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# Estates & Trusts Opinions and Appeals

## Profile

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Our Opinions and Appeals group is a trusted partner for both individuals and counsel, whether they need opinions or strategic advice on complex estates, trusts, elder law, and tax planning matters or support with the conduct of appeals. We also offer advice regarding estate, trust, and tax planning and administration, and work with clients and counsel to find creative and efficient solutions for complex transactions.

With over 125 years of combined experience in estates, trusts and elder law, we provide expertise in analyzing and understanding the law, developing and implementing strategies for litigation, and conducting all aspects of appeals in the British Columbia Court of Appeal and the Supreme Court of Canada.

Our Opinions and Appeals lawyers are leaders in the legal community, having authored the comprehensive text *British Columbia Estate Litigation*. Our lawyers are routinely sought-after to present on all areas of estates, trusts, and elder law at presentations for lawyers, law students, allied professionals, and public audiences. Colleagues and clients recognize our lawyers for their wealth of experience and expertise, often calling upon us to provide expert or second opinions, strategic advice, and appellate assistance.

## Work Highlights

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### **Cepuran v. Carlton, 2022 BCCA 76**

- > Counsel on an adult guardianship matter before a five-justice division of the Court of Appeal involving a reconsideration of the test for converting a Petition to an Action.

## **Hudema v. Moore, 2021 BCCA 276 and Hudema v. Moore, 2021 BCCA 482**

- > Counsel in spousal status matter involving issues of suitability for summary trial and contractual interpretation, including interim matter of security for costs on appeal.

## **Conner Estate v. Worthing, 2021 BCCA 231**

- > Counsel addressing whether a hand-printed signature of a witness to a will constituted a subscription.

*Additional work highlights below*

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Where primary counsel requires specific expertise or co-counsel assistance, our Opinions and Appeals group assists by providing behind-the-scenes advice or working directly with clients in collaboration with other counsel. This strategic alliance benefits clients and colleagues by capitalizing on our team's expertise, offering a fresh perspective on legal issues, and maintaining the knowledge and relationship of primary counsel.

Our Opinions and Appeals lawyers also act as primary counsel, and clients can be confident knowing that the knowledge and practical experience of our group mean that their legal issues will be pursued and resolved efficiently and advantageously, even in novel and complex legal matters.

### Services

- > Appeals
  - > Conducting all aspects of an appeal to the British Columbia Court of Appeal and the Supreme Court of Canada as lead counsel or in a supportive role
  - > Reviewing trial-level decisions to identify leave requirements and grounds of appeal, advise on their merits and prospects, and draft concise and persuasive arguments and factums to overturn or uphold judgments
  - > Bringing and responding to appeals and leave applications, and representing intervenors on issues of importance
  - > Drafting applications and affidavits for chambers advocacy where interim orders are needed in the conduct of an appeal
  - > Assisting trial counsel where an appeal is taken
  - > Providing clients with effective representation on appeal where a fresh perspective is sought
- > Strategic Counsel
  - > Developing and implementing legal strategies
  - > Acting as junior or senior co-counsel on trial and appellate matters
  - > Developing, drafting, and advocating legal arguments
  - > Providing strategic advice and risk minimization solutions on tax, trust, and estate planning matters
  - > Partnering with counsel to resolve estates, trusts, and elder law issues that arise in complex files based primarily in other areas of law
- > Legal Opinions
  - > Providing independent or second opinions, directly to clients or through primary counsel, regarding complex legal issues such as

- > the rights and obligations of executors, trustees, and substitute decision-makers
- > estate, trust, and tax planning, including in circumstances involving family companies, trust vehicles, and blended families
- > the rights of beneficiaries and their options for giving effect to such rights
- > options for protecting and supporting vulnerable family members
- > Advising counsel in other jurisdictions regarding British Columbia estate and trust issues
- > Providing expert opinion evidence for use at a trial

## Co-Chairs

Amy Mortimore, K.C.

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## Additional Work Highlights

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### **Sato v. Sato, 2020 BCCA 62**

- > Counsel addressing special costs awarded on an appeal.

### **S.A. v. Metro Vancouver Housing Corporation, 2019 SCC 4**

- > Counsel to an Intervener on the issue of discretionary disability trusts.

### **Nordmark v. Frykman, 2019 BCCA 433**

- > Counsel addressing the application of the Court Jurisdiction and Proceedings Transfer Act (BC).

### **Sato v. Sato, 2018 BCCA 287**

- > Counsel addressing domicile of the deceased, to determine whether the law of British Columbia would apply to automatically revoke a will upon marriage.

### **S.A. v. Metro Vancouver Housing Corporation, 2017 BCCA 2**

- > Counsel to an Intervenor on the issue of discretionary disability trusts.