

Publisher's Note

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Previous release was 2018–8

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Schnurr

Estate Litigation

Estate Litigation, 2nd Edition, is a comprehensive, practical work covering all facets of estate litigation including mental incompetency disputes, challenges to wills, *Family Law Act* claims, passing of executors' accounts, presumption of death and dependant support claims. The publication includes extensive precedents along with relevant statutory material.

What's New in this Update:

This release features extensive updates to the Summary of Procedures in Volume 3. Also included in this release is an updated legal memorandum in the Issues in Focus section as well as updates to the Words and Phrases section.

Highlights Include:

- **Words and Phrases — Rule of Convenience** — The “rule of convenience” can be easily explained . . . One of the maxims of equity is that it presumes as being done that which ought to be done. Since the beneficiaries should be enjoying the earning power of their legacies by at least the anniversary date of the testator's death, where that enjoyment is postponed and the testator has not provided an alternative date for payment of the legacy, interest is to be paid. . . .: *Rivard v. Morris*, 2018 CarswellOnt 2841, 2018 ONCA 181 (Ont. C.A.).

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- **Words and Phrases — It Is My Desire, However, I Do Not Direct — British Columbia** — . . . the phrase “It is my desire, however, I do not direct . . .” is precatory and not mandatory in nature: *Killam v. Killam*, 2017 BCSC 175, 2017 CarswellBC 262 (B.C. S.C.).
- **Summary of Procedure — Passing of Accounts — Contested Passing of Accounts (Hearing) — Rules of Civil Procedure, R.R.O. 1990, Reg. 194, Rule 74.18(11.5)** — If one or more notices of objection to accounts are filed and not withdrawn, the applicant shall, at least 10 days before the hearing date of the application, serve on the persons referred to in subrule (11.6), and file with proof of service, (a) a consolidation of all the remaining notices of objection to accounts; and (b) a reply to notice of objection to accounts (Form 74.49.4).