

# Layne N. Thiessen

Partner

403.873.3740

[lthiessen@mcleod-law.com](mailto:lthiessen@mcleod-law.com)

OFFICE: DOWNTOWN



## ASSISTANT

Carmen Fox

403.254.3858 [cfox@mcleod-law.com](mailto:cfox@mcleod-law.com)

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## PRACTICE AREAS

Wills, Trusts & Estates  
Estate Administration  
Estate Dispute Resolution

I ask for honesty from clients. In return, they get tireless, passionate pursuit of their goals.

Layne is a trusted advisor in estate litigation, providing strategic legal advice and representation to clients throughout Alberta. He also assists clients from across Canada and around the world—including the United States, Mexico, France, and Germany—who are managing wills and estate matters within the province.

With over a decade of experience, Layne has a proven track record of resolving complex estate disputes, often through mediation or litigation. He has successfully represented clients in all levels of court in Alberta, offering guidance on a wide range of estate-related issues, including:

- Will and Trust Interpretation
- Will Challenges
- Applications for Advice and Direction regarding Probate Matters and Estate Administration
- Removal and Replacement of Personal Representatives and Trustees

- Compensation for Personal Representatives and Trustees
- Testamentary Capacity and Undue Influence regarding Inter Vivos Gifts
- Joint Account Litigation
- Dependant Support and Relief Claims and Family Maintenance and Support Claims
- Power of Attorney and Trust Litigation
- Contested Passing of Accounts

In addition to his legal practice, Layne is an active thought leader in estate litigation, frequently presenting to financial and wealth management professionals, accountants, and fellow lawyers. He has delivered presentations for the Canadian Bar Association, the Legal Education Society of Alberta, and several accounting, tax, and financial advisory organizations.

## Education

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**2009** University of Manitoba, JD

**2006** Brandon University, BA (Honours)

**2001** Robertson Broadcasting Academy, Radio & Television Broadcasting Diploma (Honours)

## Admissions

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**2010** Alberta

## Experience

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Buye v Fisher, 2024 ABCA 294

Lead counsel responding to the appeal of an interim order which dismissed the appellant's application to remove an acting attorney. The appeal was adjourned *sine die* until the pending trial decision was released on the basis that it was inappropriate to determine the appeal at the current time. The Court of Appeal directed that some aspects of the appeal would certainly be moot when the trial decision was released and the entire appeal might be moot. The Court also directed that any future application for relief be directed to the trial justice. Finally, the Court clarified that respondents may argue and the Court may determine mootness at any time and that a separate application to dismiss the appeal under the Court of Appeal Rules is not a requirement before arguing or determining mootness.

Buye v Fisher, 2024 ABKB 223

Lead counsel successfully resisting an application to remove an attorney on the basis of allegations of: (a) conflict of interest; (b) incapacity; and (c) undue influence. The court found insufficient evidence to conclude that the donor lacked mental capacity or was subject to undue influence. The decision to not replace the attorney with a professional trustee was based, in part, on the practical consequences of doing so and the proximity to an upcoming trial.

Duhn Estate, 2022 ABCA 360

Lead counsel responding to the appeal of an order which dismissed the appellant's application for pre-death financial disclosure of a testator's estate. The Court of Appeal dismissed the appeal and concurred with the reasoning set out in *Johnson v Johnson*, emphasizing that the issue at this stage was not about proving the case but whether the claimant should be given tools ordinarily available before being required to present a comprehensive case. The Court determined that the appellant had not met the minimal evidentiary threshold necessary to justify additional disclosure. The court found no errors in the lower court decision, affirming that the personal representatives acted within their authority from the will to distribute the estate's assets. The court also agreed with the discretion exercised by the Chamber's Justice regarding costs and saw no reason to alter the costs awarded.

Duhn Estate, 2021 ABQB 35

Lead counsel successfully resisting an application for pre-death financial disclosure from a testator's estate. The Honourable Madam Justice K.M. Eidsvik ruled that while personal representatives owe a duty to account for the

administration of a testator's estate, this duty generally pertains to the period after the testator's death. The court found no sufficient evidentiary basis to warrant an invasion of the testator's privacy rights to examine her pre-death financial affairs. The court disagreed with the applicants' interpretation of the law regarding the necessity of accounting for pre-death financial transactions and found no evidence of incompetence, undue influence, or unauthorized transactions that would justify further investigation. The decision emphasized the testator's competence, her clear intentions regarding her estate, and her right to privacy. Costs were awarded against the applicants.

- *Starratt v. Mamdani*, 2017 ABCA 92
- *Toyota Tsusho Wheatland Inc v. Encana Corporation*, 2016 ABQB 209
- *Bohn v. PG&E Corporation*, 2013 ABQB 77
- *1164637 Alberta Ltd. v. Terrapin Mortgage Investment Corp.*, 2012 ABCA 334
- *Nexstep Resources Ltd. v. Talisman Energy Inc.*, 2012 ABQB 708
- *Strategic Financial Corp. v. 1402801 Alberta Ltd.*, 2012 ABQB 292
- *Terrapin Mortgage Investment Corp. v. Acera Developments Inc.*, 2011 CarswellAlta 2629

## Recognition

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- Attendee of the exclusive Senior Estates & Trusts Practitioners Forum by Cambridge Forums, October 2020

## RECENT MEDIA COVERAGE

- "Passes First Reading at the Alberta Legislature," BLG Oil & Gas Alert, November 2013

*"Bill 34: Building New Petroleum Markets Act"*

- "Alberta Petroleum Marketing Commission Gets Broad New Powers," November 18, 2013

*Cited by Julius Melnitzer in the National Post*

## Memberships

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- Law Society of Alberta
- Canadian Bar Association Southern Alberta
- Canadian Bar Association National Wills & Trusts Section
- Calgary Bar Association

## Community

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- Alberta Court of King's Bench (formerly Court of Queen's Bench)  
Volunteer, Amicus Project

- Provincial Court of Alberta  
Volunteer, Civil Claims Duty Counsel program

## Teaching Roles & Speaking Engagements

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### SPEAKING ENGAGEMENTS

#### PRESENTER

##### HOW TO AVOID LITIGATION RESULTING FROM TRAIN WRECK ESTATES

McLeod Law LLP Wills, Trusts & Estates Update, March 2019

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#### PRESENTER

##### WHERE THERE'S A WILL, THERE'S A WAY (TO INTERPRET THE WILL) CONTENTIOUS MATTERS IN WILLS AND ESTATES

Legal Education Society of Alberta (LESA) , November 2018 (Edmonton), November 2018 (Calgary)

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#### PRESENTER

##### RECENT REGULATORY AND LEGISLATIVE DEVELOPMENTS OF INTEREST TO ENERGY LAWYERS

Canadian Energy Law Foundation 52nd Annual Jasper Research Seminar, June 2013 (Jasper)