



*Protect against  
incapacity & undue  
influence challenges!*



# Testamentary Capacity & Undue Influence in Estate Planning

*with Geoffrey White, K.C.  
& Mark Weintraub, K.C.*

**Thursday, November 24, 2022**

**Live webinar with chat  
includes 60 day replay\***

9:00 am – 10:30 am (Pacific)

10:00 am – 11:30 am (Mountain)

11:00 am – 12:30 pm (Central)

12:00 pm – 1:30 pm (Eastern)

1:00 pm – 2:30 pm (Atlantic)

1:30 pm – 3:00 pm (Newfoundland)

*\*This program features real-time audio of the presenter with synchronized presentation slides, and a chat feature that allows for live Q & A. SK attendees please verify whether you align with Central (MB) or Mountain (AB) time based on season and location.*

## WHO SHOULD ATTEND

Litigators, trusts and estates law lawyers, and general practitioners will benefit from attending this course.

## ABOUT THE PROGRAM

Will challenges are often based on claims that the testator lacked the capacity to execute a will, or that the will was the result of undue influence. These are not easy matters to assess, especially with new clients for whom you have no frame of reference. As a practitioner, you must assume that the will you are drafting could be contested and take clear steps to rule out issues of incapacity and undue influence, and build a record documenting your conclusions. This highly practical webinar featuring experienced estates counsel Mark Weintraub K.C. and Geoffrey White K.C. will review your duties when taking will planning instructions, offer practical techniques you can use to evaluate capacity and undue influence, and discuss how to better help or decline to help a prospective client, while protecting your practice from negligence claims. By the end of the program you will:

- Better understand the concepts and context that govern testamentary capacity and undue influence
- Be more alert to signs of testamentary incapacity or undue influence
- Improve your ability to assist clients where capacity may be in issue, and respond to concerns of undue influence
- Know how to protect yourself and assist the court by creating a complete and accurate record

Don't miss this condensed update exploring critical issues involved in assessing incapacity and undue influence in will planning engagements and in litigation!

## SCHEDULE (Eastern)

**12:00 pm - 1:30 pm**

**Welcome and Introduction**

**Testamentary Capacity**

- Definition of Testamentary Capacity
- Timing of Capacity
- Presumption of Testamentary Capacity
- Test for Capacity
- Delusions
- Doctrine of Suspicious Circumstances & Examples

**Undue Influence**

- Definition
- Burden of Proof
- Indicators of Undue Influence
- Rebutting a Presumption of Undue Influence

**Solicitor's Obligations**

**Medical Assessments**

**Program Wrap-up and Evaluation**

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## MEET YOUR PRESENTERS

**Geoffrey White, K.C.**, is a senior estate, tax and charity lawyer with Clark Wilson LLP, with offices in Kelowna and Vancouver. Geoff's practice of 20+ years has given him a deep knowledge of the rules and laws that apply to wills, estates, trusts and related tax. Geoff has helped lead a number of industry initiatives, including implementation of the Wills, Estates and Succession Act (WESA) (2014), Editor of the BC Estate Probate Manual, and National Past-Chair of the Elder Law section of the CBA. He is the current President of the Law Foundation of BC. Geoff is a Certified Trust and Estate Practitioner and regularly speaks on topics of estates, trust and related tax matters. Geoff is listed in Best Lawyers in the category of Trusts and Estates.



**Mark S. Weintraub, K.C.**, is a partner with Clark Wilson LLP in Vancouver. He is the firm's senior estate and trust litigator. He is a frequent presenter and author on issues related to estate and trust litigation. Mark has acted as counsel in a wide spectrum of litigation, including Wills Variation Act claims, negligent or fraudulent estate administration and wills and trusts interpretation, as well as claims involving elder abuse. Mark is a contributing author to the *British Columbia Law Society Wills and Estates Practice Checklist Manual* (2016) and *LexisNexis Online Practice Advisor – Estate Litigation – British Columbia Modules* (2016-2018). Mark is ranked, by peer reviews, in Best Lawyers in Canada, Trusts and Estates and in the Distinguished category in Martindale-Hubbell's compendium.

**ON:** This program contains 1.5 Professionalism hours.

**SK:** This program has been approved for 1.5 CPD hours, 0.5 hours of which qualifies as ethics.

**NB:** This program has been approved for 1.5 CPD hours.

**BC:** This program has been approved for 1.5 CPD hours of professional responsibility and ethics, client care & relations, and/or practice management.



Lawyers in other mandatory CPD jurisdictions may count their attendance towards their CPD requirement/plan. Seminar Partners is an Accredited Provider of Professionalism Content by the Law Society of Ontario and a pre-approved CPD Provider of the Law Society of British Columbia.

### ✓ Yes, I want to attend Testamentary Capacity & Undue Influence in Estate Planning Thursday, November 24, 2022 • Live webinar (slides and audio) with chat and 60 day replay\*

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\* Materials will be distributed electronically in advance. Live webinars feature real-time audio of the presenter with synchronized presentation slides, and a chat feature that allows for live questions and verbal responses by the presenter. The recording of the webinar is available for 60 days.

#### REGISTRATION FEE:

- On or before November 4, 2022: \$140.00 + \$18.20 (13%) HST\* = \$158.20 - Save \$25.00!
- After November 4, 2022: \$165.00 + \$21.45 (13%) HST\* = \$186.45

\*With ON HST. Please adjust tax for attendee's province as follows: 5% in AB, BC, MB, NWT, NU, SK, YK. 13% in ON. 15% in NS, NB, PEI & NL.

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