



Law Society
of Ontario

Barreau
de l'Ontario

TAB 3

The Annotated Will 2020

Reporting Letter

January 23, 2020



<Firm precedent and letterhead>

<Date>

File No.: <@>

<@>

Dear <@>:

Re: Will<s> and Powers of Attorney

Thank you for retaining our firm to prepare your wills and powers of attorney. We are pleased to advise that we have now completed your estate planning matters for which we were retained.

A. Documents left with the lawyer for storage

1. Copies provided at the signing meeting

We confirm that <each of> your original will<s>, <two> signed copies of each of your continuing powers of attorney for property, and one signed copy of <each of> your powers of attorney for personal care, signed at our office on <Date>, have been stored in our fire- and water-resistant facilities in accordance with your Acknowledgement and Direction.

We confirm that you have kept <three> signed copies of your power<s> of attorney for personal care to distribute to the attorneys you named in them. If you have not already done so, do not forget to give a signed copy of your power of attorney for personal care to at least one of the people you have named so that they will have the document on hand if they need to make emergency medical decisions for you.

[NTD: The lawyer may want to consider retaining one original power of attorney for personal care so notarial copies can easily be made if necessary. Clients do not always keep their documents secure and can lose them so keeping one original for them is also good client service if your practice is to retain any originals at all.]

You have given us directions about when your powers of attorney for property can be released for use. You have also authorized us to disclose personal information and to discuss such information with your attorney and your other professional advisors as necessary to act on the direction.

2. Copies being sent out with the reporting letter

We are pleased to advise that we have now completed affidavits of execution. We are enclosing with this letter copies of the Will<s> and Powers of Attorney for Property that you executed on <Date>, together with <three> original Power<s> of Attorney for Personal Care <for each of you>. We recommend that you provide one original of each Power of Attorney for Personal Care to at least one of the people that you have appointed and keep one original in a convenient location in the event of a medical emergency. All other original documents have been stored in our fire- and water-resistant facilities in accordance with your Acknowledgement and Direction signed on <Date>. I enclose <number> business cards which you may wish to pass along to your executors, so that they know where your original documents are located.

B. Documents given to clients for storage

We are pleased to advise that we have now completed affidavits of execution, which are enclosed, along with your original Wills, Powers of Attorney for Property and Powers of Attorney for Personal Care executed on <Date>. I recommend that you provide one original of each Power of Attorney for Personal Care to at least one of the people that you have appointed and keep one original in a convenient location in the event of a medical emergency. You should place all other original documents in a secure, fireproof, waterproof location and let your executors and attorneys know where they are and how to obtain access to them if required.

If the original will cannot be located at the time of death, the law will presume that you never had a will or that you intentionally destroyed it. In that case, your estate would be distributed as if you had no will.

If you choose to keep your original Wills and Powers of Attorney in a safety deposit box, you should be aware that if an executor or attorney does not have keys, access may be problematic. You may wish to keep your documents in a jointly held safe deposit box, to which your executor or attorney has a key, or to keep them in a safe but more accessible place.

We would strongly recommend that you physically destroy – shred or burn - your previous original document(s) and any drafts of your current documents to ensure that there is no confusion in the future.

Although the documents have been drafted to take account of many future contingencies, you should review them periodically. Changes such as the death, disability or incapacity of a beneficiary, guardian or executor, your marriage, separation or divorce, the birth or adoption of children, the acquisition or disposition of significant property, changes of residency or citizenship (yours or your beneficiary's) may all impact your estate plan.

We recommend that you read over your wills every three to five years, to ensure that they still meet your requirements. If changes occur in your personal and financial affairs, you may need changes to your wills and other documents sooner.

Changes in legislation and court cases can also affect your estate plan. We cannot undertake to ensure that you are made aware of all changes in estate and tax law that might affect your estate plan. If you become aware of new legislation or hear or read about court cases or rulings that appear to affect your plan, please call us.

Should you wish to change your will, DO NOT make handwritten notes on the face of the will or any copy of it; these may not be binding and will likely lead to confusion and possible litigation.

[NTD: If the retainer was a joint spousal retainer, you may wish to include a reminder about the implications of a joint retainer, or perhaps generally refer them to the terms of the retainer as outlined in the agreement or letter acknowledged/signed.]

As we discussed since both of you have retained me together to draft your wills, I cannot keep any information which I received from one of you confidential from the other. I confirm your consent for me to act for you jointly in this regard. I remind you that I have acted jointly for both of you,

and the information I have received from you is not confidential as between the two of you. Since I have acted for you both in this matter, I would be unable to make changes for one of you only without the other's consent, unless one of you has died or you have divorced or separated. You can make a new will while you are both alive, and after one of you dies, the survivor can change his or her will and distribute assets differently from the plan in these wills.

The law sometimes revokes your will or parts of it when there are changes in your circumstances:

- If you marry after the date of the will, the will is void at the option of your new spouse.
- If you divorce, the gifts to your former spouse are void, and the will is read as though your former spouse predeceased you unless your will expresses a different intention.
- Making a new will that disposes of all of your assets revokes the previous will.
- Destroying your original will revokes it.

If you wish to revoke a power of attorney without making a new one, you must do so by a Notice of Revocation, executed in the same way that your powers of attorney were executed. To be effective, a copy of the notice must be delivered to the attorney named in the power of attorney and to any third parties who might be relying upon the power of attorney.

Finally, I enclose my invoice for services rendered, which I trust you will find satisfactory. It has been a pleasure dealing with you. Please do not hesitate to contact me should you have any questions about the enclosed documents or my invoice, or if you wish to make any changes to your estate plan in the future.

[NTD: The reporting letter may also include some or all of the following matters, although some of these matters might best be included in the letter enclosing the draft documents (or retainer letter if a separate retainer letter is sent):

- ***Double Wills and Other Estate Administration Tax Planning:***
 - *Confirmation of use of double Wills and explanation of its purpose;*
 - *Confirmation of any other Estate Administration Tax planning done or contemplated;*
 - *Can be a good idea to set out tax savings expected to arise from such planning, especially to reinforce value of services vis-a-vis fees;*
 - *If client declined to do double wills, confirmation of the advice provided and the reasons the client declined.*
- ***Asset Information:***
 - *If applicable, details of any searches completed or documents reviewed on behalf of client (e.g. title searches);*
 - *Confirmation that except as mentioned above, lawyer has relied on information provided by client with respect to value, ownership and associated tax liability of*

assets (some lawyers summarize this information in the letter but this shouldn't be necessary if you got full information in the client questionnaire, unless it was missing information and your notes are illegible);

- *Instructions on dealing with any non-binding memoranda of personal effects;*
- *Confirmation about any discussion on severing a joint tenancy or transfer into joint ownership.*
- *Family Law Act:*
 - *Confirmation if Will structure exposes Estate to claim by the surviving spouse under the Family Law Act for equalization;*
- *Succession Law Reform Act:*
 - *Confirmation if Will structure exposes Estate to claim for dependant's relief under Part V of Succession Law Reform Act*
- *Beneficiary Designations:*
 - *Confirmation of manner in which RRSPs, life insurance and other assets over which a beneficiary designation has been done and implications vis-a-vis new assets acquired after the date of the Will, including any follow up client should consider with insurance companies such as providing excerpts of the Will designations to insurance companies and group policy holders;*
- *Lawyers and Executors:*
 - *Confirmation of clauses included in Will to address having the drafting lawyer as the Executor;*
 - *Reference should be made to recommendation for independent legal advice;*
- *Foreign Advice:*
 - *Confirmation of how any need for foreign advice was addressed;*
 - *Reminding the clients that they may need separate powers of attorney for other jurisdictions;*
- *Social Media and Digital Assets:*
 - *Recommendation to client to keep list of social media currently "owned" by client as well as all passwords;*
- *Other Advice:*
 - *Confirmation of any other advice or planning matter discussed, and how dealt with or to be dealt with, whose responsibility follow up is, or if client declined advice or recommendation;*
 - *Effect and consequences of a will drafted in contemplation of marriage;*

- *Confirmation that wills are not intended to mutually binding (“mutual”) wills;*
- *Reminder that if legacies are to be paid from the estate, there must be sufficient assets to cover this.*

Yours truly,

LARRY LAW FIRM

<Retained Lawyer>

<Initials>