

MULTIPLE WILLS ALERT!

A recent decision of the Ontario Superior Court of Justice (*Re Milne*) may affect the Wills of clients who have used multiple Wills to reduce probate fees. If you have Primary and Secondary Wills in place, this court decision may put that planning in jeopardy.

In the decision, the Court took issue with the ability of the Trustees, in their discretion, to decide which assets fall into which Will. While the use of multiple wills is still a valid mechanism, the wording of the Wills before the Court was found to invalidate the Primary Will in that case. The decision has been appealed to the Divisional Court on a number of grounds. The general consensus among senior estates lawyers is that the decision is incorrect and the hope is that the decision will be overturned. However, the appeal is not likely to be heard and a decision rendered for some time. In the meantime, certain Wills may be vulnerable.

If you have executed multiple Wills, you are encouraged to contact your lawyer at [Fogler, Rubinoff LLP](#) or one of the members of our Tax and Estates Group to review your documents and obtain legal advice regarding your Wills.

Lawrence Adelberg

t: 416.941.8829

ladelberg@foglers.com**Leonard Bosschart**

t: 416.864.7600

lbosschart@foglers.com**Suzanne Hanson**

t: 416.941.8865

shanson@foglers.com**William T. Perks**

t: 416.941.8864

bperks@foglers.com**Marc Weisman**

t: 416.864.7625

mweisman@foglers.com**Tammy Anklewicz**

t: 416.365.3710

tanklewicz@foglers.com**Shaun Doody**

t: 416.941.8826

sdoody@foglers.com**Eric Hoffstein**

t: 416.864.9757

ehoffstein@foglers.com**Tamar Silverbrook**

t: 416.864.9307

tsilverbrook@foglers.com**Kathryn Balter**

t: 416.864.0112

kbalter@foglers.com**Peter Guselle**

t: 416.941.8818

pguselle@foglers.com**Ian MacInnis**

t: 416.941.8813

imacinnis@foglers.com**Mary Wahbi**

t: 416.864.7629

mwahbi@foglers.com