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### **ESTATE PLANNING PRECEDENT'S A SOLICITORS MANUAL**

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**Release No. 2, May 2024**

“Estate Planning Precedents: A Solicitor’s Manual” includes a wide variety of precedents covering all aspects of wills and estates. Also included are domestic contracts, trust deed documents, powers of attorney, appendices containing estate planning forms, checklists, and signing instructions, plus relevant legislation and IT Bulletins, Information Circulars and Advance Tax Rulings. This product is designed as a useful tool for everyday use by the busy estates practitioner.

#### **What's New in this Release:**

This release features updates to Appendix C:21–Recent Case Digests, Appendix E– Income Tax Act, and Appendix WP–Words and Phrases.

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## Highlights

**Professions and occupations—Lawyers—Employment of lawyer—Representation by lawyer—Application for removal as lawyer of record**—In *Konkolus v. Balanko*, 2023 CarswellAlta 2672, 2023 ABCA 303, [2023] A.W.L.D. 4893, [2023] A.W.L.D. 4926, 2023 A.C.W.S. 5165, 91 E.T.R. (4th) 182, the law firm acted for the respondent in litigation relating to her actions as a former power of attorney for the deceased prior to his death and for her actions as beneficiary under the deceased’s estate. The personal representative of the estate alleged the law firm took whatever position was more favorable to the respondent as either former power of attorney or beneficiary, which caused the law firm to take contrary positions and act in conflict. The Chambers judge allowed the law firm to continue to act for the respondent after finding that no conflict existed. The personal representative subsequently appealed the decision. The appeal was dismissed, as the Chambers judge’s fact findings showed no palpable and overriding error. There was no basis for appellate intervention since the Chambers judge did not err in application of principles outlined by the Supreme Court of Canada case.

**Estates and trusts—Estates—Testamentary instruments—Miscellaneous**— In *De Angelis v. Siermy*, 2022 CarswellBC 3345, 2022 BCCA 401, 2022 A.C.W.S. 5356, 75 B.C.L.R. (6th) 217, the parties belonged to a family that had accumulated significant wealth through real estate acquisitions. The Defendant, AS, was the plaintiff’s aunt. Until 2016, the plaintiff had a strong bond with AS and her husband. The Plaintiff assisted with the personal affairs of AS and her husband. The Plaintiff asserted that in exchange for the services provided, AS agreed to leave the bulk of the estate to the plaintiff (legacy agreement). AS alleged that the legacy agreement was formalized in 2002. However, AS changed her will in 2015, returning to mirror wills that she and her husband had in place for most of their marriage with the plaintiff’s cousin as residual beneficiary. Plaintiff brought an unsuccessful action for finding that AS was bound by testamentary contract and that AS breached that contract by changing her will. The Trial judge dismissed the plaintiff’s claim. Plaintiff appealed on the ground that the trial judge erred in declining to find that there was a binding legacy agreement. The appeal was dismissed; the trial judge did not err in reasoning or in conclusion that the parties had not entered into testamentary contract.

## ProView Developments

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- The opening page is now the title page of the book as you would see in the print work
- As with the print product, the front matter is in a different order than previously displayed
- The Table of Cases and Index are now in PDF with no searching and linking
- The Table of Contents now has internal links to every chapter and section of the book within ProView
- Images are generally greyscale and size is now adjustable

- Footnote text only appears in ProView-generated PDFs of entire sections and pages