



Emily Clough, TEP

Partner

Elder Law
Estates & Trusts
Estates & Trusts Opinions and Appeals

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Profile

Emily Clough is a partner at Clark Wilson LLP. She is the key contact for Elder Law matters. Emily is nationally recognized as being one of the Best Lawyers in Canada for Trusts and Estates and a repeatedly recommended lawyer by Lexpert.

Emily works in all aspects of estates, trusts, and incapacity matters, as both a solicitor and a litigator. Emily prepares estate, trust and incapacity planning documents. She assists with the administration of estates and probate. Emily has been lead litigation counsel on cases at all levels of Court regarding estates, variations of wills, trustee duties, power of attorney duties and removal, and elder abuse. She has acted as counsel in cases that have set new precedents in British Columbia, including on wills variation and the incapacity to marry. Her cases have received national coverage by the Globe & Mail and the CBC. In 2019, Emily was recognized as a nominee for the YWCA Women of Distinction Award, recognizing her as a leading elder law practitioner.

Emily volunteers her time to promote and develop the law. Emily is the elected Chair of the British Columbia Law Institute and the Canadian Centre for Elder Law, independent law reform agencies carrying out scholarly research, writing, and analysis. Emily is the President of Health Justice, a human rights-focused non-profit organization working to improve BC laws and policies of coercive health care, particularly under the Mental Health Act. Emily is a member-at-large of the CBA National Elder Law Subsection.

Emily volunteers her time to prepare wills and incapacity planning documents for low-income seniors, through Access Pro Bono. Emily is the Chair of the Pro Bono program at Clark Wilson. She is a member of the Ethics Committee at Clark Wilson, guiding lawyers on their ethical duties to their clients, the profession, the Courts and the public.

Emily authors chapters for Continuing Legal Education of British Columbia books on estate-related matters. Emily presents regularly at conferences, particularly regarding elder law and incapacity matters. She has presented seminars at the Canadian National Elder Law Conference. Emily regularly volunteers and provides seminars to the Alzheimer Society. Emily worked with the Alzheimer's Society to develop and present a seminar on working with clients with incapacity issues and protecting the rights of vulnerable adults.

Estate & Trust Litigation Services

- > Litigation involving the Wills Variation Act, the Wills, Estates and Succession Act, testamentary capacity, capacity to marry, capacity to make a gift, undue influence, breaches of trust, trust variation applications, unjust enrichment, resulting trusts and proprietary estoppel
- > Injunctions to prevent dissipation of assets
- > Contract and shareholder disputes, including corporate oppression matters, shareholder disputes, rectification of corporate records and mistakes

Estate Planning & Administration Services

- > Estate planning advice regarding wills, power of attorney instruments, representation agreements, nominations of committee, advance directives and trusts (alter ego trusts, joint spousal trusts, inter vivos trusts)
- > Estate administration, including probate, administration, and passing of accounts

Committeeship/Guardianship Services

- > Contested and uncontested committeeship applications and trials
- > Applications regarding whether a person must be forced to undergo involuntary mental capacity assessments

Credentials

Awards & Distinctions

- > Canadian Legal Lexpert Directory®, Repeatedly Recommended Lawyer, Estate & Personal Tax Planning - Estate & Tax Planning, 2023
- > Canadian Legal Lexpert Directory®, Repeatedly Recommended Lawyer, Estate & Personal Tax Planning - Estate Litigation, 2023
- > Best Lawyers in Canada, Trusts and Estates, 2021-2022
- > Society of Trust and Estate Practitioners (STEP) Private Client Awards finalist for Contentious Trusts and Estates Team of the Year 2021

Industry Involvement

- > BC Law Institute Project Committee to update Undue Influence Guide for Practitioners, Chair
- > Estates, Trusts and Pension Journal (Thomson Reuters (Canada)), Editorial Advisory Board, 2021 to present
- > Cambridge Forums - Steering Committee for Forum for Senior Estates & Trusts Practitioners - 3rd Generation 2021 to present
- > BC Law Institute and Canadian Centre for Elder Law, Board of Directors, 2018 - present
- > BC Law Institute and Canadian Centre for Elder Law, elected Chair of the Board of Directors, 2020 - present
- > Health Justice, President, 2020 - present
- > National CBA Elder Law Subsection Member-at-Large, 2020 - present
- > BC Law Institute, Board of Directors, 2018 - present
- > Canadian Bar Association, Member
- > Wills and Trusts section of the Canadian Bar Association, Member
- > Canadian Association of Gift Planners, Vancouver Roundtable Board, Former Member
- > Moot Court Judge, UBC Law School 1L moot, 2012 - 2019
- > Moot Court Judge, TRU Law School 1L moot, 2017
- > Seminar, Legal Research and Writing, TRU Law School, 2017

Community Commitments

- > Inclusive Investing: Respecting the Rights of Vulnerable Investors through Supported Decision Making, Project by Canadian Centre for Elder Law, Committee Member (2018-2019)
- > Health Care Consent, Aging and Dementia: Mapping Law and Practice in British Columbia, Project by Canadian Centre for Elder Law, Contributor (2018)
- > Access Pro Bono Wills Clinic Project, Volunteer (2012-2019)
- > Educational programs of the Alzheimer Society of British Columbia, including public presentations and education for staff regarding personal and estate planning, Regular Contributor
- > Legal and Ethical Framework Advisory Committee, Law Foundation of British Columbia and Alzheimer Society of British Columbia, Advisory Committee Member
- > Prepared and revised written training manuals for the Alzheimer Society of British Columbia, training their staff regarding estate and personal planning
- > "Great Debate", fundraiser for the BCLI, Volunteer Debater (and two-time winner) (2010-2012)
- > Chronic Disease Self-Management 6-week course, University of Victoria, Program Leader and Trainer of the Leaders
- > Victoria Crisis Line, Volunteer

Professional Certifications

- > Trust and Estate Practitioner (TEP), Society of Trust and Estate Practitioners

Education & Call to Bar

- > Call to Bar: British Columbia, 2009
- > Judicial Law Clerk - Supreme Court of British Columbia, 2007-2008

- > Juris Doctor, University of Victoria, 2007
- > Bachelor of Arts (with Honours), Gonzaga University, 2001

External Presentations & Publications

- > Co-author, "Case Comment: Fuller v. Fuller", Estates, Trusts & Pensions Journal (vol. 42, no. 2), Thomson Reuters, February 2023
- > Presenter, "2021 Year in Review", Society of Trust and Estate Practitioners Vancouver Branch, January 2022
- > Co-chair, Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC (CLEBC), November 2021
- > Presenter, "Overview of Estate Planning", Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC (CLEBC), November 2021
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning - Joint Tenancies", Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC, November 2021
- > Speaker, "2020 Year in Review", Society of Trust and Estate Practitioners Vancouver, January 2021
- > Presenter, "Raise Your Voice: Dementia, Long-term Care and COVID-19", Alzheimer Society of British Columbia, January 2021
- > Presenter, "Impact of COVID on Personal Planning", Alzheimer Society of British Columbia, March 2021
- > Lecturer, Estate Litigation Basics 2021 course, Continuing Legal Education Society of British Columbia, March 2021
- > Protected: Trust Planning, Estate Planning Council of Abbotsford, November 2020
- > Presenter, "Demystifying Advocacy: Changing Your Situation", Alzheimer Society of British Columbia, September 2020
- > Speaker, "Provincial Learning Event: Predatory Marriage" telecast, British Columbia Association of Community Response Networks, April 2020
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning", Continuing Legal Education Society of British Columbia, June 2019
- > Presenter, "Elder Abuse in Today's World", Collaborative Divorce Vancouver, May 2019
- > Contributing author, British Columbia Estate Planning & Wealth Preservation Practice Manual: Chapter 7 Part IV Estate Planning and Family Law, Continuing Legal Education Society of British Columbia, 2018 - present
- > Contributing author, Annotated Estates Practice: Fraudulent Conveyance Act annotations (2017 - present); Public Guardian and Trustee Act annotations (2017 - present); Representation Agreement Act annotations (2017 - present); Power of Attorney Act (2014-2016); Civil Rules (2014-2016), Continuing Legal Education Society of British Columbia
- > Contributing author, British Columbia Probate and Estate Administration Practice Manual, 2011 & 2019
- > Presenter, "Working through the Dementia Journey: A Practical and Legal Toolkit", Odlum Brown and the Alzheimer Society of British Columbia, May 2018
- > Presenter, "Children's Issues in Estates", Canadian Bar Association BC Branch Wills &

Estates Subsection, March 2018

- > Presenter, "Keeping the Litigators Out: Drafting Robust Family Law Agreements and Estate Plans", Trial Lawyers Association of British Columbia, February 2018
- > Presenter, "The Past, Present and Future of Common Law Test for Capacity to Marry", Canadian Elder Law Conference, November 2017
- > Presenter "FAQs on Wills and Estates", Nidus Personal Planning Resource Centre and Registry, October 2017
- > Presenter, "Contested Committeeships", Fraser Valley Estate Planners Council, September 2017
- > Presenter, "How to Develop a Wills and Estates Practice", Continuing Legal Education Society of British Columbia, May 2017
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning", Continuing Legal Education Society of British Columbia, May 2017
- > Presenter, "Contested Committeeships - How Does the Court Determine What (or Who) is in the Patient's "Best Interests"?", Trial Lawyers Association of British Columbia, April 2017
- > Presenter "Estate Planning Considerations of Your Charitable Gift", Canadian Association of Gift Planners Vancouver Branch, February 2017
- > Presenter at a variety of events focused on personal and estate planning, Alzheimer Society of British Columbia, 2010 - 2017
- > Presenter, "New Law, New Issues: End of life planning in a changing legal landscape", Canadian Bar Association British Columbia Branch's Elder Law Subsection, August 2016
- > Speaker, "End of Life issues" broadcast, Sportsnet 650 CISL FM, July 2016
- > Presenter, "Issues in Estate Planning", Vancouver Foundation, April 2016
- > Presenter, "Section 58 & 59 of WESA: A Practical Guide to Curing Deficiencies and Rectifying Mistakes", Continuing Legal Education Society of British Columbia, February 2016
- > Presenter, "How to Develop a Wills and Estates Practice", Continuing Legal Education Society of British Columbia, January 2015
- > Presenter "Be Careful What You Wish For: End of Life Planning in a Shifting Legal Landscape", Canadian Bar Association British Columbia Branch, July 2015
- > Presenter, "Your Client Has Dementia - Now What? Ethics and Practice Tips to Minimize Risk", Continuing Legal Education Society of British Columbia and the Alzheimer Society of British Columbia, June 2015
- > Presenter, "Wills, Estates and Succession Act", Canadian Association of Gift Planners Vancouver Branch, October 2014
- > Presenter, "The Incapable Spouse", Continuing Legal Education Society of British Columbia, October 2014
- > Presenter, "Making Your Workplace Dementia Friendly - Information for Legal Professionals", Alzheimer Society of British Columbia, 2014
- > Presenter, "The Wills Variation Act - Update of Reported Decisions", Continuing Legal Education Society of British Columbia, November 2011
- > Editor-in-Chief, Appeal: Review of Current Law and Law Reform academic journal, University of Victoria Faculty of Law, 2007 - 2008)

- > Author, "A Critique of Advance Directives and Advance Directives Legislation", *Appeal: Review of Current Law and Law Reform*, vol 11, 2006 CanLIIDocs 114, 2006