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1. RRSP Should Not Have Been Liquidated for Arrears: C.A.

The court in [Dew v. Dew](#), 2008 MBCA 116 (CanLII) allowed an "...appeal from an order directing that two mutual funds redeem monies held in Registered Retirement Savings Plans (RRSPs) of the appellant husband and pay those funds to the respondent wife on account of spousal and child support arrears." The court found that the order had been made without authority and did not fall within the exceptions permitted by s. 3 of [The Registered Retirement Savings Protection Act](#), C.C.S.M., c. R116.

2. Conflict of Interest: Q.B.

In [Melnyk v Melnyk](#), 2008 MBQB 238 (CanLII) the court considered a motion to remove counsel for the Petitioner on the basis of a conflict of interest. The firm retained by the Petitioner had represented the Respondent husband on his first divorce and was now representing his 2nd wife on their divorce. The court found that:

...because [the firm] acted for the husband on his first divorce and because of the particular and somewhat peculiar facts of this case, the firm cannot act for the wife on the matter presently before the court. Though it is not always the case that two divorces involving the same party are "related", here the two are. And the conflict is exacerbated by the decision that the husband has made to call [his past lawyer] as a witness.

3. Costs Against Parent Who Alienated Children: Q.B.

The court in [A.S.C. v. S.C.](#), 2008 MBQB 250 (CanLII) considered the question of costs after the conclusion of a trial in which the primary issue was care and control of the children in a situation where the children had been alienated from their mother. The court found as follows:

There were no winners at this trial. The father did not win the vindication that he sought. Much of his evidence was not credible and was rejected. His deliberate course of conduct aimed at alienating the children from their mother was exposed. His plea for sole custody was rejected. Although he retained physical care and control, this aspect of the order was subject to several conditions, including an order preventing him from moving the children to another province.

The mother did not "win" this action. Throughout the litigation she was exposed to

expensive, intrusive interventions. Her relationship with the children was undermined and destroyed by the father's actions. She did not get the order of physical custody that she sought.

The most serious and tragic outcome of this litigation was that the children are still estranged from their mother and have been emotionally harmed by the father's conduct. They have been subjected to a high conflict separation and to the ensuing psychological damage.

Awarding the father costs would constitute a gross injustice. It would reward his behaviour and send a message to him and to his children that he has somehow "won". The father's actions increased the complexity of the litigation and unnecessarily lengthened the duration of the pre-trial proceedings and the trial. The father refused to take any responsibility for his role in the children's rejection of their mother, and for the psychological damage to the children. This is a proper case to award costs against the father.

4. Pension Issues in Family Law: Mark Your Calendar

Mark your calendars to attend *Pension Issues in Family Law: What You Need to Know* on Friday, February 27, 2009 at the Fort Garry Hotel. This full day CLE program is jointly presented by The Law Society of Manitoba, the Court of Queen's Bench Family Division Judges and the Family Law Section of the Manitoba Bar Association. Featured presenter Thomas Anderson, Q.C. of [Anderson Pension Law Consulting](#) will share his expertise. [Contact Legal Studies](#) at the Law Society for further details and to register.

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