

# The Butler Bulletin

Butler Wills and Estates

8/1/2019

Edition 4, Volume 6

## *How do I find a legitimate law firm?*



When you meet with a lawyer, you give them a lot of personal information. You provide them with funds, trust them with your private and confidential matters, and give them important documents; this means you have to make sure that the lawyer you're dealing with is legitimate.

Fortunately, there aren't too many instances where someone pretends to be a lawyer in order to take advantage of someone. However, scammers are getting more creative every day, and there isn't much stopping someone from trying to open Generic Legal Services in their parents' home. Here are a few things you can do to research a new law office before you use their services.

### **Check the Registry of Companies**

This registry can give you a lot of information about the company, like when it was incorporated, if it is in good standing, who the owners are, and more. Not all companies are registered, but this is a good place to start your search. Many law firms are incorporated, and many function as partnerships.

### **Visit the Law Society Website**

Each province has a Law Society. This is the regulatory body for all lawyers in the province, and every lawyer in the jurisdiction is listed with the Law Society, even the ones who are no longer practicing because they were disbarred. If the lawyer you are looking for isn't listed, there are two options – first, the information hasn't been updated, or the person isn't licensed in that jurisdiction. You can contact the Law Society to find out for sure.

Also, if the lawyer is practicing, his or her business contact information will be listed as well. This often includes the business name, address, phone number, and email.

### **Utilize Google**

Google is a treasure trove of information. If you haven't found any information on any other site, Google is a great next step. Try searching the person's name and "lawyer" and the jurisdiction. For example, anyone looking for Lynne Butler on Google can search "Lynne Butler Lawyer St. John's, NL" and see results for her business website, blog, books, articles, and Law Society listing.

If you've found the address of the business, search it on Google maps. This will show you what the area looks like, and if it is residential or commercial. Some residential buildings are zoned for commercial use, so if the office is in a residential area you can search to see if it is permitted to be used for business.

Also, search the phone number for the business. There are a ton of sites that allow users to post a phone number and say whether or not it is someone calling for a scam. If the number shows up on these sites, you know it is not legitimate.

Google is also great for reverse image searching. Some scammers use stock images to help pretend that they are a real company. These images tend to be very generic, and aren't very high quality. You can save a screenshot of the image, then drag and drop it into Google's search bar. Any sites associated with the image will appear in the search results.

### **Check CanLII**

CanLII (Canadian Legal Information Institute) is a site that publishes legal cases, statutes, decisions, and judgements. You can search the site for free to see if the lawyer's name appears anywhere as counsel on any of the cases.

### **Ask a Lot of Questions**

If you aren't sure whether or not the person is actually a lawyer, ask a lot of questions. These aren't questions about your situation to see if you can get free legal advice or test the lawyer's knowledge of the law; rather, these questions should be about their practice. Some good questions to ask include:

How long have you been practicing law?

Chances are you won't get a specific number, but something along the lines of "about x number of years" is practical.

When did you open/join this firm?

The person should be able to tell you approximately when they started working there. For example, "five years ago" or "2007" are both practical answers.

Are you licensed to practice in this province?

Note that permission to practice law in each province is issued by each provincial Law Society, not by a Canada-wide agency. There is a group called the Canadian Bar Association, which lawyers from any Canadian jurisdiction can join, but this group does not provide lawyers with licenses to practice. It is for resources, continuing education, and networking.

When were you called to the bar?

Becoming a lawyer doesn't end with law school. After graduating law school, every individual must attend further education provided by the Law Society. These courses vary from one province to another, but they are mandatory for anyone who wants to practice law. If these courses are successfully completed, and the student has finished one year of articling (like a work term at another firm), he or she may be called to the bar. This is the ceremony that appoints the person as a lawyer. Anyone who says they are a lawyer without having been called to the bar is not legitimate.

If the person says they are an articling student, they are likely partway through their articling year and working under the supervision of a senior lawyer.

At our office we have had all of these questions, and they are reasonable for a prospective customer to ask. You may not get through to the lawyer, but anyone at the firm should be able to either give you the answer or find out for you.

Remember that if you aren't comfortable with someone, do not use their services. No legitimate lawyer will demand that you choose them or that you avoid researching their firm. It isn't rude or insulting to ask these kinds of questions; it's important that you know who you are contacting. Keep in mind that these questions are ok because they aren't personal. Asking about topics such as socio-economic or marital status, religious beliefs, or political affiliations is inappropriate, so limit your questions to business-related topics.

## What goes into calculating an executor's fee?

In order to determine the appropriate fee, the executor should look first to the will he or she is administering. Anything stated in the will is the maximum amount that the executor may claim, whether that amount is stated as a dollar figure or a percentage. If the executor takes more than the amount allowed by the will, he or she will likely be compelled by the court to repay the funds to the estate.

If the will doesn't say how much is to be paid to the executors, the calculation of the fee must be made according to statute law and case law. There are some guidelines in place but they are not precise, and an executor must take several factors into consideration when determining where he or she lands within those guidelines.

The general guideline for executors is that he or she may claim between 1% and 5% of the gross value of the estate. As mentioned, the executor should try to decide where he or she falls within that range. While it's tempting to claim the highest amount possible in every case, the executor must remember that the claim for compensation must be approved by the beneficiaries first.

The factors that should help determine the appropriate amount of compensation include:

- The value of the estate, keeping in mind that handling larger sums of money carries more personal risk for the executor than does handling small amounts of money;
- Whether the estate itself gave rise to difficult or unusual questions or issues. For example, a poorly worded will might need interpretation by the court;
- The complexity of the estate;
- The amount of time spent;
- How much of the estate work was delegated to others. The most common example of delegation of estate tasks is work done by the estate lawyer to assist the executor. The executor's compensation must be reduced by any fee paid to the lawyer to administer the estate;
- The efficiency (or lack thereof) of the executor.

In addition to this fee, an executor may claim repayment of reasonable out-of-pocket expenses incurred in the administration of the estate.

In many estates, arriving at the right fee is a balancing act. The executor or administrator wants to receive as much pay as he or she is entitled to receive, but the amount claimed often seems very high to the beneficiaries. This is partly because an executor may work on an estate for months or even years, and when all of the fee is claimed at once, it may appear to be a large sum. The beneficiaries are aware that the executor's fee is taken directly from funds that they would otherwise inherit, so they are rightfully vigilant about the amount being charged.

For more information about calculating an executor's fee, order our guide *Calculating Executor's Compensation*, which comes with a sample Statement of Proposed Executor Compensation. The guide is \$10 + HST and shipping. Available at [www.butlerwillsandestates.com](http://www.butlerwillsandestates.com) or by calling us at 709 221 5511.

## Not sure how to start talking about estate planning?

Many clients find it difficult to get started talking about their wills and estate plans. If someone you know is nervous about seeing a lawyer, are unsure what it is like, or don't know where to start, drop by and see us.

We find many seniors are hesitant to contact a lawyer because they are anxious about what the meeting will be like. Seeing a lawyer for the first time can be intimidating, so we're inviting anyone interested in starting the estate planning process to come by for some free info about how to get started.

Come by our office at any time during regular business hours and we'll be happy to provide you with some information to take home about how to get started on your estate planning, including:

- An estate planning questionnaire to get you started
  - Answers to frequently asked questions
- Information about how to choose an estate lawyer
  - A brochure with our prices and services

Drop by to pick up your free information package, or give us a call and we'll put one in the mail the same day.

What's the difference between a cat and a comma?



One has claws at the end of its paws, and the other is a pause at the end of a clause.



Want to save on books, guides, and kits? Visit [www.butlerwillsandestates.com](http://www.butlerwillsandestates.com) to shop the sale!

Enter code **summer20** at checkout to take 20% off your order!

All items included. Regular taxes and shipping fees apply. Offer valid until August 31, 2019.

### Did you know...?

**You can suggest topics for our YouTube channel! Is there an estate planning topic you'd like us to cover? Send us an email, or comment on any video on the channel. Visit our channel [here](#).**

*Please feel free to share this newsletter with others.*

*If you have any questions, comments, would like to suggest a topic, or to **unsubscribe**, please email us at [chelsea@butlerwillsandestates.com](mailto:chelsea@butlerwillsandestates.com)*