

CBA Annual Professional Development  
Conference

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“The Delights and Dangers of Dabbling as an  
Executor and Trustee”

Presented by:

Edward B. Chase, Q.C., TEP

Timothy C. Matthews, Q.C., TEP

Richard Niedermayer, TEP

# Overview

- Why would a lawyer act as an executor and trustee?
- Problem areas
- Conflicts of interest
- Risk management

# Why Act as Executor or Trustee?

- Expertise
- Neutrality / independence / objectivity
- Client relationships / trusted advisor role
- Trust companies retrenching?
- Other professionals (i.e. accountants, financial advisors) retrenching?
- Compensation
- Public Service?

# Problem Areas

- Case law review
- Litigation involving the estate
- Business assets
- Negligence
- Insurance coverage

# Conflicts of Interest

## **A – At time of appointment**

- Review *Muttart* decision
- Legal Ethics Handbook, chapter 7

## **B – During Administration**

- Competing interests of beneficiaries / family members
- Competing interests among co-executors

# Risk Management

- Conflict letters
- Fee agreements
- Fee clauses
- Independent legal advice for beneficiaries and others

# QUESTIONS?

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