

'Til death do we part...the second time around

This time of year is one of the most popular for weddings. These days, that often means a second marriage for the bride or groom, or both.

In all the flurry of wedding plans, one important issue that often gets overlooked is updating your will. It often surprises our clients when we tell them that, in Ontario, your existing will is automatically revoked when you marry or remarry. It's critical that each person makes a new one.

Issues to consider when updating your will include removing a previous spouse, adding a new spouse, revisiting your choice of executor, separating the assets to be left to children, or adding step-children as beneficiaries. Situations can be further complicated if the children named in the will are adults and have married or remarried themselves.

One of the most common remarriage issues that we see involves people who marry again after the death of their spouse. They still have their old will in which they left everything to the spouse, who is no longer there. The will says that if their spouse is not alive when they die, the estate goes to the children. Then, they remarry.

What they don't realize is that the first will that they thought would look after their children is no longer valid, and on their death, their new spouse is going to get a preferential share of their estate (the first \$200,000 in Ontario) sharing the rest of the estate with the deceased's children. That's not necessarily what they intended.

You have a will in place to ensure your wishes will be carried out the way you intended. So amidst all of the plans and celebrations, take time to ensure your will takes care of all the new important people in your life.

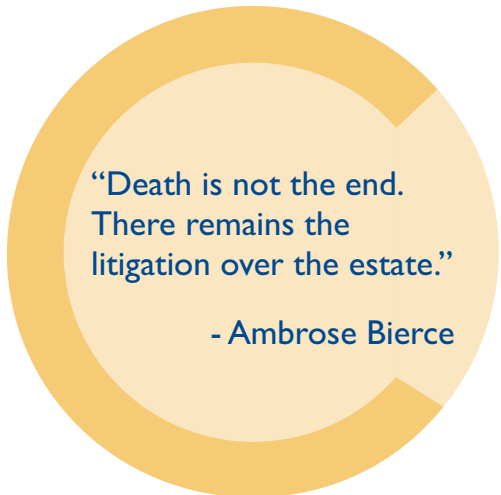
To choose or not to choose - how to select the right executor

Choosing an executor (estate trustee) to ensure your wishes are carried out as per your instructions is a key part of making a will. But who is the right person for the job?

Most people assume that their nearest relative is the best choice. This is often not true. Children may live in another province or country, or may be too busy to spend the required time.

The person you name must be over the age of 18, and should be someone who will likely outlive you. The individual should preferably be a resident of Ontario. Non-resident estate trustees that live outside the Commonwealth may have to post security before being appointed to administer the estate.

Continued on reverse



“Death is not the end.
There remains the
litigation over the estate.”

- Ambrose Bierce



To choose or not to choose...

(continued)

The person you choose should be someone you trust, be good with paperwork and account keeping. It's important that the person also gets along with your beneficiaries and is able to work well with professionals.

It's key that you discuss the decision with the person before you name them, and make sure that they understand the responsibilities. The average estate takes a year to administer, so the role involves a significant amount of time and commitment.

Even if you appoint a person in your will, they do not have to accept the position and can renounce the role after you die. We suggest that you name an alternate in your will in case this happens.

The key to making the right choice? Take the time to ensure you and your proposed executor are both completely comfortable with the decision.

© Mike Baldwin / Cornered



Next, I remember looking down at my body, and my kids fighting over the will.

When to consider updating your will

When clients come in to sign their wills, we always give them a list of various factors that might cause them to review their estate or update their will.

Some of these include situations like:

- Marriage, divorce or remarriage
- Adopting or having a child
- Going on vacation
- Change of name (you or anyone mentioned in your will)
- You want to make a change to the beneficiaries or executors
- You sell or give away an item specifically mentioned in the will
- Your estate increases or decreases significantly

Here's a good tip to remember:
If you only want to make a minor change, use a codicil. This documents your wishes, but does not require you to revise the will itself.

Charles B. Ticker, B.Sc., LL.B., TEP
Barrister and Solicitor

Charles B. Ticker Law Office
7030 Woodbine Avenue, Suite 500
Markham, Ontario L3R 6G2

Tel: 416-773-0007 Fax: 416-493-1855
Toll Free: 1-866-677-7746

www.tickerlaw.com