



## Mark Weintraub, K.C.

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Partner

Estates & Trusts  
Estates & Trusts Opinions and Appeals  
International Estates & Trusts  
Elder Law  
Charities & Not-For-Profits Law

### Profile

As our most senior estate and trust litigator, Mark gives strategic direction to some of the most complex estate files, representing both individual and institutional clients, including personal Executors and Trustees, trust companies, non-profit organizations, charities, and committees.

Mark excels at moving files through the "litigation pipeline" with perseverance based on extensive knowledge of the law and hard-fought experience.

#### Services

- > Wills variation claims
- > Passing of Executor and Trustee accounts
- > Undue influence and incapacity claims
- > Committeeship applications
- > Unjust enrichment claims
- > Construction of wills applications
- > Breach of fiduciary cases
- > Abuse of Powers of Attorney claims

> Breach of trust claims

Mark's career has been highlighted by his long-standing contributions to continuing legal education to ensure the highest standards for both new and experienced practitioners, including:

- > Contributing to the Bar Admission Practice Materials on mental incompetency
- > Since 2007, writing and coordinating the authorship in various chapters of the Continuing Legal Education Society's (CLE) BC Probate and Estate Administration Practice Manual and undertaking a similar role for the CLE Estate Planning Manual for the previous 14 years. Both of these publications are acknowledged as authoritative resources for estate matters in the Province
- > Contributing author to the British Columbia Law Society Wills and Estates Practice Checklist Manual (2016) and LexisNexis Online Practice Advisor - Estate Litigation - British Columbia Modules (2016-2022)
- > Presenting at numerous forums related to estates trusts and elder law for various professional groups including CLE, Pacific Business and Law Institute, Canadian Association of Gift Planners, Canadian Bar Association, and Trial Lawyers Association of British Columbia
- > Co-author, British Columbia Estate Litigation textbook, published by LexisNexis, 2020

Recognizing the importance of bringing in allied professionals, Mark works to break down professional compartmentalization. Examples include:

- > Building our now high-profile Estates & Trusts group, which functions as a large integrated team of litigation, solicitor, and mediation practitioners
- > Providing commentary on an important cognitive capacity decision re-published by Risk Management Canadian Health Care permitting a legal analysis to reach a large Canadian audience of health practitioners
- > Leading symposia designed to bring together medical and legal professionals to better deal with cognitive incapacity issues

His interest in cross-disciplinary work and seeking collaborative solutions for our clients go back several decades when he sought early training in mediation.

Mark is also called upon to assume positions of leadership in the general and Jewish community. Examples include:

- > Becoming both a provincial and national spokesperson on behalf of the Jewish community to media, government, business, religious and ethnic communities on issues of social justice. His articles and interviews number in the hundreds on issues dealing with civil discourse and human rights
- > Serving on the Board of Directors of Canadian Jewish Congress, the Vancouver Talmud Torah School and the Vancouver Jewish Federation, the first Law Society Multiculturalism Committee, and co-chairing the BC Cancer Society's Planned Giving Committee
- > Serving on the Parks Board Foreshore Use Committee for the fair allocation of park resources

- > Through media interviews, public forums, and sustained political advocacy, providing the leading and consistent voice of the community on such issues as race-based attacks on persons and property; advocating for anti-terrorist measures while maintaining civil liberties; seeking media exposure and police response for the desecration of churches, mosques, synagogues and other places of worship and exposing discrimination against persons because of their sexual orientation, religion or ethnicity.
- > In a major advocacy initiative drawing international attention, providing pivotal leadership in bringing sustained awareness to the genocide unfolding in the Darfur Region of Sudan
- > Keynoting the Justice Institute's 2005 Hate Crime Symposium
- > Coordinating CJC Human Rights Tribunal complaints and proposals to the CRTC for combating hate on the Internet
- > Acting as a representative to the Vancouver Forum to protect Chinese minorities in Indonesia
- > Advocating for Indigenous rights, including coordinating responses to the BC Land Claims Referendum and the Nisga'a Treaty
- > Moderating many federal, provincial and municipal election forums
- > By reason of his presentations on the Holocaust, and other anti-genocidal advocacy and educational initiatives, he was invited as the keynote speaker at the 1999 Tokyo Conference on Japanese War Crimes committed against the Chinese population. His presentations in Tokyo were included in the published work Japanese War Crimes: The Search for Justice (2003)

His estate litigation practice has encompassed litigants residing in the UK, Australia, Hong Kong, and various Canadian and US jurisdictions. His first reported estate decision was as co-counsel in the 1991 Brammall decision long considered a high-watermark in wills variation claims.

In recognition of his expertise and contributions, Mark was appointed King's Counsel. It is Mark's privilege to promote the goodwill of many charitable organizations and foundations through both his professional and community work.

## Credentials

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### Awards & Distinctions

- > Appointed King's Counsel, 2015
- > Best Lawyers® in Canada, Trusts and Estates, 2022-2024
- > Canadian Legal Lexpert Directory®, Repeatedly Recommended, Estate & Tax Planning - Estate Litigation
- > Society of Trust and Estate Practitioners (STEP) Private Client Awards finalist for Contentious Trusts and Estates Team of the Year 2021
- > Distinguished category in Martindale-Hubbell's peer-rated compendium
- > A CLE BC Continuing Legal Education Societies prolific contributor - 30 plus contributions 1996-2016

### Industry Involvement

- > American Bar Association, member

- > Canadian Association of Gift Planners, member
- > Canadian Bar Association, Charities and Not for Profit Law Section member
- > Canadian Bar Association, Elder Law Section member
- > Canadian Bar Association, Wills and Trusts Section member
- > Law Society of British Columbia, member
- > Vancouver Bar Association, member
- > BC Trial Lawyers Association (Estate Litigation Symposium), past co-chair, 2017
- > BC Trial Lawyers Association (Estate Litigation Symposium), past co-chair, 2013

### **Community Commitments**

- > Planned Giving Canadian Cancer Society (BC & Yukon), former chair
- > Revenue Development Canadian Cancer Society, former co-chair (BC & Yukon)
- > Canadian Jewish Congress, chair of the Pacific Region, 2004-2007
- > Canadian Jewish Congress, national vice-president of the National Legal Advisory
- > Canadian Jewish Congress, member
- > Omni 10 BC, multi-faith community advisor, 2007
- > Global Television Network, cultural diversity advisory, 2003
- > Vancouver Office of the Chief Constable, 2001
- > Promoting Equality in the Information Age - Dealing with Internet Hate Heritage Canada/Canadian Jewish Congress, supervising committee, February 2001

### **Education & Call to Bar**

- > Call to Bar: British Columbia 1983
- > University of Toronto, Bachelor of Law (LL.B, Juris Doctor equivalent), 1982
- > University of British Columbia, Master of Arts (History of Religion), 1978
- > Hebrew University, Graduate Studies, Jerusalem, 1977
- > University of British Columbia, Bachelor of Arts, 1976

### **External Presentations**

- > "Testamentary Capacity & Undue Influence in Estate Planning", Seminar Partners, November 2022
- > Canadian Bar Association, Wills & Trusts - Vancouver Section Meeting - Panel Presentation: Complex Estate Litigation, January 17, 2023
- > "Estate Litigation Fundamentals: What Every Practitioner Needs To Know", LexisNexis Canada, October 2021
- > "SCGGlobalSpin: Estate Litigation Chat with Clark Wilson's Mark Weintraub And Amy Mortimore", SCG Legal, January 2021
- > "Testamentary Capacity & Undue Influence in Estate Planning", Seminar Partners Live Webinar, June 2019 and November 2022
- > Course co-chair, "TLABC Estate Litigation Conference", Trial Lawyers Association of BC, 2017
- > Co-convener, "Clark Wilson Charities Forums", Clark Wilson LLP, 2015
- > Course co-chair, "TLABC Estate Litigation Conference", Trial Lawyers Association of BC, 2013
- > Co-convener, "Clark Wilson Charities Forums", Clark Wilson LLP, 2012 - 2013

- > Symposium For Law Enforcement And Other Frontline Workers, Vancouver Justice Institute Preventing and Responding To Hate Crime, September 2005
- > Moderator, From Security to Social Justice, Public Forum with The Honourable Irwin Cotler, Minister of Justice and Attorney General of Canada, July 2005
- > Moderator, Stop Genocide in Darfur, Public Forum, May 2005
- > Moderator, Maintaining Civil Discourse in the Face of International Instability, Heritage Canada, May 2005
- > Moderator, Maintaining Civil Discourse in the Face of International Instability, Heritage Canada, October 2004
- > "Topics in Estate Litigation for Gift Planners", Canadian Association of Gift Planners National Conference, Canadian Association of Gift Planners, 2003
- > "Asset Protection Techniques: How Effective Are They?", CLE Wills & Estates Conference, Continuing Legal Education Society of BC (CLEBC), 2002
- > Keynote speaker, Tokyo Conference on War Crimes and Redress, 1999

### **External Publications**

- > Co-author, "Conscious of the Good Conscience Trust: Further Thoughts on the Constructive Trust in Wills Variation Claims", The Advocate, November 2022
- > Co-author, "Binding the Will-Makers Conscience: Is it Time to Use the Good Conscience Substantive Trust in Wills Variation Cases?", The Advocate, May 2022
- > Co-author, British Columbia Estate Litigation textbook, published by LexisNexis, 2020
- > Co-author, Annotated Estates Practice Editions, including the annotations for the Fraudulent Conveyance Act; Public Guardian and Trustee Act; and Representation Agreement Act chapters, Continuing Legal Education Society of BC (CLEBC), 2018 - 2023
- > Contributing author, CLE Practice Manual: BC Probate and Estate Administration&nbsp;chapter on Devolution of Assets on Death, Continuing Legal Education Society of BC (CLEBC) 2007 - 2022
- > Contributing author, CLE Practice Manual: BC Estate Planning and Wealth Preservation chapter on Asset Protection, Continuing Legal Education Society of BC (CLEBC), 2002 - 2022
- > Author, LexisNexis Online Practice Advisor - Estate Litigation - British Columbia Modules, 2016 - 2022
- > Co-author, "The Tests for Undue Influence for Testamentary Gifts and Inter Vivos Transfers", Canadian Family Law Matters newsletter, LexisNexis Canada, June 2019
- > Contributing author, Law Society Wills and Estates Practice Checklist Manual, Law Society of British Columbia, 2016 - 2018
- > Author, Compulsory Capacity Assessments in British Columbia, with assistance from Alexandra Andrisoi, The Journal Risk Management in Canadian Health, August 2015
- > Co-author, Japanese War Crimes: The Search for Justice (Rutgers University), Transaction Publishers, 2003
- > Contributing author, Law Society Professional Legal Training Bar Admission Practice Material: The Estates of Mentally Incompetent Persons and the Public Guardian and Trustee, Law Society of British Columbia, 2000 - 2002