



Mark Weintraub, Q.C.

Partner

Estates & Trusts

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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 an 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 13 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; 2017; 2018; 2019)
- > 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
- > Designated author for LexisNexis Text on Estate Litigation in British Columbia (expected publication date 2019)

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 goes 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 in 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 Queen'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

Awards & Distinctions

- > Queen's Counsel, 2015
- > Lexpert, Accredited Estate Litigator
- > 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

- > Canadian Bar Association (Charities and Not for Profit Law; Elder Law; Wills and Trusts Sections)
- > Vancouver Bar Association
- > American Bar Association
- > Co-Chair, BC Trial Lawyers Association (Estate Litigation Symposium), 2013, 2017
- > National Academy of Elder Law Attorneys
- > Canadian Association of Gift Planners

- > Estate Planning Council of Vancouver

Community Commitments

- > Chair of the Pacific Region, 2004-2007, National Vice-President and Member of the National Legal Advisory, Canadian Jewish Congress
- > Multi-Faith Community Advisor, Omni 10 BC, 2007; Global Television Network Cultural Diversity Advisory, 2003; Vancouver Office of the Chief Constable, 2001
- > Supervising Committee, Promoting Equality in the Information Age - Dealing with Internet Hate Heritage Canada/Canadian Jewish Congress, February 2001
- > Former Chair, Planned Giving Canadian Cancer Society (BC & Yukon)
- > Former Co-Chair, Revenue Development Canadian Cancer Society (BC & Yukon)

Education & Call to Bar

- > Call to Bar: British Columbia 1983
- > LL.B (J.D. equivalent), Faculty of Law, University of Toronto, 1979-1982
- > M.A. History of Religion, University of British Columbia, 1978
- > Graduate Studies, Hebrew University, Jerusalem, 1977
- > B.A. Faculty of Arts, University of British Columbia, 1976

External Publications & Presentations

- > Presenter: Testamentary Capacity & Undue Influence in Estate Planning, Seminar Partners Live Webinar, June 2019
- > Co-Author: The Tests for Undue Influence for Testamentary Gifts and Inter Vivos Transfers, Canadian Family Law Matters newsletter, LexisNexis Canada, June 2019
- > Co-Author: Annotated Estates Practice 2018 and 2019 Edition (Co-author Fraudulent Conveyance Act annotations, Public Guardian and Trustee Act annotations, Representation Agreement Act annotations) CLE BC, 2018, 2019
- > Contributing Author: Law Society Wills and Estates Practice Checklist Manual, 2016, 2017, 2018
- > Author: LexisNexis Online Practice Advisor - Estate Litigation - British Columbia Modules, 2016, 2017, 2018, 2019
- > Author: Compulsory Capacity Assessments in British Columbia, Mark Weintraub (with assistance from Alexandra Andrisoi), The Journal Risk Management in Canadian Health, August 2015
- > Contributing Author: CLE Practice Manual: BC Probate and Estate Administration: Chapter 4 Devolution of Assets on Death, 2007-2019
- > Contributing Author: CLE Practice Manual: BC Estate Planning and Wealth Preservation: Chapter 6 Asset Protection, 2002-2019
- > Co-Convener: Clark Wilson Charities Forums 2012, 2013, 2015
- > Course Co-Chair: BC Trial Lawyers Association, Estate Litigation Conference 2013, 2017
- > Contributing Author: Law Society Professional Legal Training Bar Admission Practice Material, The Estates of Mentally Incompetent Persons and the Public Guardian and Trustee, 2000-2002
- > Course Presenter: Canadian Association of Gift Planners National Conference, Topics in Estate Litigation for Gift Planners, 2003, Vancouver

- > Course Presenter: CLE Wills & Estates Conference: Asset Protection Techniques: How Effective Are They? 2002
- > Presenter: Vancouver Justice Institute Preventing and Responding to Hate Crime - Symposium for Law Enforcement and other Frontline workers, 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
- > Keynote Speaker: Tokyo Conference on War Crimes and Redress, Tokyo 1999
- > Moderator: Stop Genocide in Darfur, Public Forum, May 2005, Vancouver
- > Moderator: Maintaining Civil Discourse in the Face of International Instability, October 2004 and May 2005, Vancouver - Heritage Canada
- > Co-Author: Japanese War Crimes: The Search for Justice (Rutgers University) Transaction Publishers, 2003