

Private Client

Ensuring the protection of you and your loved ones is of the utmost importance. A trusted legal team that helps to implement plans for your protection and the protection of dependent relatives in the event of death or incapacity brings invaluable peace of mind.

We offer a range of planning, tax advisory, charity and specialized litigation and dispute resolution services for fiduciaries, charities, institutions and individuals to protect their businesses, wealth and legacies.

Our skilled team has expertise in a range of services, including:

- estate planning with regard to domestic and offshore income tax issues and matrimonial issues
- advising on protecting a disabled child or relative
- assisting in the role of a trustee of a trust, or as an executor or liquidator of an estate
- advising family-owned businesses on business succession, taking into account relevant taxation issues and other associated costs

We assist clients in a range of disputes, including:

- contested wills
- trust and will interpretation
- passing of accounts
- variations and terminations of trusts
- dependents' support and family patrimony claims
- solicitor's negligence claims
- capacity disputes
- tax disputes

When disputes arise with regard to trusts, estates and incapable persons, we assist with reaching a satisfactory settlement through negotiation—saving time, expenses, and preserving relationships and confidentiality. We also have expertise in alternative forms of dispute resolution, including mediation and arbitration.

As leaders in the profession, we serve in many professional organizations, including:

- TEP
- CTF
- ACTEC
- ACTAPS
- International Academy of Estate and Trust Law
- Provincial and National Bar Associations

We also assist clients with domestic, cross-border, and international planning, and estate and trust litigation. Our Aging Investor Group has more than a decade of practical experience in advising financial institutions on issues connected with aging.

Experience

- Provides wealthy families from many countries with custom solutions including planning and establishing effective structures to create a flexible way to pass wealth on, protect privacy and minimize taxes in the various jurisdictions, such as corporate reorganizations to avoid stamp duties or Canadian tax. For clients more familiar with civil law legal systems, we have developed and established innovative structures using anstalts or foundations formed in either Liechtenstein or Austria.
- Worked with legal, accounting and investment advisors in China to vary and migrate a trust and its assets to Canada. We addressed multi-jurisdictional tax and trust law issues, working within the constraints of contentious proceedings in multiple jurisdictions amongst the trustee and beneficiaries of the trust.
- Worked on several special projects in which clients made large offshore loans and acquired annuities and insurance to provide key-man insurance to their private corporations where domestic insurance is too expensive or unavailable. Relying on our international network, we worked with advisors and lawyers in three jurisdictions, obtained multi-jurisdictional legal opinions, and worked with the independent foreign lenders, foreign insurance issuers and foreign annuity providers in two different countries.
- Acted for the beneficiary, a U.K. resident, of a projected multi-million dollar estate and trusts. Provided strategic advice on proceedings in Canada regarding use of oppression remedy, removal of trustees, relationship of Trust Deeds to deceased's will, interpretation of terms and receiving buy-out of interest in family business and/or means to acquire operating company(ies) or assets.
- Acting in an estate matter involving multiple competing wills and their legal validity and application in several jurisdictions, including Canada, the United Arab Emirates and the Bailiwick of Jersey. The matter is highly contentious and involves issues of domestic and international law, and the application of conflict of laws rules.
- Acting in a matter involving two trusts settled under the laws of Malaysia, with assets in several Canadian and Asian jurisdictions. There are trust law, family law and Sharia issues involving four international jurisdictions. We co-ordinated litigation, planning and professional trustee advice for the client from all of the jurisdictions, arriving at a creative, secure and comprehensive solution that called in part for the settlement of two new trusts in Singapore and South Dakota with professional trustees.
- Obtained a stay of a negligence action against a downtown law firm and its lawyers, pending the outcome of the Estate Trustees' Tax Appeal of a Re-Assessment of the Estate to the Tax Court of Canada, and any appeals. The case was significant as it provides an opportunity for the Tax Appeal to be heard, and the tax advice given to be vindicated, without legal proceedings in the negligence action proceeding at the same time. (*Kaye et al. v. Fogler Rubinoff LLP et al.*, 2019 ONSC 1289)
- Obtained an innovative case management order in a case involving the application of the new British Columbia court rules, giving the B.C. courts new powers to tailor litigation and resolve issues on a summary basis. The result was an aggressive, multi-phased litigation plan to resolve the complex issues of the case, including the validity of a purported handwritten will, a wills variation claim, and the standing of the parties to participate in such a claim. (*Re Estate of Eleanor Cook*, 2019 BCSC 417)

- Represented the HIV & AIDS Legal Clinic Ontario and the Income Security Action Clinic before the Supreme Court of Canada, to explain the legal significance and social role of Henson trusts and estate planning.
- Acted in case involving the validity of a “pour over clause” in a will. The Supreme Court of British Columbia held that a “pour over” clause in a will was invalid, as the trust receiving the gift through the will was amended after the will had been made, and that the clause could not be validated by the curative provision in new B.C. legislation. It is one of a few Canadian cases dealing with the issue of a “pour over” clause. The decision was upheld on appeal (*Quinn Estate v. Rydland*, 2019 BCCA 91).

BLG | Canada’s Law Firm

As the largest, truly full-service Canadian law firm, Borden Ladner Gervais LLP (BLG) delivers practical legal advice for domestic and international clients across more practices and industries than any Canadian firm. With over 725 lawyers, intellectual property agents and other professionals, BLG serves the legal needs of businesses and institutions across Canada and beyond – from M&A and capital markets, to disputes, financing, and trademark & patent registration.

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