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**1. Dissipation of Assets: C.A.**

[Korchinski v. Korchinski](#), 2006 MBCA 149 (CanLII) is an appeal from an order of monthly and retroactive lump sum spousal support, as well as of an order that the appellant pay a sum to the respondent pursuant to a finding under [The Family Property Act](#) that the appellant had dissipated assets. On the issue of dissipation, the court considers whether there is an element of intention required and finds that:

...there must be a mental element involved in dissipation, however slight that requirement might be....[T]he judge was in error when he stated that it was beside the point that the husband had little control over his actions. Quite to the contrary, that fact is exactly the point. Because of his injury the husband simply could not comprehend that his actions were irresponsible. For that reason the minimal mental element required to establish dissipation under the *Act* was absent.

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**2. Excess of Master's Jurisdiction: C.A.**

In [Zalizniak v. Zalizniak](#), 2006 MBCA 161 (CanLII) the Court granted a motion for leave to amend the Notice of Appeal filed by the purchaser of the Zalizniaks' real property, on the basis that the purchaser had established an additional arguable ground of appeal; namely, whether the scope of a reference which took place before the Master pursuant to [Court of Queen's Bench Rule 54.02](#) regarding alleged loss and damage suffered by the purchaser exceeded the Master's jurisdiction. Although the proceeding before the Master was conducted over a period of months, and was completed in June, 2005, the court held that the possibility of the proceeding constituting an excess of jurisdiction and being rendered a nullity was an exceptional circumstance such that the amendment must be permitted and the merits of the issue argued on the appeal.

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**3. Declaration of Parentage for Same Sex Mother: ON.C.A.**

The Ontario Court of Appeal decision in [A.A. v. B.B.](#), 2007 ONCA 2 (CanLII) has featured prominently in the news recently. The court exercised its *parens patriae* jurisdiction to allow three parents to appear on a birth registration: the birth mother, her same-sex partner and the sperm donor father. [The Vital Statistics Act](#) is somewhat different from Ontario's legislation. In the case of a child born through artificial insemination in Manitoba, [s. 3\(6\)](#) would allow the child's birth registration to be completed showing the mother's same-sex partner as the child's other parent. For further commentary on the decision, see the article [DD has two mommies - and a dad](#) in the January 8, 2007 issue of Law Times.

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#### 4. Jurisdiction Over Non-Resident: Q.B.

In [\*Holeman v. Holeman\*](#), 2006 MBQB 278 (CanLII), the court determined (amongst other things) that the respondent, a resident of Washington, had attorned to the jurisdiction of the Manitoba court respecting child support by participating in the Manitoba proceeding with respect to access. There was a pre-existing Washington child support order and the respondent argued that only the Washington court had jurisdiction over child support. The court found that he could not attorn to Manitoba on an issue-by-issue basis. Enforceability of the Manitoba support order in Washington was not mentioned in the decision but may be a problem under that state's inter-jurisdictional support enforcement law.

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#### 5. MEP Enforcement Information

[\*Queen's Bench Rule 70.31\(15\)\*](#) requires that a completed enforcement information form be provided to the court with any order that grants support under *The Family Maintenance Act* or *The Child and Family Services Act* or requires support be paid through the Maintenance Enforcement Program. The only exception is when an opt-out form ([Form 70X](#)), signed by the support recipient, is provided to the court at the time the order is submitted. The quality of information provided affects the ability of the Program to enforce the order. Accurate information as to the parties' addresses and employment is vital. Where information is not available, it is useful to state that fact and explain why this is so. All details provided will assist with the timely collection of support.

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