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1. Trial Required for Credibility Issues, Factual Disputes & Suspicious Circumstances: C.A.

In [Garwood v. Garwood Estate](#), 2007 MBCA 160 (CanLII) the court considered, *inter alia*, whether the lower court should have directed an oral hearing of an application to revoke probate rather than deciding the application solely on the basis of the affidavit evidence before it. The court concluded that:

...the judge erred when he did not direct a trial in light of the substantial factual disputes and the issues of credibility that must be addressed. Fundamental to this conclusion are the suspicious circumstances raised by the evidence (and the lack thereof). As will be explained, I am of the view that the judge misdirected himself on the applicability of the doctrine of suspicious circumstances and, most importantly, on the principles of when to direct a trial.

2. No Costs to Beneficiaries: Q.B.

The court in [Bank of Nova Scotia Trust Company v. Forbes, et al., \(Estate of Agnes Johnson\)](#), 2007 MBQB 302 (CanLII) considered the issue of whether costs were payable from the estate to the administrator and beneficiaries on a motion for advice and direction, and if so on what basis. The court found that, on the facts, the administrator was entitled to costs on a solicitor and client basis payable from the estate, but denied the request for costs from the respondent beneficiaries, noting that:

...where interested parties simply seek to advance positions which benefit them personally, and the relevant jurisprudence has already been provided by the estate administrator, the estate assets should not be depleted to advance the personal interests of these parties, to the detriment of the beneficiary who took no position.

3. Threshold on Application for Dependents Relief: Q.B.

An application for relief under [The Dependents Relief Act](#), C.C.S.M. c.D37 is considered by the court in [Kowalyk et al. v. Zenyk](#), 2007 MBQB 311 (CanLII). In granting the application for relief, the court first considered whether it needed to determine, as a threshold question, whether the deceased had made adequate provision for the applicant, and found that it did not.

4. Free Podcasts on Estates Topics

The web site of Ontario estates lawyers [Hull & Hull](#) provides links to more than 90 [free podcasts](#) on a wide range of topics of interest to lawyers with a wills and estates practice. Visit the site and download a podcast to your computer or MP3 player. If you'd rather read, all of the podcasts are also available in a [text version](#).

5. CLE on Zoning By-Law 6400/94

On February 22, 2008 at 12:00 noon, The Law Society is presenting a CLE on City of Winnipeg Zoning By-Law 6400/94. Presenter Martin Grady, City of Winnipeg's Zoning and Permits Administrator will address this comprehensive by-law which comes into effect March 1 and affects both residential and commercial buildings and transactions. Contact [Legal Studies](#) for further details and to register.

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