

## CASE COMMENTARY

# When Executors Go Rogue: Court Rebukes Lawyer-Estate Trustee in *Hockney v Kneeland*



September 2025 | [Hockney v Kneeland, 2025 ONSC 1309](#) and [Hockney v Kneeland, 2025 ONSC 3592](#)

Individuals frequently turn to trust companies, lawyers and other professional advisors to act as executors and trustees of their estates.

This could be for a few reasons: family members may be unwilling or lack the expertise to manage the complex and often time-consuming duties involved—particularly when the estate is of significant value.

The increasing prevalence of contentious estate disputes has also prompted many to avoid appointing even seemingly trustworthy relatives in order to reduce the risk of conflict. Additionally, broader social shifts, including a decline in close-knit families and long-term social connections, mean that some testators may simply have no suitable personal contacts to appoint.

When individuals appoint professional trustees, the expectation is that they possess the capacity and competence to act in this role—qualities that a layperson may not have. This assumption is rightly placed on estate lawyers and trust professionals who have much-needed professional experience in this area of law.

While there are plenty of guidelines on the duties and role of an executor, the case of *Hockney v Kneeland* serves as a cautionary tale of ‘what not to do’ as an executor (especially as a legal professional) and a facetious ‘how to’ if you want to get hit with a court order against you in your personal capacity!

# The Facts

Mary Jane Hockney (the “Deceased”) retained a lawyer, Mary Kneeland (“Lawyer Kneeland”) to prepare her Will in 2011 (the “Will”) and Codicil in 2012 (the “Codicil”). The Codicil appointed Lawyer Kneeland as the sole estate trustee. The Deceased died in 2014, and the Will left the residue of her estate to her seven grandchildren equally. The Deceased’s estate was valued at approximately \$255,000 on her death before the payment of debts, taxes, and other liabilities.

## Delay in Estate Administration

Following the Deceased’s death, the administration of the estate took a troubling turn. Although Lawyer Kneeland informed the grandchildren of her appointment as the estate trustee and made vague assurances regarding the payment of debts and taxes, her actions after that were characterized by a series of delays and unhelpful communication.

Over 7 years, between 2015 and 2022, Lawyer Kneeland contacted the grandchildren (and in some instances, one of the grandchildren, Emma Hockney) to make false promises and provide excuses for her conduct:

- She promised a further letter setting out the estate assets and outstanding debts.
- She advised that probate was delayed because the court was not happy with the forms she had completed.
- She advised that she was acting as counsel to the estate and would invoice the estate for her legal work separate from her work as estate trustee.
- She advised that the further delay was because she had to ask the bank and other agencies to reissue statements of assets

and liabilities because part of her file “mysteriously disappeared” when she painted her office.

- She advised that there was a delay with respect to the tax filings because the firm preparing the taxes had lost the relevant materials. She promised to do a better job keeping them apprised of the progress.
- She advised that there were more delays because of her eye surgery and the retirement of the financial officer at the financial institution where the estate account was.

## Complaint to the Law Society of Ontario (LSO)

Despite these ongoing delays, Lawyer Kneeland did make a partial distribution of \$15,000 to each grandchild in 2017, though no further disbursements were made after that, and communication with the grandchildren grew sparse and unsubstantiated.

In 2022, following complaints from the grandchildren to the Law Society of Ontario (the “LSO”), Lawyer Kneeland was given a formal caution, was required to complete the administration of the estate by a certain date and provide periodic updates to the grandchildren.

Lawyer Kneeland sent reporting letters to all grandchildren on March 25, 2022, June 22, 2022, July 29, 2022, and to some grandchildren on October 3, 2022. Then it was radio silence despite the grandchildren following up. The LSO advised the grandchildren that they had closed their file.

Left without any other options for recourse, in September 2024, the grandchildren commenced court proceedings against Lawyer Kneeland. They made eight attempts to serve her, but to no avail. However, the court was satisfied that Lawyer Kneeland was evading service. Lawyer Kneeland did not appear during the court proceeding.



## The Court Decision

The court, understandably, sympathized with the grandchildren. To quote the Honorable Justice Myers (“Justice Myers”): “To say that the story told by the applicant beneficiaries is shocking on several levels does not properly express the outrage that the story ought to evoke”. The court ordered Lawyer Kneeland to pass her accounts within 2 months and advised that she should expect strict enforcement of this order.

In April 2025, the court converted the application into an action and the grandchildren found themselves back in court in June 2025 for the hearing of the action. Lawyer Kneeland had failed to defend the action, did not participate in the proceeding, and had still not completed the administration of the estate without any justification for this.

The court found that Lawyer Kneeland’s failure to carry out her duties and to pay the grandchildren the money due to them amounted to a “breach of trust and breach of fiduciary duties at minimum”. The court also found that Lawyer Kneeland’s actions amounted to a “tortious conversion (or civil theft) of the funds”, and an “unjust enrichment for which there is no juridical justification offered”.

Accordingly, the court found that Lawyer Kneeland was liable to the grandchildren both in her capacity as estate trustee, but also in her personal capacity for \$146,571.89 (or \$20,938.84 per grandchild), \$56,000 (or \$8,000 per grandchild) for aggravated damages, prejudgment interest and costs in the amount of \$15,000 (which the court found was fair given Lawyer Kneeland’s “reprehensible conduct”).

The court made some findings with respect to damages which are outside of the scope of this case comment, but Justice Myers did remark that if he had not been satisfied with a payment of modest aggravated damages, he would have been inclined to award punitive damages in at least the amount sought for distress due to Lawyer Kneeland’s “egregious and intentional wrongdoing” and he further remarked that this case was an “egregious example of breaches of duty and is

made worse by the fact that the defendant is a lawyer who has been allowed to repeatedly ignore her duties to people who thought they could rely on her professionalism”.

## Failed Fiduciary Duty

With great power comes great responsibility—and with great responsibility comes great consequences for failing in your duties!

Anyone acting as an executor and/or trustee is responsible for acting in a fiduciary capacity, which in essence means that [he or she is acting for the benefit of another person and putting such person’s interests first as opposed to their own.](#)

Lawyer Kneeland’s conduct clearly did not meet the standard of a fiduciary:

1. She did not keep adequate records of her dealings with the estate as evidenced by her loss of the paperwork and the fact that she did not provide a detailed list of estate assets and liabilities to the grandchildren.
2. No information was provided to the grandchildren about whether all the liabilities had in fact been paid off.
3. She did not hold herself accountable to the grandchildren, the Law Society of Ontario, or the court; she reneged on the undertaking to provide updates to the grandchildren as well as administer the estate within the stipulated timeframe and did not comply with the court order to pass her accounts.
4. Ultimately, she was not prudent or honest – she self-admittedly did not complete the probate forms properly, she evaded service, did not appear in court to explain the reason for the prolonged delay and did not pay out the rightful entitlement of the grandchildren.

The court’s decision not only held Lawyer Kneeland accountable for the financial harm she caused but also reinforced that fiduciaries are not above the law, regardless of their professional status.



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## Take Aways

The case illustrates the problems that arise where there is a sole individual executor and trustee, even one who is a professional, in ensuring proper protocols and processes are adhered to and a high level of accountability.

For anyone acting in the role of an executor or trustee, this case also illustrates the critical importance of transparency, thoroughness, and integrity. Effective estate administration requires not only managing assets, but also treating beneficiaries with respect, keeping them informed, and acting in their best interests. Failing to do so not only erodes trust but can lead to personal liability and reputational damage.

In the end, professionalism and accountability are key - if a trustee fails to uphold those principles, he or she risks facing consequences as severe as those experienced by Lawyer Kneeland.

Namratha Sankar  
Associate Lawyer

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