

Publisher's Note

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COMPENSATION & DUTIES OF ESTATE TRUSTEES, GUARDIANS & ATTORNEYS

**Jennifer J. Jenkins
Release No. 2, August 2025**

What's New in this Update:

This release features updates in Chapters 13, 16, 17, 18, 19 and 25.

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Highlights:

- **Chapter 13 Breach of Trust and Relief From Liability**
In *Spellman*, a court assessed punitive damages on a fiduciary who committed egregious or abhorrent conduct towards a vulnerable beneficiary and was dismissive of prior court orders.
In *Walker*, the Nova Scotia Court of Appeal considered factors to calculate proportionate punitive damages for breach of fiduciary duty.
In *Kassabian*, the Ontario Court of Appeal reviewed factors in case law to determine the date of separation under the *Family Law Act*, R.S.O. 1990.
- **Chapter 16 Will Challenges**
In *Abbruzzese*, the trial judge found suspicious circumstances to invalidate a will and *inter vivos* property transfer. Ontario's Court of Appeal upheld the decision and commended the reasoning of trial judge Cory A. Gilmore J. without hearing from the respondent on the appeal.
In *Anderson*, Tranmer J. reviewed the onus of proof required for propounders of alleged Ontario holographic wills.
In *Graham*, Justice Corthorn, on motion, dismissed an application to contest a will. Applicants failed to introduce evidence to meet the evidentiary threshold for an order for directions.
- **Chapter 18 Common Law Equitable Remedies**
In *Hugginson*, a gift letter was found insufficient to corroborate a gift.
- **Chapter 19 Application to Court for Part V Partition and Sale**
In *Ross*, Ontario's Court of Appeal claimed jurisdiction for an appeal of a partition order. The appellant failed to meet his onus to avoid partition.
- **Chapter 25 Advising Attorneys and Guardians on Duties**
In *Hollinger*, Justice Dietrich reviewed evidence of suspicious circumstances and undue influence in powers of attorney. The new grantees of powers of attorney had the onus to prove capacity.