cancelled by the domestic contract? One case that dealt with this issue was the Butts Estate v. Butts case ("Butts"). In Butts Estate v. Butts, despite the fact that there was a contract where both parties fully understood the terms of their agreement, the court decided that the support provided was insufficient and increased support payments to be paid by the estate to the separated wife by \$1,000 per month.



Wynn Harvey
Touchpointe Strategies, Inc.

There are a number of other factors a court takes into account when determining the quantum of support. Part of the moot court will demonstrate how the surviving spouse might argue his or her case. Charles Ticker of Charles B. Ticker law office will be the lawyer for the surviving spouse examining Wynn Harvey of Touchpointe Strategies, Inc. Brendan Donovan of Wagner Sidlofsky LLP will be conducting the cross-examination. As an economist, Wynn has prepared a report on the case factoring in the surviving spouse's health, age and ability to support himself to arrive at a figure of what he will need to accommodate his lifestyle for the rest of his life. Attendees will learn what factors the courts take into account in these circumstances and how astute counsel conduct examinations in chief and cross-examinations.

Shaarei Shomayim Synagogue • 470 Glencairn Ave., Toronto

Registration & Breakfast: 7:30 am • Program: 8:00 am – 12:00 noon • Cost \$118+tax

To register, please contact Elyse Gruenspan at 416-633-6224 x109 • egruenspan@bnaibrith.ca

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

The event will take place on June 21, 2016, at Shaarei Shomayim-Synagogue at 470 Glencairn Avenue, Toronto, Ontario M5N 1V8, and is open to lawyers and accountants. Please contact Elyse Gruenspan at B'nai Brith Canada at **(416) 633-6224** or email at **egruenspan@bnaibrith.ca**.