

# The Butler Bulletin

Butler Wills and Estates

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*“I am the executor of my mom’s estate. I divided everything up according to the will, but what do I do with all the leftover stuff?”*

In every estate there are items that nobody wants. These items are often linens, dishware, furniture, and other household pieces that accumulate over the years. Once you have divided up the personal and household items according to the will, it is up to you as the executor to figure out what to do with all of the leftover bits. There are a few options for what you can do with household items.

Have a yard sale. Depending on the kind of items you have, you may be able to make a bit of money by holding a yard sale. Items like movies, books, kitchen utensils and small appliances can bring in a couple hundred dollars.

If you don’t have an actual yard to use, try sites like [Kijiji](#) and

[Newfoundland Buy and Sell.](#)

These sites allow you to list your items locally, so you won’t waste money on shipping. You can set the price for each item, and sell them quickly.

Any money you do make selling odds and ends goes back into the estate to be divided among the beneficiaries.

Donate the items to charity.

There are several local organizations that need household items. For example, [Home Again Furniture Bank](#) provides people in need with household items such as furniture and linens. The recipients are primarily people who are transitioning from “situations of abuse, homelessness, prison, war, the

un- and under-employed and those with disabilities”. For a small fee they will come and pick everything up, so you don’t have to worry about moving pieces of furniture.

The [Bridges to Hope Food Pantry](#) provides local people in need of food with hampers. If you find yourself cleaning out the kitchen and you’ve got non-perishable food items, consider donating them.

Throw things out.

Unfortunately, not everything will sell, and there are always some items that are too beat up to be able to donate them. As an executor it is up to you to decide whether or not something can be salvaged. If you decide that an item needs to be thrown out, you can certainly do so.



## Lynne's New Book is Coming Soon

Lynne's latest book is about one of the topics we get asked about on a regular basis – how does someone contest a will? This book, *Contesting a Will Without a Lawyer: The DIY Guide for Canadians* is published by Self-Counsel Press, and will be available early spring 2018.

Like many of Lynne's previous books, this one contains all the information, forms, and checklists you need for contesting a will (except for Quebec). The topics covered include what the grounds are for contesting a will, what to do, how to claim costs, and more.

*Contesting a Will* will be available on the Self-Counsel Press website ([www.self-counsel.com](http://www.self-counsel.com)), on the 'shop' page of our website ([www.butlerwillsandestates.com](http://www.butlerwillsandestates.com)) and in-store at Indigo, Coles, and Chapters.

### **Practical Things to Consider Before Starting Estate Litigation**

We've said it before and we'll say it again – litigation is the hardest way to solve a problem in an estate. Unfortunately, families often end up fighting out the issues in court. Here are some practical things to take into consideration before you engage in legal action.

#### 1 – How You'll Pay the Bill

Litigation is extremely expensive. A lawyer's time is billed by the hour, so all the time your lawyer spends working on your file is billable. This includes the obvious time, like hours in court, but also time spent on phone calls, emails, and drafting briefs. Sometimes lawyers will agree to be paid on contingency (i.e. they will agree to be paid out of the winnings of the case), however this doesn't work very well for estate litigation. This means that you need to consider how you will pay your legal fees. Chances are you'll be billed on a monthly basis, so you might need to prepare to pay a few thousand dollars a month.

#### 2 – Your Family Dynamics

The vast majority of families won't withstand mud slinging in court. Once you open the floodgates it can be very difficult to recover from the accusations going back and forth. People can say very harsh things in their affidavits, ranging from alleged elder abuse to claims of theft and everything in between. Think about how your family will function if the matter ends up going to a trial. Events like holidays and birthdays will be impacted, but so will the relationships between your siblings, aunts and uncles, and everyone else.

#### 3 – You Might Lose

No matter how strong your case is, there is a chance that the judge will rule against you. Your lawyer will do the best they can to prepare the strongest arguments in your favour, but there is no guarantee that you will win. Many clients feel that they are protecting the honour of their deceased relative, and that this means they have right on their side. Keep in mind our judicial system is not about who is morally right, so claiming the moral high ground won't convince the judge.

# Busting Legal Myths

This article was originally posted on Lynne's blog, [www.estatelawcanada.blogspot.ca](http://www.estatelawcanada.blogspot.ca) We've found many of these misconceptions still pop up, so we wanted to share this article again to try and bust some of these myths.

From time to time people say things to me that reveal just how many myths and misunderstandings exist regarding wills. It's not really surprising; misinformation is passed on as frequently as real information and is often more interesting. TV and books fictionalize and sensationalize legal situations. And the internet is quite the culprit too, in the sense that pretty much anyone can start a blog, say they're an expert and talk about anything they like.

I thought I'd take a few minutes and "bust" five of the misconceptions that have crossed my path recently.

## 1. Myth # 1: Legal documents such as wills can't be photocopied.

Sure they can. In fact, after someone passes away, his or her will is often photocopied dozens of times so that copies can be given to the beneficiaries, the lawyer, the bank and the land titles registry. Perhaps the grain of truth that led to this myth is the fact that in order to probate a will, the executor must have the original document. So this myth is not so much busted as adjusted; you can't use a photocopy to get probate (except in special circumstances) but you can use a photocopy for every other purpose.

## 2. Myth #2: If a will is in a sealed envelope in a safe deposit box, breaking the seal will invalidate the will.

Now this doesn't make sense to me at all. If the will is automatically invalidated by opening the envelope, how is the will ever going to be used? Though this does sound like a great scare tactic for keeping nosy people out.

## 3. Myth #3: If a husband and wife make wills at the same time and one spouse dies, the other one's will is invalid.

Perhaps this myth grew out of the old practice of a husband and wife having only one will document between them, a practice that petered out long before I started doing wills 26 years ago. In any event, it simply isn't true. Each person does his or her own will and each document stands independently of the other. Wills should be set up so that they will work properly regardless of which spouse passes away first, or even if they pass away in a common accident.

## 4. Myth #4: There must be a reading of a will after someone dies.

Beneficiaries frequently tell me that they think the executor is hiding something because there has been no reading of the will. This was never the law, though it was once a custom, particularly among wealthy families. It's a custom that lives on in novels and movies, though not so much in real life. These days a beneficiary is most likely to receive notice of his or her inheritance by way of a registered letter. Those who are not beneficiaries are simply not involved.

## 5. Myth #5: All family members are automatically entitled to see another family member's will.

Nope. Wills are private documents, even after the person has passed away. The question I hear more than any other is "how do I get a copy of my mother/father/sibling's will?" Sorry, but if you're not a residuary beneficiary of the will, you don't get a copy and you're not entitled to see it. I'm well aware that this isn't the answer people want, but it's something they will have to live with. This is a general rule of course, and an exception is a person who is not named in the will but who is automatically entitled to support from the will because they're a legal dependent (i.e. spouse, minor child, handicapped adult child) entitled to support under the will. Other court actions sometimes result in a person getting a copy of the will, too.

## Did you miss Lynne's interview on VOWR?

Lynne completed two interviews with VOWR radio. If you missed them airing in January, you can listen at the beginning of February. On Sunday, February 4 at 12:15 pm tune in to the episode about wills. To hear about Advance Healthcare Directives, listen at 7:30 pm on Monday, February 5 or 12:15 pm on Sunday, February 11.

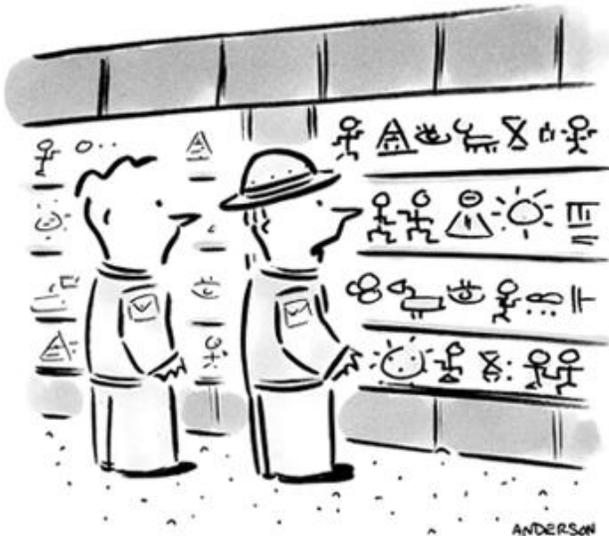
### What is STEP?

Anyone who has seen Lynne's business card has noticed the TEP designation. However, most people are not familiar with this particular group, "TEP" stands for Trust and Estate Practitioner, and the designation is provided by STEP (Society of Trust and Estate Practitioners – bet you didn't see that name coming).

STEP is an international professional organization for people who specialise in succession planning. There are 20 000 members around the world, and all of them have to meet strict professional requirements in order to be accepted to the group.

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"It appears to be some sort of pyramid scheme."

*We've got a  
new face in the  
office!*

We have a new member of the team!

We'd like to extend a great big welcome to Bradley, our new office assistant. He is currently working on his Master's degree in education, and will be here a few days a week to help answer any questions you may have.

### Did You Know...?

You can choose someone to manage your Facebook account if you pass away. This person is your "legacy contact", and can do things like post on your profile, reply to friend requests, and update your pictures.

*Please feel free to share this newsletter with others.*

*If you have any questions, comments, would like to suggest a topic, or to **unsubscribe**, please email us at [chelsea@butlerwillsandestates.com](mailto:chelsea@butlerwillsandestates.com)*