



**John E. S. Poyser, BA, LLB, TEP**

## **EDUCATION:**

Bachelor of Arts  
University of Manitoba  
October 1, 1982

Bachelor of Laws  
University of Manitoba, Faculty of Law  
October 1, 1986

## **CALLS TO BAR:**

Law Society of Manitoba  
1987

Law Society of Alberta  
2008

Law Society of Upper Canada  
2016

## **PROFESSIONAL ASSOCIATIONS AND LEADERSHIP:**

Past Chair of Wills, Estates and Trusts section of the Canadian Bar Association [2006 – 2007]

Past Co-Chair of Wills and Estates section of the Manitoba Bar Association [2002 – 2004]

Past Deputy Chair of the Society of Trust and Estate Practitioners Canada (STEP Canada) [2009 – 2010]

Past Chair of the Society of Trust and Estate Practitioners Winnipeg (STEP Winnipeg) [2005 – 2007]

Council Member of STEP Worldwide Council [2013 – 2016]



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Chair, Steering Committee, *The Senior Practitioners Forum – Estate Litigation and Planning*, Cambridge Forums, 2015 - present

**RELATED SPEAKING ENGAGEMENTS From 2010 forward:**

March 2, 2010 – “Deathbed Wills”, Canadian Bar Association B.C., Vancouver

October 10, 2010 – “Trusts for the Disabled”, Senior Estates and Trusts Practitioners Forum at Langdon Hall, Cambridge, Ontario

October 15, 2010 – “Pass It On – Cottage Succession”, Manitoba Real Estate Association, Winnipeg

November 18, 2010 – “Estate Planning and Litigation: Old Cases, New Tools”, Canadian Bar Association, South Alberta Region, Calgary

April 6 and 7, 2011 – “The Right Will” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, BMO Nesbit Burns, Vancouver

September 27 - 29, 2011 – “The Right Will” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, BMO Nesbit Burns, Toronto (repeat program)

October 16, 2011 – “Practice Issues for Estate Planners”, Senior Estates and Trusts Practitioners Forum at Langdon Hall, Cambridge, Ontario

December 2, 2011 – “Capacity Challenges to Wills and Gifts”, Manitoba Bar Association, Winnipeg

April 17, 2012 – “Capacity Challenges to Wills and Gifts”, Law Society of Saskatchewan, Regina

April 18, 2012 - “Capacity Challenges to Wills and Gifts”, Law Society of Saskatchewan, Saskatoon (repeat program)

April 24, 2012 – “Capacity Challenges to Wills and Gifts”, Law Society of Manitoba, Winnipeg (repeat program)



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June 7, 2012 – “The Right Will” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, BMO Nesbit Burns, Calgary

September 8, 2012 – “Planning for Incapacity: Tax and Legal Issues”, Registered Professional Accountants Association Conference in Banff, Alberta

September 27, 2012 - “The Right Will” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, BMO Nesbit Burns, Toronto (repeat program)

October 14, 2012 - “More Practice Issues for Estate Planners” at Senior Estates and Trusts Practitioners Forum at Langdon Hall, Cambridge, Ontario

November 14, 2012 – “Executor School” for the Knowledge Bureau, Naples, Florida

December 3, 2012 – “Eleventh Hour Charitable Giving”, Canadian Bar Association, South Alberta, Charities Section of Wills Section, Calgary

February 7, 2013 – “Maintaining a Safe, Ethical and Profitable Wills Practice” and “Tax Efficient Wills” at Canadian Bar Association Saskatchewan Mid-Winter Meeting, Saskatoon

April 18, 2013 – “Executor School: Preparing your Heirs”, Manulife Private Wealth in Toronto, Ontario

May 9, 2013 – “Executor School – Passages: Case Study” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, BMO Nesbitt Burns, Montreal, Quebec (repeat program)

September 12, 2013 – Executor School – Passages: Case Study” and “Use of Trusts in Tax and Estate Planning” and “Power of Attorney/Incapacity Issues”, for BMO Nesbitt Burns in Caledon, Ontario (repeat program)

October 10, 2013 – “Capacity - Undue Influence and the ‘Doctrine of Righteousness’” for the Canadian Bar Association, Online Professional Development Webinar, National



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October 20, 2013 – “*Practice Forum for Lawyers: Dealing with Capacity, Testing for Undue Influence, Making Litigation Profitable, Powers of Attorney, Blended Family Planning, and Family Conferences*” at Senior Estates and Trusts Practitioners Forum at Langdon Hall in Cambridge, Ontario

November 11, 2013 – “Preservation: Managing Tax Changes in Structuring Family Trusts and Estates” for the Knowledge Bureau in Ojai, California

April 3, 2014 – “Lifetime Benefit Trusts” for RBC seminar, Toronto

April 21, 2014 – “*Inter Vivos* Gifts” for the Manitoba Bar Association, Winnipeg

May 13, 2014 – “Pleadings and Powers of Attorney: A Practical Warm-Up” at Senior Practitioners’ Forum -- Estate Planning & Litigation, at Langdon Hall in Cambridge, Ontario

June 6, 2014 – “Executor School Case Study – What your Clients Need to Know Now” for BMO Nesbitt Burns, Halifax (repeat program)

June 17, 2014 – “The Wolf of Will Street: I Partied like the Favourite Child, Lived as Though I was Entitled to Mom and Dad’s Money, and Barely Survived....The True Story of an Estate Litigation File” for STEP Canada’s 16<sup>th</sup> National Conference, Toronto

September 8, 2014 – “Testamentary Capacity – New and Best Practices” Webinar for US/Canadian audience of lawyers, for Carswell, Canadian- U.S. webinar.

October 16, 2014 – “Anatomy of an Estate” for the Law Society of Manitoba, Winnipeg

December 8, 2014 – “The Doctrine of Righteousness” for the Society of Trust and Estate Practitioners (Winnipeg Chapter)

January 22, 2015 – “Anatomy of a Power of Attorney” for the Manitoba Bar Association Midwinter Conference, Winnipeg

February 18, 2015 – “Capacity and Undue Influence” for the British Columbia Wills and Estate Section of the Canadian Bar Association, Kelowna

April 6, 2015 – “Ten Ways to Challenge a Will” for the Estate Planning Council of Winnipeg



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## John E. S. Poyser, BA, LLB, TEP

April 20, 2015 -- “Attacking Wills and Gifts” for the Legal Education Society of Alberta, Spring Refresher, Lake Louise Alberta

April 28, 2015 -- “Lawyers vs. Doctors – Roundtable on Assessing Capacity” at Senior Practitioners’ Forum -- Estate Planning & Litigation, at Langdon Hall in Cambridge, Ontario

May 20, 2015 -- “Favourite Estate Cases – Case Law Review” for the Manitoba Bar Association Wills and Estates Section, Winnipeg

June 9, 2015 -- “Protecting Vulnerable Clients During *Inter Vivos* Transfers of Wealth” for the Alberta Bar Association Wills and Estates Section, Calgary

June 19, 2015 -- “Attacking and Protecting Gifts” for the Society of Trust and Estate Practitioners (Canada), at the 17<sup>th</sup> National Conference, Toronto

September 10, 2015 -- “Determining Capacity and Addressing Undue Influence in Wills” for the Law Society of Upper Canada, Toronto

October 7, 2015 “Equitable *Inter Vivos* and Testamentary Undue Influence,” session in the 18<sup>th</sup> Annual Estates and Trusts Summit for the Law Society of Upper Canada, Toronto

October 29, 2015 -- “Capacity and Undue Influence Issues and Charitable Gifting” for The Calgary Foundation Advisor Summit, Calgary

November 18, 2015 -- “Helping Clients Suffering Diminished Capacity” for the Financial Planning Standards Council of Canada, Toronto

November 19, 2015 -- “Capacity and Undue Influence” for the Vancouver Branch of the CBA Wills Estates and Trusts Section, Vancouver

January 21, 2016 -- “Attacking and Defending Joint Tenancies” for the Manitoba Bar Association Midwinter Conference, Winnipeg

January 29, 2016 – “Estate Planning for the Disabled” for Continuity Care, Winnipeg

April 30, 2016 – “Estate Planning for the Disabled” for Community Living Brandon



## John E. S. Poyser, BA, LLB, TEP

May 25, 2016 – “*Inter Vivos* Transactions by Attorneys – Establishing Trusts and Permissible Gifting” for STEP Calgary

June 1, 2016 – “Capacity, Undue Influence Issues, and Charitable Giving” for the Canadian Association of Gift Planners, Advanced Canadian Gift Planning Course Toronto

June 10, 2016 – “Impact of Limitation Dates and Delay on Applications for Probate” for the Society of Trust and Estate Practitioners (Canada), at the 18<sup>th</sup> National Conference, Toronto

August 5, 2016 – “Preventing Wills Litigation” for the Law Society of Manitoba, Portage La Prairie.

### **SERVING AS EDITOR:**

Founding editor and managing editor of *The National Concordance*, a National resource compiling and comparing the laws relating to wills, estate and incapacity, published on-line jointly by Canadian Bar Association and Westlaw ECarwell, from 2009 to present.

Associate Editor of *The Estates and Trusts Reports*, a national case law reporting service for lawyers and judges, from 2006 to present.

### **PUBLICATIONS:**

Co-authored (Poyser, Frostiak, Chow) textbook for Carswell entitled *The Taxation of Trusts, A Practitioner’s Guide*, ten annual editions, 2004 to 2014.

Authored *Capacity and Undue Influence*, textbook published 2014 by Carswell Canada.

### **JOURNAL ARTICLES AND CASE COMMENTS:**

*Qualifying and Non-Qualifying Testamentary Trusts* (2005) E.T.P.J. 41



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## John E. S. Poyser, BA, LLB, TEP

Practice Note: “*Constructive & Resulting Trusts as Defensive Strategies*” (2006) 25 E.T.P.J. 302 (coauthored)

*The Preparation and Execution of Wills: Everyday Issues and Changing Industry Standards* (2006) 25 E.T.P.J. 31

*Charitable Reminder Trusts: Advanced Issues* (2007) 26 E.T.P.J. 151 (coauthored)

*Use of Trusts in Blended Family Estate Planning* (2007) 26 E.T.P.J. 23 (coauthored)

*Estate Planning for Clients with Diminished Capacity: Deathbed Wills* (2010) 29 E.T.P.J. 244

Practice Note, “*Are Lawyers Being Fooled on Undue Influence?*” (2014) 33 E.T.P.J. 384

Practice Note, “*Attacking Wills: Fraud as a Species of Undue Influence*”, (2015) 34 E.T.P.J. 225

Practice Note, “*Will Planning: Asking the Bounty Question*”, (2015) 34 E.T.P.J. 267

Case Comment, *McLaughlin Estate v. McLaughlin* (2015), 10 E.T.R. (4<sup>th</sup>) 42, Inherent Jurisdiction of the Courts of Probate – Rectification.

Practice Note, “*The Doctrine of Unconscionable Procurement*”, (2015) 35 E.T.P.J. 133

Case Comment, *Neuberger v. York* (2016), 16 E.T.R. (4<sup>th</sup>) 42, Inherent Jurisdiction of Courts of Probate – Estoppel Disallowed.