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| ESTATE PLANNING PRECEDENT'S A SOLICITORS MANUAL Lindsay Ann Histrop, B.A., LL.B., LL.M. of Gardiner Roberts LLP Release No. 5, September 2024 |
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"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 D – Legislation, Appendix E – Income Tax Act, and Appendix WPJ – Words and Phrases.

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Highlights

- **APPENDIX WPJ — WORDS AND PHRASES — PRESUMED UNDUE INFLUENCE**— Presumed undue influence...arises where the relationship between the donor and the donee creates a rebuttable presumption that the donor was unduly influenced by the recipient to make the transfer... An analysis of presumed undue influence must arise with an examination of the relationship between the parties. (*Abbruzzese v. Tucci* (2024), 2024 ONSC 957, 2024 CarswellOnt 2277 (Ont. S.C.J.[Estates List])).
- **APPENDIX WPJ — WORDS AND PHRASES —PROFIT FROM —** “Profit from” [regarding doctrine of *ex turpi causa*] could stretch to encompass the negation of a witness’s ability to testify in the action, saying that the plaintiff’s ability to recover a remedy may be assisted by the witness’s absence. That benefit, he held, may be adjudged “profit” for the purpose of the defence. There is a degree of speculation in this reasoning for it presumes the witness would have given evidence that only assisted the defendants on the merits of the claim for breach of trust. This sort of speculation, on my understanding, is not within the narrow constraints of the doctrine which, on my review, have not been “loosened” as the judge said, but rather have been more tightly tied to a central organizing principle, being the integrity of the justice system. *Bang v. Kim* (2024), 2024 CarswellBC 590 (B.C. C.A.).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

- The opening page is now the title page of the book as you would see in the print work
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- The Table of Contents now has internal links to every chapter and section of the book within ProView
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