Blaney McMurtry LLP

PUBLICATION

When an Estate Trustee is Being Threatened in Ontario, What Are Their Options?

Date: November 11, 2026

Lawyers You Should Know: James Dunphy, Peter Neufeld

Executors often deal with multiple Estate stakeholders; beneficiaries, co-executors, creditors and service providers. When any one of those stakeholders engages in abusive or threatening conduct, the administration of the estate can grind to a halt.

So what options are available to an Ontario estate trustee who is on the receiving end of that behaviour? The appropriate response depends on the nature of the threat and whether the threat comes from a hostile co-estate trustee, an unruly beneficiary, a creditor demanding money or threatening a lawsuit or some other third party.

Dealing with a hostile co-estate trustee

The overriding concern with a hostile co-executor is that their actions may prejudice the estate and its beneficiaries.

An estate trustee who is concerned about a co-executor's conduct should keep a detailed log. The record may help to attribute any potential resulting prejudice to the hostile executor. It is also worth writing to the hostile executor, noting their questionable behaviour and its potential to prejudice the Estate, and ask that it stop immediately. If the hostile executor has not begun administering the estate, it may be prudent to ask them to resign voluntarily.

If the conduct persists continues to put the administration of the Estate at risk, it may be necessary to ask the court to intervene. We previously blogged about when a court can remove an executor in Ontario. In summary, the Ontario Superior Court of Justice has inherent and statutory authority to remove an estate trustee when their hostility or abusive behavior rises to a level that prevents the proper administration of the Estate or endangers the welfare of the beneficiaries.

Dealing with an unruly beneficiary

An estate trustee owes the beneficiaries a fiduciary duty of loyalty and must exercise their powers in the beneficiaries' best interests. However, this does not permit a beneficiary to engage in threatening or abusive behaviour towards the estate trustee. Nor is an estate trustee obligated to follow every instruction, demand, or preference voiced by individual beneficiaries.

Similar to dealing with abusive co-executors, when a beneficiary makes unreasonable demands, or engages in abusive or threatening conduct, keeping a detailed log of the beneficiary's conduct is critical. This includes documenting every email, text message, voice message and telephone call.

Executors are generally given a grace period (commonly known as the "executor's year") to identify assets, notify creditors, and file final tax returns before making distributions. If an unruly beneficiary demands their inheritance during the executor's year, the executor may be able to rely upon this 'rule of thumb'.

In some cases, an executor may be able to insulate their decisions from attack by an unruly beneficiary by bringing an application for the opinion, advice, and direction of the Court (such as under Rule 14.05(3)(a) or Rule 75.06 of the Rules of Civil Procedure). Some examples of the types of cases and questions where the court will provide advice and direction are as follows:

- Clarifying ambiguous, vague, or contradictory terms, clauses, or instructions written in a will;
- Determining legal questions that affect the rights of beneficiaries, creditors, or other parties concerning how the estate is administered or a trust is executed;
- Resolving uncertainty over whether the estate trustee has the legal authority to carry out specific administrative actions or sales; and
- Seeking guidance on the proper procedure for bringing a contentious estate matter before the court, setting timelines, identifying parties, or organizing mediation.

However, the court will not provide advice or direction on matters where the estate trustee is simply trying to avoid making a difficult choice or shifting their legal responsibility onto a judge. Inappropriate requests include asking the court whether or how to exercise discretionary powers.

If the beneficiary's complaint is about how the executor has managed the estate's finances, it may be advisable for the executor to formally pass their accounts. A "passing of accounts" is a court application whereby an executor presents their complete financial records of an estate for judicial review and approval. If the Court is satisfied that the beneficiaries' objections have been answered, it can order that the executor's management of the estate (as well as any compensation claimed) be approved and thereby immune from future challenge by the unruly beneficiary.

In extreme circumstances, where the beneficiary's conduct gives the executor reasonable grounds to fear for their or their family's safety, there are a couple of avenues for potential redress:

- **Peace bond:** A peace bond is a court order under section 810 of the Criminal Code that requires the defendant to "keep the peace" for a certain length of time and to obey any other

conditions of the peace bond. A peace bond does not cost anything, and a person can get one without a lawyer. Peace bonds are enforceable by police across Canada and are supervised like a probation order;
- **Restraining order**: If the unruly beneficiary is a partner or former partner of the executor, then it may be possible to obtain a restraining order; and
- **Non-harassment order:** If an estate proceeding has commenced, the executor may seek a no-contact or non-harassment order against the unruly beneficiary.

Dealing with a demanding creditor or a threatened lawsuit

An executor may face an outside person or creditor who threatens or demands payment from the estate without starting formal court proceedings. This can leave the executor afraid to distribute assets and potentially paralyse the entire estate administration. The executor may be rightfully concerned that, were they to distributes assets to beneficiaries before paying off all valid debts, taxes, and liabilities, they could be held personally liable for those unpaid amounts.

Executors take note: An estate creditor who "shouts the loudest" does not get paid first. In estate administration, debt collection is strictly governed by law. The estate trustee must first determine whether the estate is solvent or insolvent. The executor is typically permitted to pay the debts of the estate in the following order:

1. Payment of reasonable funeral expenses;

2. Testamentary and administration costs, including the estate administration tax (i.e. probate fees) and compensation for the executor/estate trustee;

3. All other debts proportionately, including provincial Crown debts.

Where a creditor threatens a lawsuit over an unpaid debt but fails to commence a claim, the executor may feel nervous about making any distributions from the Estate. This is a tactic adopted by some debt-collection agencies who often get paid a commission for every dollar they collect.

If over two years has passed since the date of death, the executor should consider whether an action over the unpaid debt is statute barred.

If less than two years has passed, and the executor wishes to accelerate the limitation period for bringing the claim, an estate trustee can deliver a Notice of Contestation of a Claim pursuant to section 44 or 45 of the Estates Act. Once the Notice has been personally served on the demanding creditor, the creditor must particularize their claim within 30 days. If they fail to do so, their claim is deemed abandoned and “forever barred”. This strategy is suitable for debt claims only and is inapplicable to claims for unliquidated damages.

Conclusion

Threats and abusive conduct can come from many directions during the administration of an estate. Fortunately, an estate trustee is not without recourse. Whatever the source of the threats,

acting early and on informed advice can help protect the estate, its beneficiaries and the trustee personally.

Estate trustees facing threatening or abusive behaviour should get legal advice promptly so they can respond with confidence and keep the administration on track.

The information contained in this article is intended to provide information and comment, in a general fashion, about recent developments in the law and related practice points of interest. The information and views expressed are not intended to provide legal advice. For specific legal advice, please contact us.