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# Elder Law

## Profile

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Dignity and autonomy are fundamental rights in Canada. They are rights protected by our Canadian constitution and proclaimed in various laws throughout the country. As we age, the ability to make our own decisions and preserve our independence can be challenged. With the aging population of Canadians, the incidence of elder abuse may be increasing.

## Work Highlights

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### Marital Capacity

- > Successful counsel for the plaintiff in a complex and precedent-setting case, marking the first reported case in British Columbia wherein a marriage was set aside due to mental incapacity: *Devore-Thompson v. Poulain*, 2017 BCSC 1289 and *Devore-Thompson v. Poulain*, 2018 BCSC 97
- > Emily Clough was featured on CBC's *The Current* with Anna Maria Tremonti, where she discussed her precedent-setting case, *Devore-Thompson v. Poulain*, and predatory marriage generally. [Click here to listen to the broadcast.](#)

### Committeeships

- > Successful counsel for contested committee application: *McCoy (Re)*, 2020 BCSC 254

- > Successful counsel for contested committee application: Uhrick (Re), 2015 BCSC 1330
- > Successful counsel for contested committee application brought by mother for her daughter in a dispute with a purported spouse who met the adult after she had begun experiencing a cognitive decline: Janisch (Re), 2016 BCSC 2003
- > Successfully struck the claim of a purported spouse who attempted to re-litigate committee proceedings, and made scandalous allegations against our client. We obtained a special costs award for our client: Johnson v. Smith, 2018 BCSC 836

## **Mental Capacity**

- > Successful counsel for the plaintiff in the Court of Appeal for British Columbia: Serban v. Serban, 2018 BCCA 166

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Our elder law group is committed to enhancing the lives of people as they age and protecting vulnerable adults. When clients come to us, they have often been in distress for many months and are worried that someone is taking advantage of themselves or their loved ones.

As one of the largest groups in the province focused in this area of law, we offer adults and their children, spouses, family and friends:

- > Depth and breadth of expertise in all areas of elder law
- > Ability to act quickly and efficiently
- > Compassion
- > Tailored approach suited to your unique needs
- > Creative and cost-effective solutions
- > Flexible and seamless experience dealing with our team members
- > Referrals to doctors, housing experts or others to help navigate the "system"

Protection against elder abuse and exploitation is a core part of our practice. We assist clients in dealing with the Public Guardian and Trustee, the health authorities, the police and the courts. Our lawyers frequently act as counsel in matters regarding adult guardianship, the Patients Property Act, the Adult Guardianship Act and the Mental Health Act. Many of our cases have dealt with power of attorney abuse, mental capacity and consent, predatory marriage, medical and housing issues, joint tenancy, resulting trust, and fraudulent misappropriation of bank accounts and other assets.

While we often work to defuse the situation and negotiate a fair settlement out of court, our team is prepared to litigate a determination of the issues when necessary. Our lawyers are some of the most passionate advocates in the courtroom and sought-after authorities in the field. They have made significant contributions to various legal publications and industry organizations and are frequently invited to lecture at seminars.

## **Services**

- > Committee/Guardianship - contested and uncontested committee applications and trials, as well as applications regarding whether a person must be forced to undergo involuntary mental capacity assessments
- > Powers of Attorney
- > Representation Agreements

- > Trust & Estate Planning
- > Estate Administration
- > Tax
- > Litigation
- > Mediation
- > Challenges under the Mental Health Act
- > Challenges under the Adult Guardianship Act

Our work also includes a holistic approach to an aging population's needs dealing with such issues as mandatory retirement, accommodating aging employees and the transition of business ownership. We draw upon the expertise of lawyers in our firm's many complementary practice areas, including family law, tax, estates & trusts, and business succession, to ensure our clients benefit from a truly cohesive approach and authoritative advice.

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## **Chair**

Emily Clough

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