



Hi Howard,

My friends and colleagues at [Hull and Hull](#), Canada's premier estate, trust and capacity litigation specialists, posted the following blog recently. I am setting it out below as it parrots the warning, I have been giving to my clients who have lived in Quebec in particular but it applies to other jurisdictions outside of Ontario. If you are to make in new Will in Ontario, having previously made a Will in another jurisdiction, you have to know how to revoke that original Will. It is not as easy as just tearing it up.

There are important considerations to be made when individuals have assets in different areas, for example Ontario and Quebec. Quebec uses the civil law system whereas Ontario along with the rest of the country uses the common law system. If you have assets in both Ontario and Quebec, you may have multiple Wills one in Ontario and one in Quebec.

In Quebec, you have the option of having a Notarial Will which is not available in Ontario and allows you to save on Probate fees as Probate is not required. Notarial Wills are executed in front of a Notary who registers the original Notarial Will with the provincial registry of Quebec. It should be noted simply destroying a Notarial Will does not revoke it.

In *Morton v. Christian*, John David Christian made a Notarial Will while living in Quebec and married to Lorraine Morton. Lorraine Morton was named as the sole beneficiary. Subsequently, John and Lorraine moved to British Columbia and separated. John tore up his copy of the Will, however the original of the Notarial Will remained with a notary in Quebec. John died in 2011 and Lorraine attempted to enforce the Notarial Will using the Civil Code of Quebec. John's sister and mother disputed the validity of the Notarial Will as John destroyed it. However, Lynn was successful because John did not revoke the Notarial Will using the Civil Code provision. The

judge held that the Notarial Will was valid, and Lorraine retained the assets of John's Estate as the sole beneficiary.

This case is a great reminder that if you move from Quebec and have a notarial Will there, ensure the Will is validly revoked following the provisions of the Quebec Civil Code. This will ensure your testamentary intentions regarding your Estate are followed.

Aanchal Bajaj, abajaj@hullandhull.com, (416) 569-9780

I invite you to [set up a Zoom](#) appointment with me to discuss your Estate Planning and drawing your Will and Powers of Attorney.

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Law Offices of Howard S. Dymont | 2201 - 250 Yonge St, Toronto, M5B 2L7 Canada

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