

Are You Ready For It?

00;00;00;00 - 00;00;27;28

Karen Brown

Welcome to Real Life Renos : The Podcast. I'm your host, Karen Brown, and let me tell you, you do not want to sleep on our topic today. William A G Simpson is a personal injury lawyer with over 20 years of experience. We're going to talk about all things powers of attorney, wills, as well as financial preparation for unexpected events. And if you're someone who doesn't really want to get married, but you live with a partner or want that partner to have the ability to speak for you, if you can't speak for yourself.

00;00;28;03 - 00;00;43;14

Karen Brown

stick around, because we're going to talk about that too. Bill is a plain talking lawyer who will get you thinking about the plans you need to make to save yourself time, money, and a whole lot of stress. Hi, Bill, it's great to have you here.

00;00;43;17 - 00;00;45;24

Bill Simpson

Karen, thank you very much for the invitation.

00;00;45;26 - 00;00;47;09

Karen Brown

It's my pleasure.

00;00;47;11 - 00;00;49;00

Bill Simpson

I'm sorry. I'm looking forward to talking to you.

00;00;49;03 - 00;01;01;04

Karen Brown

It's my pleasure. Absolutely. You have been practicing for more than 20 years now. And you are a personal injury attorney. Can you give us the Coles Notes version of what exactly that is?

00;01;01;07 - 00;01;30;09

Bill Simpson

Yeah, it's it's a little bit of a hard to understand phrase. Most of my work involves civil litigation of some form for people who have been unexpectedly injured. Most of those injuries, in this day and age, of the result of some form of motor vehicle accident but there are other injuries like bad, bad falls, strokes, other health conditions that are unexpected.

00;01;30;11 - 00;01;53;26

Bill Simpson

They give rise to disputes with insurance companies or employers. And people need help and, so and so I'm, I'm, I'm very honored to be trusted now for such a long time to help families, children, men and women all over the province who have found themselves in that situation.

00;01;53;28 - 00;02;11;25

Karen Brown

Terrific. And I think it's fair to say, for our listeners to know that one of your superpowers is your ability to explain very complicated legal issues in language that we can all understand, which I think must be very soothing for your clients.

00;02;11;28 - 00;02;32;15

Bill Simpson

That's very kind. You know, I'm from a small town, and, I did not, grow up in circumstances of privilege. And to be honest with you, I'm sort of a blue collar guy in a white collar profession. I think a lot of that emanates, when I talk to people, and then they feel a bit reassured by that.

00;02;32;15 - 00;02;59;24

Bill Simpson

It's for a lot of people, it's intimidating to call a lawyer and there's a sense of a gap between, you know, their circumstances and what they perceive the lawyer's circumstances or expectations to be. But, you know, we all put our pants on the same way in the morning and my job is to to speak plainly and clearly and answer questions and just be honest with people and knock on wood, that's been an effective strategy so far in my career.

00;02;59;26 - 00;03;23;00

Karen Brown

And I think it's fair. Before we delve into anything to say to our listeners and viewers that Bill and I are both in Ontario, so we're going to be talking high level generalities. If you need specific information that applies directly to you and your circumstances, then you need to consult a lawyer in your jurisdiction. Is that fair Bill?

00;03;23;02 - 00;03;51;03

Bill Simpson

Yeah, I think it is. All the certainly in Canada, the provinces are all sort of like cousins to one another. You'll find a lot of similarities and a lot of overlap. And there are certain contexts where the law is identical from one province to the next. But that is not universally the case and, if you if you like that analogy that, you know, Ontario and Saskatchewan are, are cousins of one another and there's a lot of overlap.

00;03;51;06 - 00;03;59;03

Bill Simpson

But you're right, that you should be seeking advice in the jurisdiction in which you live. To be accurate.

00;03;59;06 - 00;04;15;03

Karen Brown

Fair enough. And we also have listeners and viewers outside of Canada. So they, of course need to check in whatever state or, country that they are in. Okay, there's our disclaimer out of the way.

00;04;15;05 - 00;04;17;11

Bill Simpson

Disclaimers are good.

Fair enough.

00;04;17;11 - 00;04;25;00

Karen Brown

Okay. Let's dive in first to powers of attorney. What are they?

00;04;25;02 - 00;04;56;05

Bill Simpson

Sure. It's a really great question. So powers of attorney are in the plural because there are two versions of them that often work together. One is called The Power of Attorney for Personal Care. And I think that it is simplest to think of that as being the health power of attorney. And there is a second version called A Power of Attorney for property.

00;04;56;07 - 00;05;28;22

Bill Simpson

And I think it is simply thought of as the document that it deals with money. Powers of attorney become effective while the person giving them is still alive. And the common use of the powers of attorney is where somebody has had their capacity affected. It can be from trauma. It can be from at the onset of a medical condition.

00;05;28;25 - 00;06;01;00

Bill Simpson

And it can be very difficult to be precise about capacity. You know, an easy example is if somebody is in a coma, they're alive, but they clearly have no capacity because they're in an unconscious coma condition. But you can also have a person who suffers an acquired brain injury and at first blush, you might think the person looks really well, but the injury to the brain has affected that individual's capacity, while alive.

00;06;01;02 - 00;06;37;07

Bill Simpson

And they've lost the effective decision making that the law, looks for when it's making a capacity assessment. Powers of attorney are not to be confused with a will. A will, or sometimes called a Last Will and Testament, is a document that can only come into effect when somebody has died. And often lawyers use the label Estate Planning, which can encompass the planning for a person's death and the creation of a will.

00;06;37;09 - 00;07;00;05

Bill Simpson

But it can also include the creation of powers of attorney, one or both, as I just described, so that if it's done comprehensively, a person emerges with three documents in total, two of which are to be used in the event of a loss, a loss of capacity while alive, and the other's to be used in the event of death.

00;07;00;07 - 00;07;06;13

Karen Brown

Perfect. That's really understandable. Everybody should have these correct.

00;07;06;15 - 00;07;22;16

Bill Simpson

You must, you must be 18 years old to create them and you have to have capacity at the time they're created. And those are largely the two main, hurdles that need to be cleared to make them valid and binding.

00;07;22;19 - 00;07;28;09

Karen Brown

Can we just spend an extra minute on the power of attorney for health care?

00;07;28;11 - 00;07;29;03

Bill Simpson

Yeah.

00;07;29;06 - 00;08;03;26

Karen Brown

Because I think, at least in my practice, I often find that families don't agree. It's that they can be geographically dispersed. They're making decisions about literally about your health care. And I think people's minds go straight to pull the plug. That's not necessarily the case. But if you could just flesh out a little bit what that power of attorney might be used for.

00;08;03;29 - 00;08;37;05

Bill Simpson

Yeah. Lawyers have a special way of taking a simple question and giving a complicated answer. So let me. Let me say, first of all, that

if a person finds themselves admitted to hospital without a power of attorney for personal care in this province, a very different law called the Substitute Decision To Act can authorize the hospital staff, the physicians, to work with next of kin to make care decisions while there's an inpatient.

00;08;37;08 - 00;09;13;20

Bill Simpson

condition. A power of attorney for personal care is more commonly used when somebody is not an inpatient in hospital, going to the pharmacy, going to a family physician, going to a specialist appointment as an outpatient. So there is a little bit of a divergence between decision making and care that's done acutely and unexpectedly in a hospital environment and helping somebody with their health care decisions and and their healthiness while they're outside of the hospital.

00;09;13;22 - 00;09;33;02

Karen Brown

Okay, that sounds perfectly reasonable. Now, if somebody is admitted to a hospital in an emergency, does having the health care directive overrule the staff's ability to make decisions?

00;09;33;04 - 00;10;00;29

Bill Simpson

Also a great question. I mean, at the end of the day, the hospital is going to do what is in the patient's best interest in the absence of any other information to the contrary. I mean, if somebody is taken into the critical care or the emergency department and there's a paramedic doing chest compressions on a stretcher, the hospital is going to work to provide care without knowing any other information.

00;10;01;02 - 00;10;23;01

Bill Simpson

But if somebody goes to the hospital with their power of attorney for personal care, who has the document available with them, then yeah, that person is able to communicate directly with the physicians and to supply information about what the patient's wishes were in certain circumstances and communicate that.

00;10;23;04 - 00;10;35;23

Karen Brown

Okay. Sounds it sounds like situations which can happen very quickly require this sort of planning to already be in place, which is what you and I both advocate for.

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Bill Simpson

Yeah. So in my professional life, almost every day I interact with people who are stuck dealing with a problem that they didn't expect to have to deal with. And, whether it is, the result of a trauma or a fall or, you know, the onset of a health condition like a stroke or a debilitating heart attack that they weren't planning for.

00;10;59;06 - 00;11;24;25

Bill Simpson

It happens every day. And if I can just, say one of the things that I think is very important for people to understand is what is the alternative? What what happens if you don't do these things in advance? This, this kind of planning that we're discussing now? A person who loses their capacity and does not have powers of attorney.

00;11;24;28 - 00;11;58;08

Bill Simpson

The only way that somebody can be authorized to stand in and make decisions or manage property is by order of a judge. And we call that a Guardianship Application. In the Ontario law, you bring forward an application to a judge of the Superior Court of Justice, and in it you say this person has lost capacity, and then this person needs a guardian appointed for property or personal care or both.

00;11;58;10 - 00;12;25;04

Bill Simpson

And you have to outline the circumstances why. Sometimes that application can proceed on consent within a family. There's an agreement as to who should be proposed to the judge. Often there's a contest or there's tension as to who should be appointed

guardian and the judge can and often does hear evidence about who the guardian ought to be in the various considerations

00;12;25;04 - 00;12;56;06

Bill Simpson

and ultimately it's the judge's decision. And I'm oversimplifying this a little bit, but the person could go to a lawyer for assistance in making a power of attorney and probably complete that process in 30 days to maybe six weeks, and you might pay somewhere between 7 or \$800 on the low end and maybe 2 or \$2500 in the high end, depending on the complexity.

00;12;56;08 - 00;13;28;15

Bill Simpson

But if you have to apply for a guardianship, you're probably safely looking at somewhere between 10 and \$20,000 to accomplish the same thing in the form of the court order that you could have put in place by way of a power of attorney before the onset of the problem. So the old adage about an ounce of prevention being worth a pound of cure is in fact very applicable here.

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Bill Simpson

You know, spending money on estate planning is kind of like having to call in the plumber. Nobody really enjoy spending money on that particular subject. But when it's not working, you're sure glad that you took the time to do it and I can tell you, and not only does the guardianship application process more expensive, but it's very slow.

00;13;53;22 - 00;14;20;00

Bill Simpson

You're talking 3 to 6 months minimum to get this through the judge, and that's if it's done smoothly and on consent. If it's contested, it can take even longer. That means that if somebody goes in a hospital and is in a coma, bank accounts, investments, the ability to deal with the Canada Revenue Agency, it's all frozen

00;14;20;03 - 00;14;37;14

Bill Simpson

practically speaking, because there's no designated representative until the judge grants that order. Whereas the power of attorney can begin to insert himself or herself immediately on the strength of the document.

00;14;37;16 - 00;15;01;10

Karen Brown

Very wise words. I frequently say when I'm talking to customers, and have said on this podcast as well, decisions are going to be made. The choice of whether you're going to make them or someone else right now is in your hands, but if something happens, it's in someone else's hands and it may not be the decision that you would have wished for.

00;15;01;13 - 00;15;02;14

Bill Simpson

That's right.

00;15;02;17 - 00;15;31;05

Karen Brown

Yeah. Okay, so now we've got powers of attorney in place. Hopefully. Let's move on to a will. Who needs one? At what point do young couples or young people need to have one? And what practical purpose does it serve as we go through the aging process, or in the case of a trauma, taking place.

00;15;31;07 - 00;15;59;16

Bill Simpson

Also also an excellent question and so the listeners know I don't have these questions in advance so I'm hearing them in real time and these aren't these are planted in any way. I'm happy to use myself as an example. I have a son who's a teenager. And, if I were to die unexpectedly tomorrow, he would not be ready to receive, as an inheritance or as a transfer

00;15;59;19 - 00;16;25;14

Bill Simpson

some of the assets which which I have, it just it just wouldn't be fair to him. And yet in the longer term, it would be my hope that as he gets older, there would be an opportunity for him to receive the

things that that I would like for him to have. My own will preparation involves thinking through exactly that scenario.

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Bill Simpson

What age do I believe would be fair and reasonable for him to receive some of the assets that I would like to transfer to him? In my case, I decided that that was when he reaches the age of 30 and I have, directed my estate trustees, an estate trustee formerly, often called an executor, is the person or persons that you ask to manage your affairs after you die.

00;16;55;21 - 00;17;18;17

Bill Simpson

And so I've indicated to to my estate trustees that they are to manage the stuff. If I die until my son is at the designated age. And I gave them a little discretion, and if they think he's ready at 27 or 28, I'm okay with that. You can't micromanage everything from, the next life so

00;17;18;17 - 00;17;47;13

Bill Simpson

I've given them some, flexibility that way. In my work. Most of my clients in the age of 40, and probably less than 10% of them have done any advance planning around powers of attorney or wills. My clients or other contemporaries that are kind of between 40 and 55 the percentage of completion is a little higher

00;17;47;15 - 00;18;20;16

Bill Simpson

but here is a really important point. These are, ironically, these are living documents. You know, when you make a will today, you're doing it based on the circumstances as they exist right now and five years from now, your circumstances can change and your prior estate planning may not be current. And if you go, it's the prior now somewhat dated documents that are going to carry the day.

00;18;20;18 - 00;18;42;15

Bill Simpson

So I think most lawyers who practice in this area regularly would certainly encourage people that somewhere in the 2 to 5 year range, people should take a minute and just rethink. Do the documents I already have still reflect what I would like to see happen. And if they don't, you have to amend them. You have to update them.

00;18;42;21 - 00;19;04;18

Bill Simpson

And I expect that's what what I will do. If I'm fortunate to carry on for a while and Henry and my son Henry becomes older, I'll probably make amendments to the documents I have in place now to reflect his, older age and whatever other changed circumstances that there may be.

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Karen Brown

Fair enough. I'm. I'm kind of shocked to hear the low percentage of people who don't have the planning in place. I think I would imagine that when people buy a house, or certainly when they have children, they would want some plans in place. But I guess we all think we're invulnerable. You know, it's not going to happen to us.

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Bill Simpson

So that's definitely part of it. A huge because I, I ask, I say why don't you. And they'll say, well that's not going to happen to me. I think sometimes in families there can be an experience with an older family member who's gone through something, and it was really very difficult. So I think it's emotionally difficult for a lot of people, regardless of age, to engage with these topics, perhaps because it brings up an unpleasant memory, perhaps because it requires a confrontation with your own mortality, which is hard to do.

00;20;08;17 - 00;20;22;24

Bill Simpson

In other circumstances it, you know, it is an expense, and many families are just not in a position to go and spend a couple

thousand dollars on creating paperwork that they might or say to themselves, I'm not really going to need that.

00;20;22;26 - 00;20;23;25

Karen Brown

Right?

00;20;23;27 - 00;20;38;21

Bill Simpson

But as I've tried to say, the alternative to not having it is even more expensive and more difficult and more cumbersome. And I think once you create the documents, the edits are always easier than starting from square one.

00;20;38;23 - 00;20;56;28

Karen Brown

Right? Now, for those of us who watch far too many crime dramas, is it true that a handwritten will can supersede something that you may have had lawyer done? If you have a last minute change of heart and you know you're sick?

00;20;57;01 - 00;21;22;27

Bill Simpson

I'm laughing, in part because Aretha Franklin is, an artist that I've followed for a long time because I have, an interest in many things related to the city of Detroit. And when Aretha passed away, if you can believe this, they found many wills, many of which she had written by herself, one of which was jammed under the cushions of her couch.

00;21;22;29 - 00;21;43;14

Bill Simpson

And her family has had to go to a judge in Michigan to have assistance in trying to sort out what was her actual will. Like, there's all these different versions. Some of them are handwritten. Some of them are done by a lawyer. Some of them are dated, some of they're not. It's just an absolute mess. At a very high level.

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Bill Simpson

And this is not, you know, definitive legal advice, but is you can you can communicate and state your intention and preferences by hand or in an informal manner and they do have some weight. Even if there's an older, more traditional will document in existence.

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Karen Brown

Fair enough. Okay. We've got our powers of attorney together. We've done a will. What do we do with them now? Those conversations amongst families can be very challenging, if not downright difficult or impossible. But somebody has to know, particularly in the case of powers of attorney who's supposed to be making decisions. What happens next? What do we do with these documents, Bill?

00;22;34;00 - 00;23;10;07

Bill Simpson

So most of the lawyers who prepare wills as part of the, service will offer to keep copies, in a secured vault. Vault, meaning, immune from fire as a safe repository for the documents if they are otherwise lost in somebody's home or in a in a family dynamic. I did that. The lawyer that, I use to create my document has copies of all my documentation in his office, and I have copies here at home.

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Bill Simpson

What I did is, I prepared on my own a letter in the form of an email to the estate trustees that I have asked to help me if these circumstances, become reality. And in that letter, I did not restate or rehash all the contents of the will or the powers of attorney, but I told them some of the following.

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Bill Simpson

I said, If I'm gone, you need to call lawyer so-and-so. Here's his phone number, and I trust him. And he's got my documents, and he knows at a higher level what I wanted to see happen. That's

number one. Number two, here's where I go to the bank. Here's who has my insurance policies. Here is my investment person.

00;24;01;03 - 00;24;24;06

Bill Simpson

And here's all their contact information, their names and phone numbers. And then in a few paragraphs, I tried to tell them what it is I was ultimately trying to accomplish with the estate planning that I made. For example, I told them that I have a piece of property that I would really prefer not to see sold. And I explained why.

00;24;24;09 - 00;24;47;08

Bill Simpson

And I, took some time to explain how I would like my son's a post-secondary education to be managed and what provisions are made for that and I tried to give them some discretion in how they go about it. And so, in other words, my letter is an overview or guide for the substance that's in the documents themselves.

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Bill Simpson

And I have left them with what I hope is a bit of a map or an index to help them go about the job more efficiently and more smoothly, and with less anxiety around what is it the Bill would want us to do? Well, I'm telling you, it's it's a long letter. But my my view was that if if those if I died, I am asking a lot of somebody to step in.

00;25;15;10 - 00;25;35;18

Bill Simpson

If they don't know what it is I need and what I want, what I desire to have happen. So I think I think a letter or some communication is very, very useful. And I sent a copy of my letter to the lawyer that's holding my documents so that it's all together is a package.

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Karen Brown

That sounds like a really good plan. Very reasonable. And I assume reference to your powers of attorney is included in that. Where you find them? Yeah. And this these people are,

emergency contacts of yours so that in the event of a car accident, but you're still alive, they know the process.

00;25;56;00 - 00;26;17;22

Bill Simpson

That's right. You know, for example, I told them I'd be very pleased if I could be an organ donor, if those are the circumstances. I, told them that there are, some measures I'm willing to let the doctors take if there's a reasonable chance but there are other circumstances where I don't think that's what I would want to have happen.

00;26;17;25 - 00;26;46;25

Bill Simpson

I was very particular about funeral arrangements. And what I would like to, to see done, because I think that's one it's particularly acute. It's one thing to ultimately go to a bank and ask for help from a, from a bank employee to have access to an account, to close an account or to make a payment. But I think where people really meet the intersection of emotion and, and obligation is around funeral planning.

00;26;46;28 - 00;26;52;18

Bill Simpson

And so I told them what I wanted..

00;26;52;20 - 00;27;13;27

Karen Brown

Makes a lot of sense. All of this makes so much sense, and I can just almost feel our listeners and viewers their pulse increasing because they know now why they they have to have these things done and if they don't have them done, I think some phone calls are going to be made when they hear about all about this.

00;27;13;29 - 00;27;46;15

Karen Brown

One of the more difficult conversations that many families should have, if they don't they should have, is around finances. To this day, I don't know what my father ever earned in a year. In that generation, money just wasn't discussed, and in many homes,

money still isn't discussed but having proper financial preparation for aging, for accidents, having the right insurance in place.

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Karen Brown

These are really important issues. Could I ask you to speak a bit about them?

00;27;53;18 - 00;28;18;29

Bill Simpson

Sure. So first of all, I agree with you that, in my work, there's very little advance preparation for the cost that come with being incapacitated or having a severe health setback. We'll leave death to the side just for a minute. I am, and I don't see this in a in a judgmental tone, at all.

00;28;19;02 - 00;28;54;25

Bill Simpson

But I'm always a little bit astonished at how little people actually know about what disability or income replacement benefits they have from their work. And I think it's a little bit like what we were discussing earlier, that because people think it's never gonna happen to them. It's not something that they need to take a lot of time to understand, but more or less, there is no form of wage replacement that pays 100% of the salary you were earning before you lost your capacity or became ill.

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Bill Simpson

A short term disability plan, will commonly pay 90 or 100% for a short period of time. Typically, less than, you know, 8 to 12 months from there. If you have them, long term disability benefits typically don't pay more than 66% of your of your income. So for many people, the loss of that third of their income on an indefinite basis is enough to create significant financial duress.

00;29;28;26 - 00;29;54;26

Bill Simpson

And in the absence of savings or any other form of insurance coverage that's it. There is no more money to help support a

household, when there's that kind of loss. So I think a really good place to start for a lot of people who are, who are still working is do you know what you would receive if you had a terrible stroke as an example and you couldn't work at all?

00;29;54;29 - 00;30;20;20

Bill Simpson

What would you get? And you need to get a calculator out literally, to determine if those remaining payments could adequately support you and your family if those are your circumstances for an indefinite period of time. And if the answer is no, then you've made it to the next step in your analysis, in the planning that you need to do.

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Karen Brown

You and I both have connections to rural areas where a lot of people, maybe even most, don't have employers. They're self-employed, and so they wouldn't have disability benefits at all. That really puts them behind the eight ball.

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Bill Simpson

My my clients who are self-employed are almost always, absorbing the most difficult pressure when something like this happens. For exactly that reason. You can be self-employed and purchase for yourself what is effectively a wage replacement policy of insurance and, I don't see this in a patronizing tone, but, I mean, that is, I think, part of the obligation you have to your family.

00;31;08;28 - 00;31;37;11

Bill Simpson

It's particularly if you're the primary earner in your household to be sure that if something happened, there's a contingency plan. Because the the absence of monthly income, that's enough puts other assets like property or, or other investments at risk because they have to be liquidated to support your care.

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Karen Brown

Right. Those kinds of plans would be something that that people would discuss with their insurance agent. Is that correct? Yes. Okay. Yeah. And insurance, you know, a lot of people, maybe even me included, grumble a lot whenever I write insurance cheques because it's a lot of money going out the door that seems not ever really to be used.

00;32;03;04 - 00;32;06;02

Karen Brown

But what if.

00;32;06;04 - 00;32;36;21

Bill Simpson

Exactly, you know, insurance in people that are young adults, first of all, is very inexpensive, relatively speaking, because insurance is entirely priced according to risk. And as we get older, the risk in the eyes of the insurers becomes greater. So for young families, for young adults, and for young people generally, it's actually not nearly as expensive as I think we sometimes fear that it might be.

00;32;36;23 - 00;33;09;24

Bill Simpson

It's not to say that it's not an expense, but it's not. It's not as punitive, I think, as many people imagine as we were talking about with some of our other, questions earlier. Insurance can also evolve and be adjusted over time. What you might take out for coverage at age 38 is perhaps different than the coverage that you need when you're 40 or 58 years old and you have the ability to make those changes as time goes on.

00;33;10;10 - 00;33;33;23

Bill Simpson

Broadly speaking, there's coverage for the loss of life, death, and there are at least 2 or 3 main, different types of insurance policy, the least expensive of which is something called term insurance. And that just means that it is enforced for a term of time. Ten years or 20 years is pretty common. And then it stops.

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Bill Simpson

But there are other kinds of life insurance products, like a universal or whole life policy, where you pay into it for a number of years, and once you've finished making your payments, you have the policy as an asset for the rest of your life. The earlier you take that type of policy out by age, the less expensive it is.

00;33;53;21 - 00;34;17;27

Bill Simpson

And when you try to take it out as an older adult. So term life and whole life or universal life, I, I would say are the main life insurance products. But then things like critical illness is usually a lump sum payment that is issued when a qualifying type of medical condition has arisen and it just issues a lump sum.

00;34;17;27 - 00;35;03;07

Bill Simpson

And for some people that might be the solution to the planning that we're talking about. Now, for people who wish to have, a wage replacement product, they're available and they're fairly customizable so somebody can take their circumstances and match it up with a product that they think is best for them. And at at the risk of complicating all this, there is also wage replacement insurance available if an injury or loss of capacity or death arises as a result of an accident, involving a motor vehicle, because our Ontario based motor vehicle policies come with what we call standard, coverage and one of those standard coverages at the moment is for something called

00;35;03;07 - 00;35;14;29

Bill Simpson

an income replacement benefit, which can pay in the absence of any other form of a voyage replacement insurance.

00;35;15;01 - 00;35;21;21

Karen Brown

Is that what I've heard you speak about optional coverage? Is that what you're talking about?

00;35;21;23 - 00;36;11;25

Bill Simpson

Yeah. So you and I are doing this interview in, in November of 2024, and at the moment when you purchase a Ontario policy, motor vehicle insurance and lawyers don't say that to sound like a dork. The reason we say motor vehicle is because it includes cars, trucks, motorcycles, ATVs and snowmobiles. All of those examples are covered by the phrase motor vehicle insurance and at the moment, and a standard motor vehicle policy in Ontario includes coverage for an income replacement benefit, which is that a a standard or minimum amount, but can be purchased in higher increments, which is what we call an optional benefit if that's appropriate for the person who needs it.

00;36;11;28 - 00;36;45;19

Bill Simpson

The provincial government has announced that in July of 2025, the standard policies will not include wage replacement, and a person will need to add that as an extra under their policy if they wish to have it. So there is a change coming. It's it's not going to be imminent. So people should be able to get through at least 1 or 2 renewals of their existing policies before they have to give that some specific thought.

00;36;45;21 - 00;37;11;18

Karen Brown

That sounds like something we should all really be thinking of. In my world, I often get calls from clients who have had a car accident or some other trauma that has happened. They're in rehab, and they're not allowed to go home until they can get into their house and use their washroom properly. That's not always even possible, depending on what kind of a home they live in.

00;37;11;21 - 00;37;27;03

Karen Brown

So then there's the whole issue of needing to find a different home, and one that will suit their new capacities. If this kind of coverage sounds like something that becomes very important in that circumstance.

00;37;27;06 - 00;37;57;23

Bill Simpson

Yes. You know, we've seen a lot lately, for several years where inflation and I think we all understand inflation has been, a considerable impact in our, in our Canadian economy. But, inflation is measured by sectors. And, one of the sectors that had highest rates in inflation is around health care. When I started as a lawyer, you could hire a personal support worker in Ontario for about 15 or \$16 an hour.

00;37;57;24 - 00;38;25;08

Bill Simpson

Today, you probably can't get one for less than 35 or \$36 an hour. And that that's an increase in approximately 20 years time. With the housing crisis in this country, we have more people renting their homes than ever before. And when it comes to modifying or making accessible a rental property that become very, very that requires a lot of thought.

00;38;25;13 - 00;38;51;28

Bill Simpson

Because on the one hand, you've got to navigate an owner and consent. But on the other hand, if you're funding the renovation or the changes and you're not able to retract that investment at the end of a lease or at the end of the term, you're, you know, financially, putting yourself in a situation where that I didn't have a long term benefit potentially.

00;38;52;00 - 00;39;16;25

Bill Simpson

So I would say the last five years, my clients who are dealing with housing concerns, trying to find accessible housing, trying to envision a scenario where there's ownership so that the modifications can be certain for a longer period of time. It's become a very acute problem. And I would say it's almost a crisis with a small c.

00;39;16;28 - 00;39;45;07

Karen Brown

I would absolutely agree with you. Yes. Just to switch topics a little bit, but still kind of talking about rights and responsibilities in, in terms of unplanned events, shall we say, a lot of people who are

older, you know, 50 and up, perhaps they've been married once or twice and they don't want to do it again. But they they do have a partner.

00:39:45:07 - 00:40:18:21

Karen Brown

Perhaps they live together. I'm finding that as people age, they get frightened about who might make decisions for them. And so they are opting to marry so that they have what they regard as that legal protection. Is that a justified decision to make? I mean, it sounds like if your powers of attorney and your will are in place, maybe you don't have to be that worried, but this is the fear that a lot of people have as they age.

00:40:18:22 - 00:40:28:19

Karen Brown

Who's going to make these decisions for me, I guess I better marry them because my kid lives in Timbuktu. They don't know what my life is like. They don't know what I would want.

00:40:28:22 - 00:40:59:03

Bill Simpson

Yeah. That that's an interesting question too. I recently seen a news article about that very topic that in the United States. There are many, older Americans who are struggling with how exactly they want to handle a new relationship at that stage in their life, balancing out the person that they are enjoying spending time with, but also a sense of obligation to family who may not be close at hand or who may not be emotionally close.

00:41:01:19 - 00:41:35:16

Bill Simpson

I mean, unfortunately, I, I'm, micromanagement comes easy to me. And so I would say that people should people should make their own arrangements, period, and not feel that the, the option they are stuck with is, is marriage if that is not in fact, their first choice. Again, not to be trite about it, but the cost of preparing these documents in control and in advance, relatively speaking, is a lot less than a number of the disaster scenarios

00:41:35;16 - 00:42:04;10

Bill Simpson

should they strike and you don't have them In the context of marriage and, and whether that is a traditional marriage or what the law calls a common law marriage, there are legal documents that can be created that provide some direction on how certain financial assets or, or, shared property, for example, is going to be managed if that relationship comes to an end.

00:42:04;12 - 00:42:43;19

Bill Simpson

Here in Ontario, we we commonly referred to those as cohabitation agreements. The, the Americans, often refer to it as a prenup. They're they're very similar in concept, in spirit, to cohabitation agreements. It's just a little less provocative description for it, but that is commonly how the people who are deciding to become married but wish to make sure that if it didn't work out, there's a there's an understanding about how things are going to be managed or excluded, that that's that's a really that's really important document to have.

00:42:43;22 - 00:42:50;14

Karen Brown

Right. So they're not limited to either not married or married.

00:42:50;17 - 00:42:51;04

Bill Simpson

Exactly.

00:42:51;10 - 00:43:09;10

Karen Brown

They can choose the kind of life that they wish to live and put in place a document that represents their wishes, really, in terms of property, decision making. The kids, grown kids, I suppose at that point.

00:43:09;12 - 00:43:15;07

Bill Simpson

Yeah. Somebody can say, I love you and I'm going to marry you, but if it doesn't work, this is how it's going to get ended.

00:43;15;10 - 00:43;32;00

Karen Brown

Right? And that sounds very wise. You know, if people have assets of any kind, whether it's a house, it might be a business. And I suppose having a business complicates all of these agreements. But, you know, you need to protect what you built.

00:43;32;02 - 00:44;03;06

Bill Simpson

Yeah. You know, both in my work life and just in my, my peer group, one of the things that I also know is happening right now is that things like farms, things like family cottage properties or vacation homes, these are really difficult assets to try to manage in the context of estate planning. Let's say that I, let's say a person owns, a beautiful cottage property and there are three children and some grandchildren.

00:44;03;08 - 00:44;26;15

Bill Simpson

Well, first of all, you know, to say I'm leaving it to my three children equally, that immediately creates a financial obligation amongst three people who might not want it or can't manage it. And if somebody wants out, how do they get out? Do they have to sell to the other two, or can they sell to somebody else outside the family?

00:44;26;18 - 00:44;48;24

Bill Simpson

What do you do with the grandkids and and how old they are at the time this transfer needs to happen? And and can you tie the hands of the adult children for the benefit of grandchildren in that next generation to come? I think sometimes people start to think about their planning from an emotional point of view. Well, I have to treat them all the same.

00:44;48;24 - 00:45;12;10

Bill Simpson

Like I want to be fair. I don't want them to think I played favourites. Those are those are really understandable concerns. But maybe

with some professional guidance, you know, there's a way to recognize each person in a way that's meaningful to them, but also is a little more customized or tailored to what each of those three people in my example actually want.

00:45:12;12 - 00:45:36;08

Bill Simpson

And it's it's hard to talk about that around, around a living room or a family dinner. But again, it's a really difficult scenario to put three people in that situation who didn't expect it or didn't plan for it and are under stress now about having to make it work.

00:45:36;10 - 00:46:03;22

Karen Brown

Those kinds of discussions with families are certainly challenging. At the very least, you know, for all the reasons that you just noted. But they can be very contentious as well. And and so people avoid those discussions because they just know what's coming. But that doesn't really help anything in the long term, does it? Because when the inevitable happens, it's still there.

00:46:03;24 - 00:46:38;05

Bill Simpson

But we lawyers like to say there's no fight over an estate fight. And, I think so often the reason why they're very acrimonious is because there is so much emotion. And I think a lot of that emotion comes from the absence of discussion, understanding and consensus building before the death occurred. Right, right. I think it's natural for all of us to just be tempted to put our heads in the sand and say, this isn't a today problem, it's a tomorrow problem.

00:46:38;11 - 00:46:43;07

Bill Simpson

Except we never really get to tomorrow. And and then it happens.

00:46:43;09 - 00:46:46;29

Karen Brown

And tomorrow isn't guaranteed to be like today.

00;46;47;01 - 00;46;47;16

Bill Simpson
That's right.

00;46;47;19 - 00;47;05;25

Karen Brown

So okay. You know, I think if there's no fight like an estate fight okay, that's probably a really good place to to end our discussion. But I want to offer you the opportunity to offer anything else that you might think our listeners and viewers would benefit from.

00;47;05;27 - 00;47;31;27

Bill Simpson

You know, sometimes I get asked if it's okay to use, an online, will kit or powers of attorney precedent and simply fill it in and, you know, I'm always a little, challenged in how to answer that. I think that there are very simple, straightforward types of, scenarios where those documents are probably quite adequate.

00;47;31;29 - 00;48;04;12

Bill Simpson

But I also think that if you have a very simple type of estate or affairs to manage, as I indicated earlier, lawyers tend to be able to price their work according to the complexity or the amount of detail that that is required. And so, I always feel a little bit like good lawyers can, can raise things around tax obligations, insurance considerations and the way in which ownership of property is structured

00;48;04;12 - 00;48;24;26

Bill Simpson

now that might be advantageous for a transfer in the event of a death. Those are nuances that are very difficult to get from an online source. And, and yet, I do think that that little extra effort, even though it comes at a little extra expense, ultimately really does pay a big, a big dividend, down the road.

00;48;24;28 - 00;48;50;25

Bill Simpson

So I'm, I'm cool, to the use of, those online resources. But that's not to criticize them or to be, to to sound arrogant about it. I just think that it's very difficult to take many, round pegs and get them in square holes. And, almost every family needs a little customization to make it work.

00;48;50;28 - 00;49;01;28

Karen Brown

Sage advice. Well, thank you very much for joining us on this podcast, Bill. I, I'm most grateful, and I think our listeners will take an awful lot of value from this discussion.

00;49;02;01 - 00;49;04;25

Bill Simpson

Well, thank you very much for having me. It's nice to talk to you.

00;49;04;27 - 00;49;27;04

Karen Brown

It was my pleasure. And so I, I'm sure I would have Bill join me in hoping that everybody gets their stuff together. And, you know, it's it's that kind of thing that I, as we've been saying all through this podcast, get it together, put it away. Hope you never need it. But when you do need it, it is just so valuable.

00;49;27;07 - 00;49;43;19

Karen Brown

So once again, my thanks to Bill and to all of our listeners. I thank you for joining us. And I would invite you to join us on the next episode of Real Life Renos: The Podcast.

00;49;43;21 - 00;49;47;29

Karen Brown

00;49;48;01 - 00;49;55;28

Karen Brown

Invite.