Date: 20100607
Docket: Probate No. 3492
Dig-308922
Registry: Digby

In the Estate of George Michael Hayward

Application to Revoke the Grant of Administration
Issued to Michael Philip Hayward
s. 64(3)(a)

LIBRARY HEADING

Judge:	The Honourable Justice Allan P. Boudreau
Heard:	June 24, 2009, in Digby, Nova Scotia; last written submissions received January 28, 2010
Subject:	Wills - Divorce - Retroactivity/Retrospectivity - Separation Agreements - Promissory Estoppel
Summary:	This case involves the not uncommon situation of a divorcing party not changing his or her Will (which Will names the other party as the primary beneficiary) when the divorce is finalized. One of the former spouses then dies and the surviving former spouse claims the estate on the basis of the deceased's Will, which, in many cases, as executed years prior to the divorce. At issue are recent amendments to the *Wills Act*, R. S. 1989, c. 505, s. 1 (*Wills Act*), which addressed this situation, as well as waivers and renunciations contained in the separation and divorce documents.
Issue:	1. What are the events which trigger the application of

Section 19 A of the *Wills Act*?

2. What is the effect of Section 19A of the *Wills Act*, if any, upon the 1995 Will of George Hayward?

3. If Section 19A of the *Wills Act*, has no application to the Haywards' situation, then are there provisions in the separation and divorce documents which bar Nancy Hayward from acting as executor and benefiting from the estate?

4. Are there any equitable principles which estop Nancy Hayward from now asserting her claim to George Hayward's estate?

Result: Application to revoke the grant of administration issued to Michael Hayward is granted and the Will of George Hayward is declared to be in full force effect.