

## **But for the Plan Estate**

### **Litigation: Successful Defence of a Support Claim Against an Estate**

Edward married his second wife, Rosemary, about five years prior to his death, but they only lived together for the first 10 months of their marriage. Edward continued to live in the home that he owned, which was mortgage-free, and Rosemary moved to her own accommodations. They discussed the possibility of a separation agreement, but it never happened.

About a year after they separated, they began seeing each other on occasion, but never lived together. About three (3) years after they separated, Edward made a will naming his two daughters, Mary and Bonnie, as Estate Trustees and beneficiaries. It did not mention Rosemary.

Two months after Edward's death, Rosemary commenced a court application against Edward's estate, claiming that she was a dependant of Edward, and requesting \$5,000 per month for support and an equal division of their family assets as of the date of their separation, four years earlier.

The estate trustees had already retained our Windsor office to help administer the estate, and so they also retained the Windsor office to defend the court action.

There were many preliminary hearings concerning disclosure of assets and interim support. A full hearing was heard in early 2024 on all the issues, and a final decision was rendered eight months later.

The court ruled against Rosemary's support claim, finding that she was not a dependant, because her income was higher than Edward's, both when they were living together and after they separated. The court also ordered that Rosemary was entitled to a small amount for the division of family assets, related to the brief period that they lived together.

But most importantly, Rosemary was ordered to pay the estate \$30,000.00 in court costs, which was more than the amount she was awarded for the division of family assets.

But for the Plan, substantial legal costs would have resulted in Mary and Bonnie having to use a significant portion of their inheritance to defend this action.