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*Established in 1871*

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## **PETER LIGHTBODY SECURES INTERIM DISTRIBUTION FOR BENEFICIARY CLIENTS**

Sometimes beneficiaries struggle in vain to get funds due to them out of an estate. When the estate cannot be finalized, but there is no good reason for an executor's refusal to pay, common sense suggests the beneficiaries ought to have a simple remedy. But oddly there is little guidance from our courts or legislature respecting when and how beneficiaries can compel an executor to make an interim distribution. Until recently, that is. In the case of *Reznik v Matty* 2013 BCSC 1346, released in the summer of 2013, Peter Lightbody of RBS brought an application before the British Columbia Supreme Court seeking an order for an interim distribution. Final distribution of the estate was being held up by land that was slow to sell, but the estate had money in the bank making an interim distribution certainly possible. Rejecting the executor's argument that the Court had no jurisdiction to make the order sought, the Court then turned to the law of "assent" for legal authority. Generally, assent is the executor's acknowledgement that an asset is no longer required to secure payment of an estate debt. Importantly, assent may be forced upon an executor. In this case, the court was satisfied that because the estate was liquid, a forced assent would not put the executor at risk. In the result, the court ordered cash payments to each beneficiary.

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