

**PROBATE AND
ADMINISTRATION
OF NEW YORK ESTATES**

SECOND EDITION

**EDITOR-IN-CHIEF
GARY R. MUND, ESQ.**

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ORIGINAL FOREWORD TO SECOND EDITION

When *Probate and Administration of New York Estates* was originally published in 1995, it was envisioned as a compendium of vital information covering all phases of estate administration, from securing the will through final accounting, which would be both comprehensive and “hands-on.” Nothing like it existed at the time. Little did we realize what an enormous undertaking it would be. Through the tireless efforts of many dedicated, expert contributing authors, all of them volunteers, the final publication fairly achieved our goals; it was a handy, single-volume source for quick answers to both straightforward and perplexing estate administration issues, and an authoritative source of background information for further research, if necessary. The publication received excellent reviews and was widely adopted by attorneys statewide as a definitive guide.

After several annual updates, publication was suspended in the late 1990s, at a time when it became clear that proper, authoritative, timely updates would be a much larger task than originally envisioned, and that we could not maintain the high standard we had set within the publishing framework we had established. Nevertheless, demand for this publication has continued, and it always has been our goal to release a second edition utilizing a more robust update plan.

With this publication, our goal has been realized. This revised second edition includes substantial updates and rewrites, bringing all topics up to the current state of the law, and in particular, addresses many thorny tax issues in the ever-changing landscape of estate taxation. More importantly, we now have in place a definitive plan to update the volume on a timely basis while maintaining a standard of excellence, restoring it as the valuable resource it is intended to be on a continuing basis.

Our thanks and appreciation are extended to all the contributing authors, who gave so freely and generously of their time and expertise. Special thanks go to Daniel McMahon, Director of Publications, and his staff, for their tireless efforts and persistence in seeing this publication to fruition; special kudos to Reyna Eisenstark for her oversight of the day-to-day operations involved in publication.

Gary R. Mund, Esq.

ADDENDUM TO FOREWORD

We are pleased to release this year's updates to the Second Edition of *Probate and Administration of New York Estates*. Consistent with our vision of updating this volume on a regular and timely basis, these updates reflect the latest state of the law and practice governing estates in New York, including surrogate's proceedings, tax considerations, and estate administration, as well as valuable tips and pointers for the practicing attorney. Our deepest thanks and appreciation go out to the contributing authors, who gave so generously of their time and talent to make these updates possible.

I would like to take this opportunity to thank Doug Evans who, for many years, was the editor of this publication. His contribution was invaluable and greatly appreciated. Doug is now retired, and we wish him many years of well-deserved enjoyment and relaxation.

On a sadder note, the recent untimely passing of Arlene Harris came as something of a shock to those of us in the Trusts and Estates field, as well as many others, who knew her. Arlene was one of the superstars of our practice; she was at once intelligent, skillful, practical, caring, kind, and generous, she was loved and revered by all, and she was my mentor and my friend. Arlene was a key guidepost of my professional life, and I will miss her sage advice and good company tremendously. I know many others who share my sentiments. Rest in peace, Arlene.

Gary R. Mund, Esq.
March 2019

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Richard M. Storto is a partner at Melvin & Melvin, PLLC. As head of the Melvin & Melvin trusts and estates department, he plans and administers estates, performs complementary business, tax, and real estate services, and litigates trust and estate matters, such as will contests, contested fiduciary accountings and abuse of fiduciary powers.

Mr. Storto has formed a trust company in Florida for Irving Bank Corporation, and served as counsel to the Trust Department of The Merchants National Bank & Trust Company of Syracuse and its successor, OnBank & Trust Co., advising it in all matters including litigation. He has also served as general counsel for Cicero Bank. In 2002, Mr. Storto was elected a Fellow of The American College of Trust and Estate Counsel.

MARCELINE B. TEMPESTA, ESQ.

Marceline B. Tempesta is special counsel in the New York office of Milbank, Tweed, Hadley & McCloy and a member of the firm's Trusts & Estates Group. Ms. Tempesta's practice focuses on the representation of individuals and families with respect to complex estate planning (including gift, estate, generation-skipping transfer tax and philanthropic plan-

ning) and the representation of tax-exempt organizations. She advises individuals and their families with respect to a variety of domestic and international estate and charitable planning matters and represents owners of closely held business, hedge fund and private equity fund managers, and other wealthy individuals (both domestic and foreign). Her practice also includes the formation and representation of charitable trusts, public charities and private foundations, including with regard to compliance with state and federal tax laws and complex philanthropic joint ventures. Ms. Tempesta also has experience with premarital planning, estate litigation and estate administration.

Ms. Tempesta is a member of the New York City Bar Association, where she has served on the Trusts, Estates and Surrogate's Courts Committee, and the American Bar Association, where she serves on the Exempt Organizations Committee. She graduated *cum laude* and with departmental honors from Northwestern University. She received a J.D. *cum laude* from Cornell University Law School, and while there she served as the university's judicial codes counselor and as articles editor of the *Cornell Law Review*.

SHARON L. WICK, ESQ.

Sharon L. Wick is a partner at Phillips Lytle, LLP, where she is the Family Wealth Planning Practice Group leader and focuses on the areas of trust and estate administration, estate planning, estate and gift taxation and elder law. Areas of estate planning experience include wills, a variety of trust vehicles and planning for retirement benefits. Ms. Wick is also experienced in a variety of charitable giving techniques. She is a member of the Executive Committee of the Trusts and Estates Law Section of the New York State Bar Association and a Fellow in the American College of Trust and Estate Counsel. In addition, Ms. Wick is a frequent presenter on trust and estate-related topics for a variety of audiences.

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Daniella Wittenberg is a Senior Associate in the Private Clients Service Group of Arnold & Porter Kaye Scholer, LLP and is resident in the firm's New York office. Ms. Wittenberg's practice focuses on contested trust and estate matters, including trust litigation, construction proceedings and will contests. Her practice also focuses on domestic estate and trust planning and administration. Ms. Wittenberg received her Juris Doctor from Harvard Law School.