



Emily Clough

Managing Partner

Elder Law
Estates & Trusts
Estates & Trusts Opinions and Appeals
Charities & Not-For-Profits Law

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Profile

As the managing partner of one of Western Canada's largest law firms, Emily's leadership and strategic vision ensures that Clark Wilson delivers excellent service to our clients across Canada and around the globe. She is consistently recognized by her peers across the country as a Best Lawyer® in Canada for Trusts and Estates, and is a repeatedly recommended lawyer by Lexpert.

Emily has been lead litigation counsel on cases at all levels of Court. She has acted as counsel in cases that have set new precedents in British Columbia, including on wills variation and the incapacity to marry. Her cases have received national coverage by the Globe & Mail and the CBC.

In 2019, Emily was recognized as a nominee for the YWCA Women of Distinction Award, distinguishing her as a leading elder law practitioner. In 2021, our Estates & Trusts team was a Contentious Trusts and Estates Team of the Year finalist in the Society of Trust and Estate Practitioners' international Private Client Awards.

In addition to her successful estates, trusts, and elder law practice, Emily routinely volunteers her time to promote and develop the law. She was the elected chair of the British Columbia Law Institute and the Canadian Centre for Elder Law, the independent law reform agencies

carrying out scholarly research, writing, and analysis. Emily is the chair of Clark Wilson's pro bono committee. In her spare time, Emily volunteers to help low-income seniors prepare wills and incapacity planning documents to ensure their final wishes are honoured. Emily is the vice president of Health Justice, a human rights-focused non-profit organization working to improve BC laws and policies of coercive health care, particularly under the Mental Health Act.

Emily is a sought-after author and speaker, routinely presenting at conferences on elder law and incapacity matters, and writing new chapters for the Continuing Legal Education Society of BC's estate-related publications. As a frequent contributor to the Alzheimer Society, Emily presents seminars and workshops on incapacity issues and protecting the rights of vulnerable adults.

Estate & Trust Litigation Services

- > Litigation involving the *Wills Variation Act*, *the Wills, Estates and Succession Act*, testamentary capacity, capacity to marry, capacity to make a gift, undue influence, breaches of trust, trust variation applications, unjust enrichment, resulting trusts and proprietary estoppel
- > Injunctions to prevent dissipation of assets
- > Contract and shareholder disputes, including corporate oppression matters, shareholder disputes, rectification of corporate records and mistakes

Estate Planning & Administration Services

- > Estate planning advice regarding wills, power of attorney instruments, representation agreements, nominations of committee, advance directives and trusts (alter ego trusts, joint spousal trusts, inter vivos trusts)
- > Estate administration, including probate, administration, and passing of accounts

Committeeship/Guardianship Services

- > Contested and uncontested committeeship applications and trials
- > Applications regarding whether a person must be forced to undergo involuntary mental capacity assessments

Credentials

Awards & Distinctions

- > Canadian Legal Lexpert Directory®, Repeatedly Recommended Lawyer, Estate & Personal Tax Planning - Estate & Tax Planning, 2023
- > Canadian Legal Lexpert Directory®, Repeatedly Recommended Lawyer, Estate & Personal Tax Planning - Estate Litigation, 2023
- > Best Lawyers® in Canada, Trusts and Estates, 2021 - 2025
- > Society of Trust and Estate Practitioners (STEP) Private Client Awards finalist for Contentious Trusts and Estates Team of the Year 2021

Industry Involvement

- > Health Justice, vice president, 2023 - Present

- > Thomson Reuters Canada's Estates, Trusts and Pension Journal, editorial advisory board, 2021 - Present
- > Canadian Bar Association, member
- > Canadian Bar Association, Wills & Trusts section, member
- > BC Law Institute and the Canadian Centre for Elder Law, board of directors, 2018 - 2024
- > BC Law Institute, Undue Influence Guide for Practitioners, project committee chair, 2022 - 2023
- > Health Justice, president, 2020 - 2023
- > Canadian Bar Association, Elder Law subsection, member-at-large, 2020 - 2022
- > University of British Columbia's Allard School of Law, past 1L moot court judge, 2012 - 2022
- > BC Law Institute and the Canadian Centre for Elder Law, elected chair of the board of directors, 2020 - 2021
- > Canadian Association of Gift Planners, past Vancouver roundtable board member
- > Thomson Rivers University's School of Law, past 1L moot court judge, 2017

Community Commitments

- > Canadian Centre for Elder Law, Inclusive Investing: Respecting the Rights of Vulnerable Investors through Supported Decision Making, past committee member, 2018 - 2019
- > Access Pro Bono Wills Clinic Project, volunteer, 2012 - 2019
- > Canadian Centre for Elder Law, Health Care Consent, Aging and Dementia: Mapping Law and Practice in British Columbia, contributor, 2018
- > Alzheimer Society of British Columbia, regular contributor to educational programming including public presentations and education for staff on personal and estate planning
- > Alzheimer Society of British Columbia, prepared and revised written training manuals for the training their staff regarding estate and personal planning
- > Law Foundation of British Columbia and Alzheimer Society of British Columbia, Legal and Ethical Framework Advisory Committee, advisory committee member
- > British Columbia Law Institute, "Great Debate" fundraiser for the BCLI, volunteer debater (and two-time winner), 2010 - 2012
- > University of Victoria, Chronic Disease Self-Management 6-week course, program leader and trainer of the leaders
- > Victoria Crisis Line, volunteer

Professional Certifications

- > Trust and Estate Practitioner (TEP), Society of Trust and Estate Practitioners

Education & Call to Bar

- > Call to Bar: British Columbia, 2009
- > Supreme Court of British Columbia, Judicial Law Clerkship, 2007 - 2008
- > University of Victoria, Juris Doctor (J.D.), 2007
- > Gonzaga University, Bachelor of Arts (with Honours), 2001

External Presentations

- > Presenter, "Canadian Elder Law Conference 2023", The Continuing Legal Education Society of British Columbia, November 2023
- > Chair, "Basics of Wills and Estate Planning 2023", The Continuing Legal Education Society of British Columbia, October 2023

- > Presenter, "Evidence Schmevidence", Forum for Senior Estates & Trusts Practitioners: 3rd Generation, Cambridge Forum, May 2023
- > Presenter, "Assessing Incapacity in a Digital World – Taking Instructions From Your Client", Canadian Bar Association's Elder Law Section, April 2022
- > Presenter, "2021 Year in Review", Society of Trust and Estate Practitioners Vancouver Branch, January 2022
- > Co-chair, Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC, November 2021
- > Presenter, "Overview of Estate Planning", Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC, November 2021
- > Presenter, "Planning Ahead: Do It Now!", Alzheimer Society of British Columbia, March 2021
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning – Joint Tenancies", Basics of Wills & Estate Planning Conference, Continuing Legal Education Society of BC, November 2021
- > Speaker, "2020 Year in Review", Society of Trust and Estate Practitioners Vancouver, January 2021
- > Presenter, "Raise Your Voice: Dementia, Long-term Care and COVID-19", Alzheimer Society of British Columbia, January 2021
- > Presenter, "Impact of COVID on Personal Planning", Alzheimer Society of British Columbia, March 2021
- > Lecturer, Estate Litigation Basics 2021 course, Continuing Legal Education Society of British Columbia, March 2021
- > Presenter, "Demystifying Advocacy: Changing Your Situation", Alzheimer Society of British Columbia, September 2020
- > Speaker, "Provincial Learning Event: Predatory Marriage" telecast, British Columbia Association of Community Response Networks, April 2020
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning", Continuing Legal Education Society of British Columbia, June 2019
- > Presenter, "Elder Abuse in Today's World", Collaborative Divorce Vancouver, May 2019
- > Presenter, "Working through the Dementia Journey: A Practical and Legal Toolkit", Odium Brown and the Alzheimer Society of British Columbia, May 2018
- > Presenter, "Children's Issues in Estates", Canadian Bar Association BC Branch Wills & Estates Subsection, March 2018
- > Presenter, "Keeping the Litigators Out: Drafting Robust Family Law Agreements and Estate Plans", Trial Lawyers Association of British Columbia, February 2018
- > Presenter, "The Past, Present and Future of Common Law Test for Capacity to Marry", Canadian Elder Law Conference, November 2017
- > Presenter "FAQs on Wills and Estates", Nidus Personal Planning Resource Centre and Registry, October 2017
- > Presenter, "Contested Committeeships", Fraser Valley Estate Planners Council, September 2017
- > Presenter, "How to Develop a Wills and Estates Practice", Continuing Legal Education Society of British Columbia, May 2017
- > Presenter, "The Use of Joint Tenancies and Beneficiary Designations in Estate Planning", Continuing Legal Education Society of British Columbia, May 2017
- > Presenter, "Contested Committeeships – How Does the Court Determine What (or Who) is in the Patient's "Best Interests"?", Trial Lawyers Association of British Columbia, April

2017

- > Presenter "Estate Planning Considerations of Your Charitable Gift", Canadian Association of Gift Planners Vancouver Branch, February 2017
- > Presenter at a variety of events focused on personal and estate planning, Alzheimer Society of British Columbia, 2010 – 2017
- > Presenter, "New Law, New Issues: End of life planning in a changing legal landscape", Canadian Bar Association British Columbia Branch's Elder Law Subsection, August 2016
- > Speaker, "End of Life issues" broadcast, Sportsnet 650 CISC FM, July 2016
- > Presenter, "Issues in Estate Planning", Vancouver Foundation, April 2016
- > Presenter, "Section 58 & 59 of WESA: A Practical Guide to Curing Deficiencies and Rectifying Mistakes", Continuing Legal Education Society of British Columbia, February 2016
- > Presenter, "How to Develop a Wills and Estates Practice", Continuing Legal Education Society of British Columbia, January 2015
- > Presenter "Be Careful What You Wish For: End of Life Planning in a Shifting Legal Landscape", Canadian Bar Association British Columbia Branch, July 2015
- > Presenter, "Your Client Has Dementia – Now What? Ethics and Practice Tips to Minimize Risk", Continuing Legal Education Society of British Columbia and the Alzheimer Society of British Columbia, June 2015
- > Presenter, "Wills, Estates and Succession Act", Canadian Association of Gift Planners Vancouver Branch, October 2014
- > Presenter, "The Incapable Spouse", Continuing Legal Education Society of British Columbia, October 2014
- > Presenter, "Making Your Workplace Dementia Friendly – Information for Legal Professionals", Alzheimer Society of British Columbia, 2014
- > Presenter, "The Wills Variation Act – Update of Reported Decisions", Continuing Legal Education Society of British Columbia, November 2011

External Publications

- > Contributing author, Annotated Estates Practice 2024, The Continuing Legal Education Society of British Columbia, 2024
- > Co-author, "A Modern Approach to Costs of Adult Guardianship Proceedings in British Columbia", Estates, Trusts & Pensions Journal, Thomson Reuters, December 2023
- > Co-author, "Adult Guardianship in BC", Estates, Trusts & Pensions Journal, Thomson Reuters, February 2023
- > "Protected: Trust Planning", Estate Planning Council of Abbotsford, November 2020
- > Contributing author, British Columbia Estate Planning & Wealth Preservation Practice Manual: Chapter 7 Part IV Estate Planning and Family Law, Continuing Legal Education Society of British Columbia, 2018 – present
- > Contributing author, Annotated Estates Practice: Fraudulent Conveyance Act annotations, Continuing Legal Education Society of British Columbia, 2017 – Present
- > Contributing author, Public Guardian and Trustee Act annotations, Continuing Legal Education Society of British Columbia, 2017 – Present
- > Contributing author, Representation Agreement Act annotations, Continuing Legal Education Society of British Columbia, 2017 – Present
- > Contributing author, Power of Attorney Act, Continuing Legal Education Society of British Columbia, 2014 – 2016
- > Contributing author, Civil Rules, Continuing Legal Education Society of British Columbia,

2014 – 2016

- > Contributing author, British Columbia Probate and Estate Administration Practice Manual, 2019
- > Contributing author, British Columbia Probate and Estate Administration Practice Manual, 2011
- > Editor-in-chief, Appeal: Review of Current Law and Law Reform academic journal, University of Victoria Faculty of Law, 2007 – 2008
- > Author, "A Critique of Advance Directives and Advance Directives Legislation", Appeal: Review of Current Law and Law Reform, vol 11, 2006 CanLIIDocs 114, 2006