



HULL & HULL LLP
Barristers and Solicitors

Storing Wills

Wills and powers of attorneys are important documents that are often prepared years, or even decades, before they may need to be produced. In an estate litigation practice, lawyers too frequently encounter the problem of original wills that have not properly been retained.

It is important that planning documents are easily accessible. However, accessibility must be balanced with the competing priority of keeping the original documents safe. Original wills are required for probate. If an original estate planning document is lost or inadvertently destroyed, the estate plan may be partially or completely ineffective. Lost or misplaced wills can, at minimum, cause significant delays and additional costs in the administration of an estate.

Clients should be made aware of the advantages and disadvantages (and potential risks) related to different storage options before they are required to make a decision with respect to the safekeeping of original estate planning documents.

Options that solicitors may wish to discuss with clients with respect to the storage of original wills and other testamentary documents are as follows:

- At-Home Storage by Clients
- Storage by Estate Trustees and/or Attorneys
- Safety Deposit Boxes
- Safekeeping by the Court
- Retention of Original Documents by Drafting Solicitors

In Ontario, lawyers who are storing original estate planning documents should consider the requirements imposed by the [*Rules of Professional Conduct*](#). Rule 3.5-2 specifies that lawyers

who retain client documents should do so to the standard of a “prudent owner”. This standard may be elevated because of the significance of original testamentary documents. It is generally expected that a lawyer store important client documents within waterproof, fireproof, and well-organized safes or cabinets.