

CANADA / JUDGMENT

Siegerist v. Siegerist

2022 BCSC 1427

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2022 BCSC 1427 Siegerist v. Siegerist

IN THE SUPREME COURT OF BRITISH COLUMBIA

Citation:

Siegerist v. Siegerist,

2022 BCSC 1427

Date: 20220818

Docket: E201723

Registry: Vancouver

Between:

Robert Siegerist

Claimant

And

Patti Lea Siegerist

Respondent

Robyn Kara Slade and Scott Douglas Slade

Respondents by Counterclaim

Before: The Honourable Justice Branch

Reasons for Judgment

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Place and Date of Hearing:

Vancouver, B.C.

July 7, 2022

Place and Date of Judgment:

Vancouver, B.C.

August 18, 2022

Table of Contents

I. INTRODUCTION. 3

II. BACKGROUND. 3

III. ANALYSIS. 6

A. Grounds for Production. 6

B. Lack of Privilege over the Files. 7

C. Waiver 7

D. Unwinding the Waiver 11

E. Scope of the Waiver 12

F. The Wills Exception. 13

G. Relevance. 16

IV. CONCLUSION. 17

I. INTRODUCTION

- [1] This is an application by the respondent asking the Court to consider whether two law firms' wills preparation files are privileged. For the reasons below, I find that there has been a limited waiver of privilege warranting a limited production order. In summary, the only documents that must be produced are those relevant to any debts owing between the primary parties and the respondents by counterclaim.

- [2] While the respondent seeks broader disclosure--including any documents in the lawyers' files pertaining to the claimant's capacity and state of mind--I find that the waiver does not extend to this scope, and there are no other bases for production.

II. BACKGROUND

- [3] A key issue in the litigation is the effectiveness of the claimant's purported separation from the respondent (although the respondent has not yet amended to plead the issue of capacity directly). A secondary issue relevant to the present application is the extent to which the respondents by counterclaim owe or owed money to the claimant or respondent.
- [4] The claimant and the respondent began living in a spousal-like relationship in December 1996 and were married on January 22, 2001. There are no children of this relationship. However, the claimant has four children from his first marriage, all of whom are now adults--including the respondent by counterclaim, Robyn Slade. Ms. Slade's husband, Scott Slade, is the other respondent by counterclaim (collectively, the "Slades").
- [5] The claimant is 85 years of age. He has a neurological disorder, Primary Progressive Nonfluent Aphasia ("PPNA"), which impacts his ability to speak. His symptoms began in 2014. He was diagnosed in 2016. He has been treated by Dr. Claire Hinnell, a neurologist, since 2018. In August 2018, Dr. Hinnell reported that the claimant's "comprehension is intact." In September 2018, the claimant's family physician, Dr. Fareidoon Rezazadah, provided an opinion that the claimant was "mentally capable of making his own decisions."
- [6] In October 2018, the claimant made an enduring power of attorney, appointing the respondent as his attorney and Ms. Slade as his alternate attorney.
- [7] In November 2018, Dr. Hinnell reported that the claimant's "global comprehension is normal."
- [8] In 2019, the claimant and the respondent retained the services of a notary public, Judith Piccolo, to prepare wills on their behalves (the "2019 Will"). In the 2019 Will, the claimant named the respondent as his executrix and beneficiary.
- [9] The respondent suffered a stroke on March 1, 2020. She has not fully recovered. She resides in a care facility in Surrey, BC, where she receives full-time care. She has permanent brain damage and is not able to live independently without full-time care. The respondent has been participating in this litigation through her litigation guardian, Jo Ann Travis. Ms. Travis is the respondent's sister.
- [10] The claimant was hospitalized briefly after the respondent suffered her stroke. From about March 2, 2020, to August 12, 2021, the claimant resided with the Slades. The claimant asserts that he could not return to his own home because Ms. Travis and her husband had moved into the family home, over the claimant's objections.

- [11] In April 2020, the claimant went to the offices of Lisa Eastwood to prepare a new will (the "April 2020 Will"). In the April 2020 Will, the respondent was removed as executrix. Ms. Slade was appointed in her place. The respondent did remain as a beneficiary.
- [12] The claimant says he decided to separate from the respondent on August 12, 2020. In a July 13, 2021, affidavit he purports to explain his decision as follows:
17. After [the respondent's] stroke, I learned about some things that [the respondent] had done that I did not agree with and were troubling to me. I also ran into difficulty in trying to work with Ms. Travis, who is [the respondent's] Power of Attorney and was making decisions about [the respondent].
18. After [the respondent's] stroke, [Ms. Slade] told me that the Former Family Home was in [the respondent's] name alone and that my name was not on title with [the respondent]. When [Ms. Slade] told me this, I was very surprised. It was very upsetting for me to find out that [the respondent] did this without my knowledge. I felt that this was my home as much as [the respondent's].
- []
23. I am advised by [Ms. Slade] and verily believe that [Ms. Slade] received a call from Arby Yeo, a Social Worker at Royal Columbian. [Ms. Slade] told me and I verily believe that Ms. Yeo said that [the respondent] could come home to the Former Family Home with full-time care so that she and I could live together. [Ms. Slade] relayed this to me. I was happy and immediately agreed that I wanted to have [the respondent] come home with full-time care.
24. I was then advised that [the respondent] would not be moving back to the Former Family Home. This upset me. I was very frustrated that I wasn't given any say in decisions regarding the living arrangements for [the respondent].
25. [The respondent] and I have not lived together since her stroke.
26. As detailed above, initially, I wanted [the respondent] and I to go home together. By mid-June 2020, I realized [the respondent] and I would not be living together anymore. I asked [Ms. Slade] to divide the funds in my and [the respondent's] joint account at the Aldergrove Credit Union...
- []
30. As detailed below, I continued to have FaceTime calls with [the respondent] until a few weeks ago. I can tell that [the respondent] is not the same person. It is difficult for us to communicate and our connection is just not the same.
31. It became very clear to me that my and [the respondent's] relationship had changed for the worse. I don't think we can repair the damage I felt when I learned that [the respondent] registered our home in her name alone, contrary to my expectations. I was also upset that [the respondent] was not coming back to live with me.

32. I don't see how things can improve. I don't think [the respondent] and I can be together again.
- [13] In September 2020, the claimant went to the offices of James Woods to prepare another new will (the "September 2020 Will" or, collectively with the April 2020 Will, the "2020 Wills"). In the September 2020 Will, the claimant removed the respondent as a beneficiary.
- [14] On February 1, 2021, Dr. Hinnell provided a report stating that patients with PPNA are generally expected to "eventually lose the ability to speak and understand both written and spoken language." However, her opinion was that the claimant was still "competent to manage his financial affairs", although she noted that it was important that he arrange his affairs "in a timely manner as there will come a time when he is unable to do so in the future."
- [15] On June 2, 2021, the claimant was assessed once again by Dr. Hinnell. Dr. Hinnell stated in her report that the claimant's "cognition does appear intact at this time."
- [16] In or about June 2021, the claimant proposed setting down a date for a summary trial. In response, the respondent raised concerns about the claimant's capacity given his cognitive decline. On June 30, 2021, the respondent requested that the claimant submit to an independent medical examination by Dr. John Sloan. Eventually, the parties agreed that such an evaluation could proceed.
- [17] In November 2021, Dr. Sloan opined that the claimant was incapable of instructing counsel. As a result, the claimant has been acting through a litigation guardian, Truvera Trust Corporation, since January 13, 2022.
- [18] The respondent raised the issue of the production of the wills preparation files. As the 2019 Will was drafted pursuant to a joint retainer, the parties consented to the disclosure of this first file. However, the claimant resisted production of the files underlying the 2020 Wills (the "Files").

III. ANALYSIS

A. Grounds for Production

- [19] The respondent advanced three grounds for production of the Files:
- a) the claimant has not established privilege over the Files;
 - b) the claimant has waived privilege over the Files by producing the 2020 Wills, and by discussing the contents of same in affidavit material; and
 - c) the Files fit within the scope of the "wills exception" to privilege.
- [20] The claimant disputes the applicability of any of these grounds for production and adds an additional reason why there should not be production--that the Files are not relevant.

B. Lack of Privilege over the Files

- [21] I can dispose of this argument by the respondent in relatively short order. I find that the evidence indicating that the Files were prepared by lawyers as part of their efforts to draft wills at the claimant's request is enough to establish privilege over them. Specifically, the Files were part of a communication between a solicitor and client for the purpose of seeking or receiving legal advice and were intended to be privileged: *Huang v. Silvercorp Metals Inc.*, 2017 BCSC 795 at para. 81. Once a lawyer-client relationship exists, the privilege becomes permanent, unless the client waives it: *Descôteaux et al. v. Mierzwinski*, [1982] 1 S.C.R. 860 at 872-873; *Huang* at para. 80; *Graham v. Canada (Minister of Justice)*, 2021 BCCA 118 at para. 44.
- [22] While the respondent takes issue with the claimant's failure to specifically list the documents in the Files, I am satisfied that the evidence as to the preparation of the Files is nonetheless sufficient at this stage to discharge his initial burden of establishing privilege. The key question on this application is whether there has been a waiver of this privilege.

C. Waiver

- [23] I find that there has been a waiver of privilege, but only to a limited extent.
- [24] Waiver of solicitor-client privilege is ordinarily established where the holder of the privilege voluntarily evinces an intention to waive it. This is referred to as intentional waiver: *S. & K. Processors Ltd. v. Campbell Avenue Herring Producers Ltd.* (1983), 45 B.C.L.R. 218 (S.C.) at 220; *Graham* at para. 47.
- [25] Waiver may also be implied by the conduct of the privilege-holder in certain circumstances. For example:
- a) If a party advances a state of mind defence and relies on legal advice to justify their conduct, a waiver may be inferred: *Soprema Inc. v. Wolrige Mahon LLP*, 2016 BCCA 471 at para. 22; *Graham* at para. 47.
 - b) Where existence of a conversation between a client and solicitor is adduced as evidence of the client's good faith conduct, the content of the conversation may be subject to waiver: *Schwartz Estate v. Kwinter*, 2008 ABQB 123 at para. 19.
 - c) A party may waive privilege by directly raising in a pleading or proceeding the legal advice that they received, thereby putting that advice in issue: *York v. Gilligan* (1996), 19 B.C.L.R. (3d) 40 (S.C.) at para. 14; *McDermott v. McDermott*, 2013 BCSC 534 at para. 116.
 - d) A party may waive privilege by denying that they gave certain instructions to their lawyer: *York* at para. 14.

- e) Waiver may be found to have occurred more generally where fairness and consistency require this result due to selective but limited disclosure by the party resisting production. The court summarized the applicable principles in this respect in *United States v. Meng*, 2020 BCSC 1461 [Meng]:

[37] Implicit waiver may take place where a party does not expressly waive privilege, but takes a position in relation to privileged materials that is inconsistent with maintaining the privilege. This may be by, for example, selectively disclosing part of a privileged document or a category of privileged documents on a particular subject, but withholding the remainder of the document or other documents on that same subject. In these circumstances, to uphold the privilege over the remaining communications would be unfair, because the opposing party and the court would be deprived of access to the full narrative. In *Huang v. Silvercorp Metals Inc.*, 2017 BCSC 795 at para. 143, Madam Justice Warren explained:

The common thread in the cases where implied waiver is found is that the privilege holder has attempted to use and, at the same time, to shelter behind privileged documents. In such cases, fairness and consistency require production because the privilege holder uses the privilege as a sword to justify or explain a position or action while also using the privilege as a shield to prevent the other party from testing the justification or explanation.

[Emphasis added.]

- [26] Solicitor-client privilege is so important that a court should err on the side of non-disclosure and upholding the privilege if there is ambiguity about whether the privilege has been waived: *Graham* at para. 61.
- [27] The only basis for a waiver of privilege in this case flows from the following extract from Ms. Slade's March 4, 2022, affidavit (the "Slade Affidavit"). She states therein:
71. Neither of their Wills make any mention of the loan that the Respondent now alleges is owing to them by me and Scott.
- [28] When pressed on why this information was included in the Affidavit, claimant's counsel accepted that the reference was intended to permit the claimant to argue that the court should infer that any loan to the Slades must have been forgiven prior to the preparation of the 2020 Wills, given that any such loans were not expressly addressed in either Will. As such, I find that the claimant is seeking to take advantage of an inference as to the instructions provided and the legal advice received in relation to any such loans, when the actual content of the instructions given, and the legal advice received, is knowable. Specifically, such information may be contained in the Files.

- [29] This relevance of the loans with the Slades flows from the respondent's counterclaim, in which she seeks a declaration of beneficial interest in certain of the Slades' property. The respondent says that she and the claimant loaned money to the Slades to help them purchase their home, but that this loan remains unpaid.
- [30] In terms of waiver, the claimant points out that he has not personally led evidence waiving privilege over the lawyers' files. However, the waiving party is not required to personally lead such evidence to implicitly waive their privilege. As the court stated in *Meng*, "[i]mplicit waiver may take place where a party does not expressly waive privilege, but takes a position in relation to privileged materials that is inconsistent with maintaining the privilege" (emphasis added): para. 37. The claimant has taken a position with respect to the alleged loan to the Slades that is inconsistent with maintaining privilege over at least certain documents in the Files.
- [31] At the time the Slade Affidavit was filed, Ms. Slade was still the claimant's attorney, if no longer his litigation guardian. A power of attorney, while acting in his/her capacity as power of attorney, generally has the authority to waive any privilege that could have been waived by the incompetent person if the power of attorney determines it is in the incompetent person's best interests to do so: *Sales v. Fisher*, 2019 BCSC 1050 at para. 34.
- [32] Furthermore, the claimant was the party who sought to rely on the Slade Affidavit and arranged for it to be filed. It is specifically referenced in the claimant's application response for the present application as a document being relied upon by the claimant. Ms. Slade did not bother to file a formal response to the present application in her own name as a respondent by counterclaim. I find that this factual scenario is such that it would be unreasonable to treat the filing of, and reliance on, the Slade Affidavit--as well as the position taken in respect of it--as anything other than a waiver by and on behalf of the claimant.
- [33] More generally, it would be unfair to allow the claimant to rely on the evidence in the manner proposed without producing the Files so that the respondent can test whether the suggested inference is justified. For example, did the lawyers even ask about the existence of current and past loans? Absent any such discussion, the ability to draw the inference may be much weaker.
- [34] In *York and Schwartz Estate*, there was production made of wills during the testator's lifetime, and the party advancing such evidence sought to rely on the contents of the will in order to advance a position being taken. In those cases, the courts found it would be unfair to sustain privilege over the notes in the file. While these two decisions pertained more directly to the advice or instructions being provided by counsel, I do not find that this undercuts the existence of a limited waiver here. The inference the claimant seeks to have drawn still calls for a consideration of what information, instructions and advice was given about past and future loans during the preparation of the 2020 Wills. Whether there was an active loan to the Slades is a "matter of substance" in this proceeding, and is directly relevant

to various claims and defences advanced--namely, the respondent's argument that she holds beneficial title in the Slades' property: see e.g., *Mayer v. Mayer*, 2012 BCCA 77 at para. 192.

D. Unwinding the Waiver

- [35] Given certain assertions made by claimant's counsel at the close of argument about the limited use the claimant was now prepared to make of the circumstances surrounding the preparation of the 2020 Wills, the parties were asked to provide supplementary submissions on whether any waiver could be neutralized or unwound through the use of undertakings after the fact. In particular, claimant's counsel and counsel for the respondents by counterclaim proposed to undertake not to use the 2020 Wills or the Files as evidence with respect to the existence of any loans made to the Slades or the claimant's intent to separate from the respondent.
- [36] The claimant says that these new proposed undertakings are sufficient to avoid any need for the Court to order that the Files be produced. The claimant says that the undertakings will now prevent him from using the Files and 2020 Wills as evidence in support of his claim--meaning he will not use the 2020 Wills as a "sword". With this limitation in place, the claimant submits that fairness and consistency no longer demand that his privilege over the Files be set aside.
- [37] The respondent submits that once privilege has been waived, the waiver cannot be retracted. As the Court of Appeal stated in *Mayer*:
- [185] The decisions in *Cheung et al. v. 518402 B.C. Ltd.*, [1999] B.C.J. No. 2415 (S.C.) at paras. 13 and 22, and *Casino Tropical Plants Ltd. [v. Rentokil Tropical Plant Services Ltd. (1998)]*, 55 B.C.L.R. (3d) 233 (S.C.) at para. 16, once a waiver of privilege has been made it cannot be retracted. This is a logical consequence of the waiver, as being able to retract it would result in untenable litigation advantages and general unfairness.

See also: *Do Process LP v. Infokey Software Inc.*, 2015 BCCA 52 at paras. 30-32 (per Newbury J.A., D. Smith J.A. concurring).

- [38] I find that the proposed new undertakings are in fact an exercise in trying to "stuff the toothpaste back into the tube". The waiver has already occurred and cannot now be unwound through undertakings from counsel--particularly so late in the consideration of the application. Moreover, as noted in *Cheung v. 518402 B.C. Ltd. (1999)*, 92 A.C.W.S. (3d) 417 (B.C.S.C.), whether or not a party intends to rely on privileged information is not determinative of the question of whether its disclosure results in a waiver: para. 21.

E. Scope of the Waiver

- [39] Once a finding is made that a waiver has occurred, the extent of the waiver must be determined. Courts have rejected the proposition that a loss of privilege over one aspect of a client's file necessarily results in a complete loss of privilege as between the client and their

lawyers. The respondent's arguments came quite close to such an approach at times (i.e., suggesting that once a will is produced in litigation, the entire solicitors file underlying the will must automatically be produced). Privilege is waived only with respect to materials pertaining to the specific subject matter addressed by the waiver: *W. Johnston Equities Ltd. v. Allen*, 2012 BCSC 414 at para. 29; *McDermott* at para 117. Waiver will cause loss of privilege only in relation to the subject matter over which privilege has been waived. This limit ensures that waiver extends only as far as is necessary to ensure fairness: *Meng* at para. 39.

- [40] While I have found a waiver with respect to the Files as it pertains to the Slades' purported debts, I do not find that the waiver extends to any information relevant to the claimant's capacity. As discussed above, the waiver only stems from the content of the Slade Affidavit and positions taken by the claimant in respect of the contents of that Affidavit. However, the Slade Affidavit contains no positive disclosures pertaining to the claimant's capacity at the time the 2020 Wills were prepared, nor does it ask the Court to draw any inferences as to the claimant's capacity because of the Wills. Likewise, the claimant takes no positions with respect to the 2020 Wills, which warrant disclosure of the Files in respect of his capacity. That is, the claimant has not positively relied upon the contents of the 2020 Wills, or his state of mind in instructing counsel in drafting them, in support of his assertion he had the capacity to separate from the respondent in August 2020. Absent advancing such a position, there is no unfairness or inconsistency which overrides the claimant's broader privilege in the Files.
- [41] A court considering whether privilege has been waived must consider the near absolute protection solicitor-client privilege is afforded, why that is so, and the need for the doctrine of implied waiver to be triggered only in clearly defined circumstances: *Soprema Inc.* at paras. 50-51; *Graham* at para. 60. In light of the fundamental importance of privilege to the solicitor-client relationship, I find that the respondent has not demonstrated cause to order broader disclosure of any material in the Files concerning the claimant's capacity.
- [42] I find that the claimant's waiver of privilege only extends to any material in the Files pertaining to whether any loans to the Slades:
- a) were owing to the claimant or the respondent at the time the 2020 Wills were prepared;
 - b) had been forgiven by the claimant or respondent at any point prior to preparation of the 2020 Wills; or
 - c) were discussed more generally as part of the preparation of the 2020 Wills.

F. The Wills Exception

[43] The respondent argues that there is an exception to privilege in the context of considering the effect of wills which is not dependent on there having been a waiver. The existence of this "wills exception" was explained by the Supreme Court of Canada in *Geffen v. Goodman Estate*, [1991] 2 S.C.R. 353 at 381:

An exception has, however, developed to permit a solicitor to give evidence in wills cases and a variety of explanations for this exception to the general rule concerning solicitor-client privilege have been advanced by commentators and courts alike. In *Wigmore on Evidence* (vol. 8, (SS) 2314), for example, the author suggests that, in so far as issues relating to the execution or contents of a will are concerned, the rationale underlying the exception relates to the testator's desire for secrecy. At page 610 of vol. 8, Professor Wigmore states:

But for wills a special consideration comes into play. Here it can hardly be doubted that the execution and especially the contents are impliedly desired by the client to be kept secret during his lifetime, and are accordingly a part of his confidential communication. It must be assumed that during that period the attorney ought not to be called upon to disclose even the fact of a will's execution, much less its tenor. But, on the other hand, this confidence is intended to be temporary only. That there may be such a qualification to the privilege is plain.

[Emphasis added.]

See also: *Fawcett Estate v. Fawcett Estate* (1998), 21 E.T.R. (2d) 271 (B.C.S.C.) at para. 14.

[44] The wills exception allows the court to set aside privilege over communications between a client and solicitor where the client is deceased and their testamentary intent is not clear. The rationale for the exception was explained by Justice Wilson in *Geffen* at 387:

In my view, the considerations which support the admissibility of communications between solicitor and client in the wills context apply with equal force to the present case. The general policy which supports privileging such communications is not violated. The interests of the now deceased client are furthered in the sense that the purpose of allowing the evidence to be admitted is precisely to ascertain what her true intentions were. And the principle of extending the privilege to the heirs or successors in title of the deceased is promoted by focusing the inquiry on who those heirs or successors properly are. In summary, it is, in the words of Anderson Surr. Ct. J. in *Re Ott*, supra, "[i]n the interests of justice" to admit such evidence.

[45] The claimant argues that the wills exception does not apply here as: (1) the claimant is still alive; and (2) the matters at issue in this action do not require a determination of the claimant's "true intentions" in the preparation of the 2020 Wills.

[46] The respondent responds that the scope of the exception has been expanded to include:

- a) certain situations where the individual is still living, relying on *Re Kathleen Palamarek*, 2010 BCSC 1894 at para. 52 [Palamarek]; and

- b) certain documents relevant to the issues beyond pure wills interpretation, relying on Geffen at 387.
- [47] The claimant says that the cases cited do not stand for as broad a statement of the exception as the respondent suggests. Specifically:
- a) Neither case involved as directly contested an application. In situations where there is such a direct contest, the fundamental basis for protecting privilege--being the prevention of access of hostile parties to confidential information--remains extant.
 - b) Geffen involved an instrument that essentially had testamentary effect. Here, however, the impugned issue is the determination of a date of separation--a concept which pertains to family law, not wills and estates.
- [48] While I agree with the respondent that Geffen and Palamarek suggest that the wills exception is not necessarily as narrow in scope as the claimant suggests, I agree with the claimant that the exception does not require a broader production of the Files beyond what is warranted by the claimant's limited waiver of privilege.
- [49] Specifically, there is no testamentary issue directly in issue that demands that the Court also neutrally assess and determine the intention of the testator in relation to the 2020 Wills or the broader best interests of all of the parties. Rather, the respondent's primary purpose for demanding production is to advance her own interests through evidence of the claimant's capacity on dates other than the alleged date of separation. I find that the issue of intent to separate is sufficiently distinct in time and subject matter from the claimant's testamentary intent and capacity regarding the 2020 Wills that extending the wills exception to the present circumstances is not necessary or appropriate: Geffen at 387.
- [50] I also agree with the claimant that the fact that there remain other sources of evidence available to the respondent that eases any fairness concerns. As the claimant states in his supplementary argument, the respondent could adduce testimony from third parties or medical experts, as well as medical records, to establish the claimant's incapacity to separate.

G. Relevance

- [51] I do not agree with the claimant that the Files are irrelevant generally, such that a consideration of the privilege and waiver issues is unnecessary:
- a) The claimant listed the 2020 Wills in their documents, suggesting that they could potentially be used "to prove or disprove a material fact", or that they were documents to which the claimant "intends to refer at trial": Supreme Court Civil Rules, B.C. Reg. 168/2009, R. 7-1(1).

- b) As noted, the claimant admitted that the reference in the Slade Affidavit to the 2020 Wills was intended to support an inference that any loans to the Slades must have been forgiven prior to the preparation of the 2020 Wills, given that the loans were not expressly discussed in either of the 2020 Wills. As such, the 2020 Wills are admittedly, at a minimum, relevant to that issue.
- c) There is at least some reasonable factual basis for the respondent to argue that the claimant's admitted later incapacity had engaged earlier, such that his capacity at the time of the 2020 Wills is relevant. Although the test for capacity to separate may be less demanding than the capacity required to execute a will, the analysis is generally similar: see e.g., *Wolfman-Stotland v. Stotland*, 2011 BCCA 175 at para. 27. As such, to the extent that there may be materials in the Files that outline certain facts, acts, or observations in relation to the claimant's capacity to execute a will, that information could potentially be relevant to the determination of the capacity to separate during the same period. It may not be determinative, but it is relevant.
- [52] In my view, the Files are potentially relevant to at least certain material issues in dispute in this litigation. However, that is not a complete answer to the privilege or waiver questions, which have been already been addressed above.

IV. CONCLUSION

- [53] A limited production from the Files is ordered as set out above.
- [54] The parties should make best efforts to agree on the determination on costs. Failing such agreement, the parties may file written submissions on the following schedule:
- a) Claimant's submission: within 45 days of this judgment and not exceeding 10 pages;
- b) Respondent's response: within 30 days of receiving the claimant's submission and not exceeding 10 pages; and
- c) Claimant's reply: within 15 days of receiving the respondent's response and not exceeding five pages.

"The Honourable Mr. Justice Branch"

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