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1. Popular Family Law Booklet Updated

Manitoba Justice has recently released the *Family Law in Manitoba* (2008 edition) public information booklet. Copies can be accessed on the Justice website at:

- <http://www.gov.mb.ca/justice/family/law/englishbooklet/index.html> (English)
- <http://www.gov.mb.ca/justice/family/law/frenchbooklet/index.fr.html> (French)

Law firms wishing to obtain copies for clients may contact Sandy Sousa at 945-0980 or sandy.sousa@gov.mb.ca.

2. Judges Urge Firm Case Management in Family Law Cases

The Court of Appeal released its reasons in [Gale v. Gale](#), 2008 MBCA 134 on November 24, 2008. Among other things, the case discusses the proper test for a preservation order under s.21 of [The Family Property Act](#). The court adopted the test set out in *Canadian Family Law* as follows: "In exercising its discretionary jurisdiction, the court should consider (i) the relative strength of the equalization claim; (ii) the balance of convenience; and (iii) the prospect of irreparable harm." The court dismissed the husband's appeal of two interim preservation orders with costs, and in doing so expressed once again its opinion that appeals of interim orders do not practically benefit the parties. The court adopted the following comments of Justice MacInnes when he dismissed the husband's earlier appeal of the award of interim support ([2007 MBCA 162](#) at para. 33): "This case cries out for firm case management in bringing about an expeditious resolution in the interests of all concerned...."

Justice Little echoes the demand for firm case management in his reasons for judgment in [Shearer v. Hood](#), 2008 MBQB 322, released December 4, 2008. In this case, the court considered the authority of a case conference judge to "order" or "direct" the pre-trial disclosure of the names of potential witnesses under Queen's Bench Rule 70 in circumstances where disclosure is resisted. Justice Little held that a case conference judge cannot "order" such disclosure, but can direct disclosure in appropriate cases. While reviewing the facts of the case he observed that moving high conflict cases "forward in a timely way can be essential if the interests of justice, to say nothing of the interests of children, are to be served" and he noted that on more than one occasion the Court of Appeal has spoken of "aggressive case management."

3. Significant Misapprehension of Evidence the Standard of Review in Custody/Support

Cases

The Manitoba Court of Appeal released its decision in [Dyck v. Dyck](#), 2008 MBCA 135, an appeal dealing with issues of custody and spousal support, on December 1, 2008. The court dismissed the appeal of the custody order, noting that "the standard of review in cases dealing with custody and support is, absent an error in principle, a significant misapprehension of the evidence..." The court found that the trial judge's decision to go further than what was recommended by the expert and change the custody arrangement was not a reversible error in the circumstances. The court also took the unusual step of referring the issue of support back to the trial court to address a number of issues that were not considered at trial.

4. Winter CLEs

Those who missed last month's program concerning the new rules on client identification and verification (in effect December 31, 2008) will have another opportunity to learn about the rules at the repeat program ["Know Your Client" Rules](#). The program, presented by Barney Christianson, Q.C., takes place at the Law Society on Wednesday, January 7, 2009 from 12:00 noon - 1:30 p.m. Contact the [Law Society](#) for further details, to register for the program, or to download sample forms to assist in complying with the rules.

And, be sure to register soon for the upcoming full-day professional development program, [Pension Issues in Family Law: What You Need to Know](#) presented jointly by The Law Society of Manitoba, Court of Queen's Bench Family Division Judges and the Manitoba Bar Association, Family Law Section. The program will be held at the Fort Garry Hotel on Friday, February 27, 2009. [Contact Legal Studies](#) for further information and to register.

5. MBA Mid-Winter Meeting

The annual [Mid-Winter Meeting](#) of the [Manitoba Bar Association](#) will take place from January 22 to 24, 2009 at the Hotel Fort Garry. Continuing legal education programs of interest to family law practitioners include:

- 9:30 - 11:30 a.m. - *Trial Evidence/Process Refresher* - a panel discussion on evidentiary basics at trial, including common objections, documentary evidence and expert evidence;
- 9:30 - 11:30 a.m. - *Dispute Resolution & Mediation Skills for Lawyers* - strategies for managing a mediation session.

All programs take place on January 23, 2009.

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