

legal matters | ESTATES & TRUSTS

Challenging a Will because of "Undue Influence"



M. Jasmine Sweatman

B.A., J.D., LL.M., TEP.,
C.S., EPC, CPCA

Certified Specialist in Estates & Trusts

Wills, Powers of Attorney, Trusts, Estate Litigation and Administration, Corporate, Real Estate

The basic purpose of a Will is to allow individuals to set out their final wishes and instructions as to how their affairs should be handled after they pass away. Therefore, the Court will not set aside a Will lightly.

Often when a Will is challenged "undue influence" is one of the primary grounds. Although it may seem obvious to the Will challenger that the testator was influenced by an ill-intentioned friend or relative, because a Will challenge takes place after the testator has passed away, the testator is unable to say what really happened.

Understandably then, the threshold for establishing a Will was the product of undue influence is high. In *Banton v. Banton* the Superior Court of Ontario stated it must be "...established on the balance of probabilities that the influence imposed by some other person on the deceased was so great and overpowering that the document reflects the will of the former and not that of the deceased."

Although the facts of each case are unique, there are certain indicators of undue influence which have been noted in the case law, including:

- The testator is depending on the beneficiary for emotional and physical needs;
- The testator is socially isolated;
- The testator has experienced recent bereavement; and
- The testator has made a new will not consistent with prior Wills.

Simply showing there was opportunity or motive to unduly influence a testator, however, is not sufficient to prove undue influence.

Considering the high threshold and evidentiary hurdles for challenging a Will, those considering a Will challenge should evaluate their options by consulting with a lawyer experienced in estate litigation.

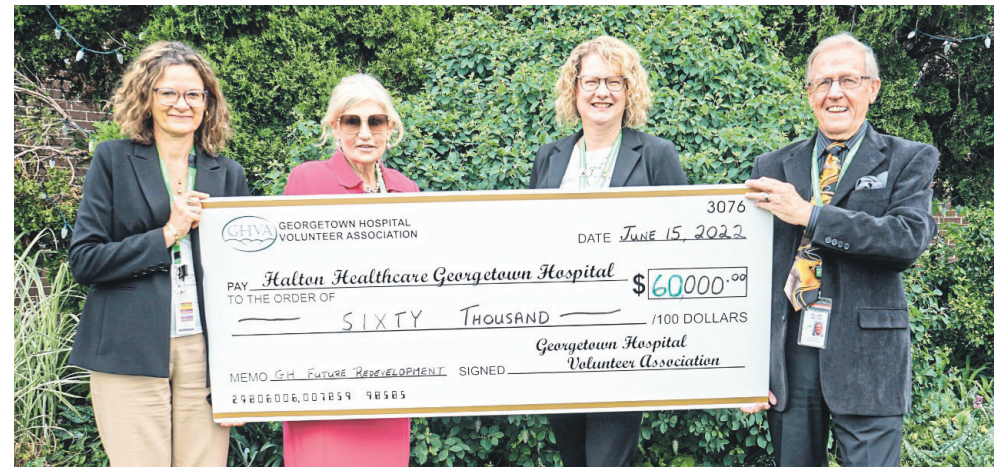
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SWEATMAN 145 Mill St., Georgetown
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NEWS



Georgetown Hospital photo

The Georgetown Hospital Volunteer Association donated \$60,000 to the hospital. On hand for the presentation were (from left): Monica Bettazzoni, chief operating officer; Janet Skupsky, interim chief operating officer; Sandra Taylor, executive director, Georgetown Hospital Foundation and Allan Welters, president, Georgetown Hospital Volunteer Association.

VOLUNTEERS DONATE \$60,000 TO HOSPITAL

The Georgetown Hospital Volunteer Association (GHVA) has donated \$60,000 to the Georgetown Hospital.

"In addition to their invaluable hours of service, the volunteer association continues to find creative ways to raise funds," said Janet Skupsky, interim chief operating officer at Georgetown Hospital. "This year's cheque for \$60,000 demonstrates the unwavering commitment and generosity of all of our volunteers. Their dedicated service to the hospital truly enriches the patient experience."

The GHVA has 141 active volunteers. It provides service, support and fundraising for the hospital, raising funds through events a poinsettia sale, the gift

shop, lobby vendor sales and the HELPP lottery.

"During the pandemic, we had to temporarily reduce or pause many of the volunteer services at Georgetown Hospital in order to keep everyone safe," said Allan Welters, president of the GHVA. "Unfortunately, this also meant cancelling many events. Thankfully, we are gradually resuming all of our activities. Everyone is so happy to be back."

Welters stepped down after 10 years of volunteer service, which included serving as both vice-president and president. Marion Lookman is the newly appointed president, while Welters continues on as past president.

Halton Healthcare's hospitals accept applica-

tions for new volunteers twice a year. Adults and youth looking to volunteer can submit an application online from July 1 to Aug. 12, 2022. Visit haltonhealthcare.com for more information.

"Every one of our volunteers has done such an impressive job supporting the hospital — they help our patients, families and staff in so many ways, not to mention raising funds in spite of the pandemic," said Monica Bettazzoni, who was recently announced as Georgetown Hospital's new chief operating officer and director for the Georgetown Hospital Family Practice Program. "The enthusiasm and dedication of our volunteers is truly inspiring and I am thrilled to be working with them."

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