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**1. Appreciation in Pension Benefit Credits is Shareable: C.A.**

The Manitoba Court of Appeal, in [Foster v. Foster et al.](#), 2007 MBCA 96 (CanLII) considered whether "...the increase in value in a person's pension benefit credit attributable to pre-marriage contributions accrued during the marriage is shareable, in the context of a defined contribution pension plan." In coming to the conclusion that the appreciation in value was shareable, the court looked at applicable provisions of both [The Pension Benefits Act](#) and [The Family Property Act](#) and stated that "...the court must strive to interpret these two pieces of legislation as part of a coherent, uniform and harmonious whole. This makes sense because both Acts are motivated by a policy rationale of equitable sharing."

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**2. C.A. Upholds Imputation of Income**

The appellant in [Verwey v. Verwey](#), 2007 MBCA 102 (CanLII) unsuccessfully challenged an interim order that imputed income to him a result of his failure to provide adequate financial disclosure. The court found that:

In the present case there is a deliberate non-disclosure by the husband of even basic information without even considering the financial information from the two corporations in which he is a shareholder. Furthermore, as a shareholder he is entitled to receive annual financial statements from the companies which he could have provided, but for reasons of his own has declined to do so.

The financial information which the husband provided was inadequate and failed to meet the prescribed minimums required by the legislation.

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**3. Ont. C.A. on Retroactive Child Support & Unpaid Costs**

Take note of the following recent decisions from the Ontario Court of Appeal:

- [Frankum v. Frankum](#), 2007 ONCA 429 (CanLII). The court found that "...it is an error in law to bar a parent from seeking access to a child on the sole ground of unpaid costs without considering the amount of costs, the reasons they were unpaid, and the parent's ability to pay."
- [Connelly v. McGouran](#), 2007 ONCA 578 (CanLII). The court considered the issue of retroactive child support in light of the Supreme Court decisions in [D.B.S. v. S.R.G.; L.J.W. v. T.A.R.](#); [Henry v. Henry](#); [Hiemstra v. Hiemstra](#) and found that "...the date of retroactivity can be extended back in time for a payor parent who withholds information about a material

change in circumstances, such as income increases that would entitle the child to increased support. In those circumstances, the presumptive date will be the date of the material change..."

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#### **4. Manitoba Child Support Guideline Amendments**

The [\*Child Support Guidelines Regulation, amendment\*](#), Man Reg. 125/2007, amending Manitoba's *Child Support Guidelines Regulation*, Man. Reg. 58/98, to address the handling of the Universal Child Care Benefit (UCCB) and provide for certain operational efficiencies for the Child Support Recalculation Service, was registered and came into force on Monday September 17, 2007. UCCB-related amendments to Schedule III (Adjustments to Income) of the Guidelines were contained in the [\*amendments to the Federal Child Support Guidelines\*](#) that came into force on April 1, 2007. Because Schedule III is adopted by reference in the Manitoba *Child Support Guidelines Regulation*, the federal changes automatically came into force on that date in our province.

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#### **5. First Choice Pilot Project**

[Family Conciliation's](#) First Choice Pilot Project will be the topic of a presentation by Ron Bewski and Lorraine Mocarski at the next meeting of the Collaborative Law Association. This is a settlement-oriented and accelerated dispute resolution service combining evaluation, mediation and counselling. The presentation will take place at Taylor McCaffrey, 400 St. Mary Avenue in the 11th floor Blackstone Lounge, from 5:00 - 7:00 p.m. on November 1, 2007. All are welcome and should RSVP to [Shannon Breckman](#) or [Rhonda Hercus](#).

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