



## Daniel J. Dochylo

### Partner

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[Estate & Trust Litigation](#)  
[Commercial Litigation](#)  
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Daniel is a member of BLG's Private Client Group and National Chair of the Estate, Trust and Family Litigation Focus Group.

His practice focuses on estates and trusts litigation, including will challenges and interpretations, passings of accounts, removals of trustees, dependants' relief, guardianships, and other cases involving trusts, powers of attorney and estate bonds. He also represents clients in contentious multi-jurisdictional administrations and financial institutions in disputes involving aging investors.

Daniel also acts as a mediator of estates and trusts disputes, and has expertise in insurance defence, commercial litigation and family law. Daniel is certified as a Specialist in Estates and Trusts Law by The Law Society of Ontario. He is a designated Associate of the Chartered Institute of Arbitrators.

## Experience

- Acted for individuals, corporations, trust companies, charitable foundations and bonding companies in a wide variety of estates, trusts, insurance, commercial and family matters in the lower courts and on appeal.
- Acted for lawyer and law firm in obtaining stay of negligence proceedings, pending outcome of appeal to tax court of Canada: *Kaye v Fogler Rubinoff LLP*, 2019 ONSC CanLII
- Acted for trust company in obtaining recognition indemnity rights where interim appointment as guardian did not specify same: *Mian v Akram*, 2019, Court File No. 03-064/18 (ONSC)

- Acted for trust company in responding to and refuting allegation of breach of duty in context of contested request for interim distribution where Estate a party to multiple pieces of litigation: *Kearns v. Kearns et al*, April (2017), Court File No. 05-111/15 (ONSJ)
- Acted successfully for ultimate beneficiary in having terms of Will trusts interpreted to find there was “ascertainable standard” for encroachment power and duty of even hand could be applied: *Goodall v. Schwobel* (2014), ONSC 3993
- Acted for estate trustee in having foreign heirs of deceased identified and Will interpreted as regards devolution on partial intestacy to such heirs: *Kapousouzian Estate v. Spiak* (2014), ONSC 2355.
- Appeal of decision enforcing settlement and declining to award pre-judgment interest; successful in reversing latter award: *Dick v. McKinnon* (2014), ONCA 784.
- Acted for trust company, as proposed co-guardian, regarding approval of Management Plan with limitations of liability and ability of each co-guardian to engage independent counsel and obtain full indemnity for legal fees and increased care and management fee: *Abrams v. Abrams et al* (August 2011), Court File No. 03-003/08 (OSCJ).
- Acted for Office of The Children’s Lawyer in rectifying a \$22-million testamentary trust, thereby
- preserving its benefit and ensuring that \$17 million in gifts, which would otherwise have failed, did not fall into residue. *Re Estate of John Johannes Jacobus Kaptyn* (August 6, 2010), Court File No. 05-40/07 (OSCJ).
- Acted for executrix to establish right of adopted child to inherit from next-of-kin of adoptive parent; first case on this issue: *Kinneberg, as Executor of Estate of Evans v. Bradfield and the PGT, as Estate Trustee of the Estate of Rich* (April 2010), Court File No. 01-0046/07 (OSCJ).
- Acted for applicant in obtaining order for assessment of capacity in guardianship proceedings under *Substitute Decisions Act*: *Kischer v. Kischer et al* (January 2009), Court File No. 03-96/08 (OSCJ).
- Acted for hospital foundation in seeking removal of executor over conduct of estate administration: *St. Joseph’s Health Care Centre v. Dzwiekowski* (2007), CarswellOnt 7642; OJ No. 2619 (SCJ).
- Acted for trust company, as estate trustee, on application for opinion, advice and direction concerning placement and effect of residue clause; and, first case establishing right of trustee to equitable set-off of debts owed to one estate from interest of a beneficiary in another: *Re Pressman Estate*, [2005] OTC 536 (SCJ).
- Acted for beneficiaries of a trust to remove the trustee, and defend cross-claims for rectification to add him as a beneficiary or to set aside the trust: *Rose v. Rose* (2006), 24 ETR 217; 81 OR (3d) 349 (SCJ).
- Acted for school board in having Cy-près doctrine applied to obtain benefit of educational trust fund for students of amalgamated board: *Abercrombie Estate v. Etobicoke Board of Education* (2004) 6 ETR (3d) 1 (OSCJ).
- Acted for the applicants/appellants in obtaining dependant’s relief increasing the benefit to be received by adult child with a serious deteriorative illness, and in which the SCC’s decision in *Tataryn* was first applied in Ontario: *Cummings v. Cummings* (2003), 5 ETR (3d) 81 (SCJ); (2004), 69 OR (3d) 398 (CA); leave to SCC denied.
- Acted for administrator of the pension plan as regards competing designations between first and second spouses and entitlement to survivor benefits: *Teamsters & Participating Employers of Ontario Pension Plan v. Hay* (2003), 65 OR (3d) 744; 43 RFL (5th) 25; 3 ETR (3d) 38 (SCJ).
- Acted for widower at trial in having claim of executors/children of deceased spouse to set aside RRSP beneficiary designation dismissed, and obtain costs: *Bliss Estate v. Bliss* (October 2002), Court File No. 99-CU-78680; and, on appeal of costs award: (2004) CarswellOnt 3888 [2004] OJ No. 3921 (CA).
- Acted for charities in establishing that signs or symbols were effective to create testamentary disposition in favour of the charities, and so avoid an intestacy: *Urquhart Estate v. Urquhart* (2000), 182 DLR (4th) 249 (OCGD)
- Acted for guardian of property, to ensure that incapable person’s right to have his solicitors’ accounts assessed was protected: *Neinstein & Associates v. The Bank of Nova Scotia Trust Company*(October 2000), Docket C33741 (Ont. CA).

- Acted as co-counsel for the respondent trustee in the lower Court, and Divisional Court on appeal, to set aside Order that broke a trust and have assets returned to an estate; case established that beneficiaries have right to notice of proceedings affecting their financial interests where testatrix was incapable and could not have changed her Will: *Weinstein v. Weinstein (Litigation Guardian of)* (1997), 35 OR (3d) 229(OCGD).

## Insights & Events

### Beyond Our Walls

#### Professional Involvement

- Member, STEP (Worldwide) Professional Standards Committee as of June 2022
- Member of the International Academy of Estate and Trust Law as of March 2021
- Co-Deputy Chair of STEP Contentious Trusts and Estates SIG Committee, 3 year term concluding December 2024 and Co-Deputy Chair 2022
- Member, Judge's Panel for Annual STEP Private Client Awards 2018/2019, 2019/2020 and 2020/2021
- Member, Advisory Board for Trust & Estates Litigation Forum (Legal Week) 2017 to 2022
- Member, STEP Canada Governance Committee 2018
- Member, STEP (Worldwide) Disciplinary Panel as of 2016 to date
- Governance Liaison Officer and Membership Committee, 2015-2016
- Member, STEP (Worldwide) Professional Standards Committee as of June 2022
- Member, Society of Trust and Estate Practitioners (STEP)
- Member, Association of Contentious Trust and Probate Specialists (ACTAPS), UK-based
- Member, The Advocates' Society
- Member, Ontario Bar Association, Trusts and Estates Section

#### Community Involvement

- President and/or Director, Metropolitan Toronto Condominium Corporation 811, 1997 to date

### Awards & Recognition

- Recognized in the 2022 edition (and since 2017) of *Chambers High Net Worth* as a "Leading Individual"(Private Wealth Disputes, Band 1).
- Recognized in the 2024 edition (and since 2010) of *The Best Lawyers in Canada* (Trusts and Estates).
- Recognized in the 2024 edition (and since 2013) of *The Canadian Legal Lexpert® Directory* (Estate & Personal Tax Planning).
- Recognized in the 2023 edition of *Who's Who Legal: Canada* (Mining & Private Client).
- Listed in Private Client Global Elite Directory, Legal Week, 2018-2019.

### Bar Admission & Education

- Ontario, 1993
- Intensive Trial Advocacy Course, Osgoode Hall Law School, 1996



- LLB, Queen's University, 1991
- BA (Hons.), University of Toronto, 1988

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