

## SOME THOUGHTS ON YOUR EXECUTOR

One of the most important estate planning decisions you can make is the choosing of the executor who will look after your estate, when you pass away.

Essentially, your executor is the person appointed to make sure that your will is properly carried out. For instance, among other things, your executor is responsible for arranging the burial, making any claims on behalf of the estate, paying legitimate debts and taxes of your estate and satisfying the gifts made in your will. You should choose one or more persons well suited to the duties required. In making this choice, you should consider whether it is advantageous to select one executor, or several co-executors, as the case may be.

The following are some points you should consider when contemplating the choice of your executor:

- If you are leaving the entire estate outright to your spouse, you may consider appointing your spouse as the sole executor, if you feel your spouse is capable of administering your estate.
- One common misconception pertains to the number of executors you are obliged to appoint. If you wish, you do have the right to appoint just one person as your executor.
- You should consider whether the person you are appointing as executor has the time to take on the task. An executor maybe trustworthy, but he or she may be unwilling to accept the appointment. Executors have the right to decline the appointment at the outset when they find out they have been named.
- If you are considering appointing an executor who lives in a foreign jurisdiction, you should discuss this with the lawyer preparing your will. Make sure you tell your lawyer that your executor lives in a foreign jurisdiction, so that she can address concerns regarding the requirement for your executor to post a bond. For example, the law of Ontario provides that there is no necessity for an executor to post a bond, if that executor lives in a jurisdiction within the British Commonwealth.
- Your executor will have to make some management and business decisions. He or she will also have to deal with your grieving family. You should be aware that even though your executor may not have detailed business and management knowledge, he or she can hire professionals such as lawyers and accountants to deal with any complicated issues.

The Wills Lawyer



Michelle Kotzer

- If you do not think that your children will get along with each other after your death, you may decide not to appoint any of your children as executors. Instead, you might wish to choose a neutral person or financial institution.

- It is always a good idea to appoint one or more back up executors, in case your first executor has predeceased you, or if he or she is unwilling or unable to act.

- If you are appointing three or more co-executors, such as three of your adult children, you may consider inserting a majority clause in your will to allow two of the three to make a binding decision.

I am a wills lawyer with the law firm of Fish and Associates, 7951 Yonge Street, Thornhill (Yonge and Royal Orchard). We are located in a turn of the century home with plenty of free parking. The atmosphere is relaxed and we speak in plain language.

I would be pleased to review your existing will for free to make sure that it is not a recipe for a family nightmare. I would also be pleased to provide a free will consultation, if you do not have a will and do not know where to start.

Michelle can be reached at 905-881-1500 Ext. 22 or [mkotzer@fishlaw.ca](mailto:mkotzer@fishlaw.ca). Please visit [willappointment.com](http://willappointment.com) or [familyfight.com](http://familyfight.com) for more information.