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1. Some Estates Reminders from the Law Society Auditors

The Audit Department reminds you that if your practice includes any estate work, you should be careful to familiarize yourself with the specific requirements outlined in [Queen's Bench Rule 74.14](#). These rules relate to the legal fees which may be charged on an estate and include a maximum allowable tariff. There are also specific requirements to be followed in the event you propose charging fees falling outside this tariff. For more information see:

- Law Society [Practice Direction 91-02](#): *Legal Fees Charged by Personal Representative's Lawyer on Administration of Estate*
- Law Society [Practice Direction 93-01](#): *Administration of Estates*
- Communiqué November 2004: [Legal Fees Charged on Estates](#): *Queen's Bench Rule 74.14*

2. Scrutiny of Power of Attorney Required: ON S.C.

The court in [Reviczky v. Meleknia](#), 2007 CanLII 56494 (ON S.C.) considered the validity of a bank's mortgage on the applicant's land, which had been sold to the innocent 3rd party respondent by an unknown fraudster relying upon a fictitious Power of Attorney. The court found that the bank's mortgage was void stating that:

The bank knew, at all relevant times, that the person purporting to sell the property was acting pursuant to a Power of Attorney. The bank had the means of protecting its interests in this circumstance, whether through the chargor's obligations to it pursuant to its standard Mortgage Loan Agreement or through the solicitor. The bank chose to retain the purchaser/chargor's solicitor to act on its behalf, and I infer that the bank must have known that the solicitor would be in direct dealings with the person purporting to sell, whether through that person's solicitor or otherwise. Having been retained by the bank, it was the solicitor's responsibility to protect the bank's interests. However, the solicitor did nothing to scrutinize the Power of Attorney. As I have held, scrutiny of it would have led to questions which likely would have avoided the fraud. However, none of this was done because of a "business as usual" approach to a transaction which required something more. It required, for example, the level of care and analysis which the bank empowered itself to perform by its standard Mortgage Loan Agreement.

3. Real Property Insurance Issues: CLE

The Manitoba Bar Association's Real Property Law Section is presenting an information program focusing on insuring real property on Wednesday, February 27, 2008 at 5:00 p.m. For further details and to register, contact the [Manitoba Bar Association](#).

4. Boot Camp: Business Loans

The Canadian Bar Association's Business Law Section is presenting an online CLE entitled [Boot Camp: Business Loans](#) on Thursday, February 28, 2008. The presentation is available only to CBA members. For further details and to register contact the [Canadian Bar Association](#).

5. Living Wills Ineffective?

Some of the issues surrounding the use of living wills or health care directives are discussed in the article, [Living Wills Ineffective, say Medical/Legal Experts](#), written by Donalee Moulton and published in the January 25, 2008 issue of [The Lawyers Weekly](#).

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