



**HULL & HULL LLP**  
Barristers and Solicitors

The Impact of Divorce on Estate Planning and Administration

Most drafting solicitors are well aware of the necessity of revisiting an estate plan upon learning of the testator's divorce. It is important that clients are advised of the impact that a divorce will have on the implementation of the terms of their will. Specifically, clients should be advised as follows:

- Unless a contrary intention appears within the will, pursuant to the *Succession Law Reform Act*, R.S.O. 1990, c. S.26 (the "SLRA"):
- Gifts made to a divorced spouse will be revoked;
- The appointment of a divorced spouse as estate trustee will be revoked; and
- The estate plan will be interpreted as if the divorced spouse had predeceased the predeceasing spouse.

It may also be worthwhile to remind clients who have recently divorced or are in the process of obtaining a divorce that, if they subsequently remarry, the remarriage will have the effect of revoking their prior will (including terms unrelated to the divorced spouse).

When assisting a client in updating an estate plan following divorce, any terms of a separation agreement or divorce order should be reviewed with the client to ensure that the updated estate plan is consistent with support obligations owed to the former spouse.

Earlier this year, the law with respect to the ability for an ex-husband or ex-wife to claim dependant's support against the estate of a predeceasing ex-spouse temporarily changed. However, the definition of spouse under Part V of the SLRA has been again amended to provide

that divorced spouses are able to apply for dependant's support. When reviewing updates to the estate plan following divorce, clients should be advised of this possibility if the client's instructions are to leave what a court may consider to be inadequate support to a dependant divorced spouse.