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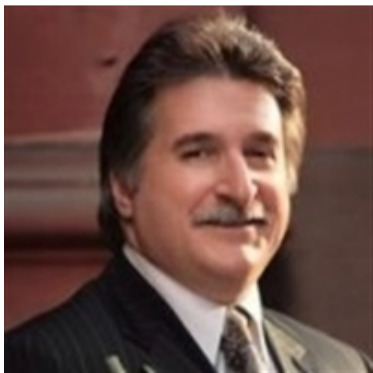


MICHAEL H.G. FORD MD FRCS C
416-480-6775 ORTHOPAEDIC SPINE
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Estates & Wills & Trusts, Mediation

Law has last say in what happens to your body when you die

By Tony Poland, Associate Editor



Choosing what happens to your body after you die comes with limitations governed by the law, Toronto-area estates litigator and mediator [Charles B. Ticker](#) tells [AdvocateDaily.com](#).

Ticker, who practises estates litigation and mediation at [Charles B. Ticker Law Office](#), says a person can put conditions in their will, but it doesn't necessarily mean they can be carried out.

Referencing the [will](#) of an animal rights activist who, among other things, directed that her body be used for a "human barbeque," he says it ultimately comes down to the discretion of the executor to carry out final wishes.

"Notwithstanding any directions that may be given in a will, it's still up to the estate trustee," says Ticker, who was not involved in the matter and comments generally. "Contrary to common wishes and directions regarding burial or cremation or precise wishes they are not binding on the executor. At best they offer guidance so ultimately it's the executor's call.

In order to draw attention to their cause, an animal rights activist willed that her body be donated to her organization "to be used in whatever manner it chooses."

While she says the final decision on how to use her body would be left with the organization she made several suggestions, such as using her skin to make leather products, such as purses, "to remind the world that human skin and the skin of other animals is the same."

She suggested sending one of her ears to Ottawa to assist Parliament to hear "the screams of the seals, bears, raccoons, foxes, and minks bludgeoned, trapped, and sometimes skinned alive for their pelts."

Ticker says apart from the publicity such a will would generate, he questioned its validity.

"Obviously aside from the very graphic and disturbing language, I think it raises serious questions as to whether or not such a will would be enforceable or supported by our courts," he says. "When I first read this I thought it was just someone trying to make a point. In my view, this will could very well be challenged or ruled invalid based on grounds of public policy."

Pointing to a 2018 Ontario Superior Court [case](#), Ticker notes that the law does not recognize any legal rights in a corpse but imposes obligations on those who deal with a deceased person's body. The principal obligation is that the body be dealt with or disposed of in a dignified fashion, he says.

With that in mind, Ticker says, it is doubtful the animal activist's final wishes could be carried out.

"I think a very strong argument could be made that what is being proposed is not what would be considered by the courts or the general community to be dignified notwithstanding the motivation for it," he says. "I just can't see how those provisions would ever hold up and how an estate trustee could ever find himself or herself criticized for

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not complying with that wish. I think this will obviously has tremendous shock value, but I think that's all it is."

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