



In this issue:

1. [Costs Against Lawyer](#)
2. [When Does a Common Law Relationship Begin?](#)
3. [In Loco Parentis Reconsidered: AB.C.A.](#)
4. [CLE on Considering Capacity](#)
5. [Papers from B.C. CLE](#)

1. Costs Against Lawyer

In [Eblie v. Yankoski](#), 2007 MBQB 106 (CanLII) the court reviews the principles governing an award of costs against a lawyer personally. This examination of the rules is accompanied by a thorough examination of case law and the particular facts of this case. The court concludes that counsel for the Petitioner failed substantially in his duty to the court and awards costs against counsel.

2. When Does a Common Law Relationship Begin?

Our Court of Queen's Bench has issued a number of recent decisions on the issue of when the parties' common law relationship began. Take a look at:

- [Maresich v. Penner](#), 2007 MBQB 85 (CanLII)
- [Huberdeau v. Reid](#), 2007 MBQB 69 (CanLII)
- [Wiebe v. Thompson](#), 2006 MBQB 157 (not available on CanLII), [2006] M.J. No. 337 (QL)

3. In Loco Parentis Reconsidered: AB.C.A.

The Alberta Court of Appeal has recently issued two decisions in respect of when a person stands in place of a parent. In [D.W.H. v. D.J.R.](#), 2007 ABCA 57 (CanLII), the court considers an access application from the former partner of the male respondent. The male and female respondents are the biological parents of the child, but the applicant and male respondent parented the child until the breakdown of their relationship. The applicant sought access on the basis that he was the parent, or stood *in loco parentis* to the child. His application was successful. In [Doe v. Alberta](#), 2007 ABCA 50 (CanLII), the court considers whether a person can contract out of standing *in loco parentis* to a child. Here, the female applicant conceived a child through assisted means and gave birth to the child. The applicants continued to cohabit, but the male applicant determined he did not wish to parent or have any formal relationship to the child (he was not the biological father.) The court finds that its jurisdiction to consider whether or not a person stands *in loco parentis* cannot be ousted by contractual arrangements between the parties.

4. CLE on Considering Capacity

As part of a series of CLE programs focusing on elder law issues, The Law Society will be presenting [Whose Decision Is It Anyway? Responding to Concerns of Client Capacity](#) on Monday, June 25 from 1:00 - 4:00 p.m. The program is chaired by the Honourable Mr. Justice Schulman

and features presenters John Neufeld, Q.C., Joanna Knowlton and Dr. Barry Campbell.

5. Papers from B.C. CLE

Take a look at the following CLE papers recently posted on the CLE Society of British Columbia website:

- [*Family law update from the Annual Review of Law & Practice-2007*](#)
 - [*Ties that bind? Support and the payor's estate*](#)
 - [*The Child Specialist in Collaborative Separation and Divorce*](#)
-

[*Go to the eLaw Archive*](#)

The Law Society of Manitoba provides this service solely for the benefit of and to support the competence of its members. Members should exercise their professional judgment in using or adapting any content.