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1. Intent to Separate Must be Clear

The parties in [Field v. McLaren](#), 2009 MBQB 118 gave conflicting testimony regarding both the length and commencement/termination dates of their common-law relationship. The court accepted as settled law that the intent of one party to separate may be sufficient to sever the relationship. However, after examining the actions and behaviour of the parties, the court found little or no evidence that the petitioner formed or adhered to an intention to separate or that she consistently communicated it to the respondent in words or by deed. Noting that the parties shared finances, friends, and family, and had an intimate relationship for the qualifying period, the court concluded that they were common-law partners. Determining the exact date on which cohabitation commenced was more complicated. Amendments to *The Family Property Act* which make it applicable to common-law partners do not clearly specify whether periods of cohabitation preceding the three year threshold period are to be included for accounting purposes. Although a literal reading of s.4(2.2)(c) might suggest that once the qualifying period has been established assets acquired during preceding periods of cohabitation are to be included, the court rejected this interpretation as it would result in common-law partners being treated differently than married ones in some circumstances.

2. Care and Control Decision Upheld: Man. C.A.

In [Hudson v. Hudson](#), 2009 MBCA 63, the Manitoba Court of Appeal dismissed the father's appeal from a custody order granting him care and control of his son for 37 per cent of the time, rather than the 40 percent he had proposed at trial or the 50 percent recommended by the expert witness. The court found no merit to the father's argument that the judge failed to provide adequate reasons for her decision and concluded: "the judge provided the father with substantially that which he proposed, which, when taken in conjunction with the reasons as a whole, should leave him in no doubt as to why the trial judge reached the decision that she did."

3. Family Law Implications for Elder Clients

The paper [Elder Law 2009: A Potpourri of Family Law Issues](#) by Colin A. Millar and published on CLE BC's [Practice Points](#), was written for a B.C. continuing legal education program on Elder Law 2009. The paper identifies family law principles that may affect elder clients and how to address them. Although the paper focuses on B.C. legislation and case law, much of the practical advice it contains applies generally.

4. Self-represented Litigants in Family Courts

The article [*Guidance through the gaps*](#), by Monique Conrod, from the June 2009 edition of the *National* magazine, examines the growing phenomenon of self-represented litigants in family law matters and the rise in non-profit agencies and websites that are addressing it. It concludes with the suggestion that it may be time for Canadian lawyers to follow the American lead (and urging of Chief Justice Beverley McLachlin) to consider unbundling their services, so that the average person has a reasonable chance at access to the courts.

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