

Fourth Annual Bread and Butter Issues in Family Law

Date: Friday, September 27, 2013 | 9:00 am – 1:00 pm

Location: Twenty Toronto Street Conferences and Events
(OBA Conference Centre)
20 Toronto Street, 2nd Floor, Toronto



Live

Webcast

3.0 Substantive Hours
1.0 Professionalism Hour

Note: New members may apply any program that contains a minimum of **0.5 Professionalism Hours** toward the annual CPD requirement.

Program Chairs: **James H. Herbert**, Chappell Partners LLP
Alex Finlayson, Alex Finlayson, Barrister & Solicitor



Program Sponsor:



There are certain “bread and butter” issues that arise daily in a family law practice. Lawyers must have the skills and knowledge to address these issues. This year’s program will provide practical, up to date information on the latest case law, and tips and strategies for solving frequently occurring problems. Learn how changes to the rules governing the division of pensions will affect your clients, how to ensure your marriage contracts are enforceable, and what the courts are saying about limitation periods and estate freezes in the context of family law. Hear from an expert group of speakers on these and other significant family law issues.

8:30 am Registration and Coffee

9:00 am Welcome and Opening Remarks from the Chairs

9:05 am **Making Sense of Locked in RRSPs**

- Family lawyers need to understand locked in RRSPs, given their importance in the new regime for dividing pensions.
- How is a locked in RRSP account established?
- What are the rules for making withdrawals from a locked in RRSP?
- Are there any limitations on the type of investment that can be put into a locked in RRSP?

John Duke, Vice-President and Investment Advisor,
R.B.C. Dominion Securities

9:30 am **Understanding the Effect of Retirement on Support Obligations**

Robert Stewart was successful counsel in the recent *Hesketh v. Brooker* decision and will provide an overview of the leading cases and the law on point, including:

- Does retirement entitle a support payor to reduce or terminate the support obligation?
- Is retirement a material change in circumstances?
- How do the courts treat this situation?

Robert B.G. Stewart, Mandryk, Stewart & Morgan -
Tillsonburg

9:50 am **DIVORCEmate – Complicated Calculations**

It is easy to calculate the table amount, but some calculations are much more challenging:

- Inputting dividend and capital gains
- Imputing income
- How to do the gross up for imputed income
- How to account for child support and spousal support obligations from previous relationships
- The importance of s. 7 expenses when calculating spousal support.
- Calculating spousal support where there is split custody of children.

Michael Perlman, DIVORCEmate Software Inc.

10:20 am **Drafting Enforceable Marriage Contracts**

Increasingly, clients are asking for marriage contracts and the key consideration for the lawyer drafting the contract is enforceability.

- How does the lawyer ensure enforceability?
- What are the “do’s and don’ts?”

James H. Herbert, Chappell Partners LLP

10:45 am **Estate Freezes – When Are They Excluded?**

In *McNamee v. McNamee*, the Ontario Court of Appeal found that shares transferred from father to son by way of

an estate freeze were a gift and thus excluded property under the *Family Law Act*. Don't miss this opportunity to hear from the lawyer who did the estate freeze in *McNamee*.

- Why was the *McNamee* estate freeze considered a gift?
- What are the criteria for determining if property received by way of an estate freeze is gifted or not?

Shane A. Kelford, Howard, Ryan, Kelford, Knott & Dixon -
Smiths Falls

11:10 am Networking Break

11:25 am **Using the Hague Convention**

- When does the Hague Convention apply?
- How does a lawyer invoke the Hague Convention?
- What are the themes of the most recent case law on the Hague Convention?
- How do the courts view Article 13, which allows the court to refuse to return a child under certain circumstances?

Phyllis R. Brodtkin, MacDonald & Partners LLP

11:50 am **Limitation Periods & Family Law**

Mr. Rogers and Mr. Smith were counsel in the important limitation period case of *McConnell v. Huxtable* which held that the limitation period for bringing a constructive trust claim is ten years.

They will Give an overview of the limitation periods that relate to family law claims and will discuss the *McConnell v. Huxtable* case in detail and what its ramifications are for family law.

Bill Rogers, Rogers Family Law

Bryan R.G. Smith, Bastedo Stewart Smith LLP

12:15 pm **The New Pension Regime:**

The Administrator’s Point of View

Under the new regime for the division of pensions, lawyers frequently need to make applications to pension administrators to have pensions divided.

This session will address:

- The various “small errors” in the application materials that frequently cause delays
- How lawyers can expedite the process
- The effect of the pension’s funding status (see Part F of the Statement of Family Law Value) on the ability of the administrator to make the transfer to the spouse of the member.

Anne A. Slivinskis, Legal Counsel, Plan Administration,
Ontario Teachers’ Pension Plan

12:45 pm Concluding Remarks & Questions

1:00 pm Program Concludes

PROGRAM REGISTRATION IS ONLINE www.oba.org/pd

Questions? pd@oba.org