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Assessing Costs a Balancing Act: MBQB

The court takes a detailed look at the factors to consider when awarding costs in [Klein v Langcaster](#), 2011 MBQB 246, a case involving a less than forthright self-represented respondent who unreasonably opposed the petitioner's efforts to vary their spousal support order. Seeking full indemnification, the petitioner argued he was presumptively entitled to either solicitor-client or double party-and-party tariff costs from the date he made the rejected settlement offer which was later endorsed by the court. While the court was not persuaded that either of these was warranted, it did find ample reason to make an increased award of costs. The \$16,000 award fell midway between party-and-party and solicitor-client costs.

Ignoring Access Order is Contempt: MBQB

A mother who frustrated a father's access rights by moving without notice to B.C. was clearly in contempt according to the court in [Anaka v. Anaka](#), 2011 MBQB 220. The court rejected the mother's argument that the father's failure to abide by the order (access had been sporadic or non-existent due to his strained relationship with the child) justified her actions. The court found:

The order that is made to provide access to a non-custodial parent is not to be abandoned or ignored by the custodial parent simply because challenges or problems or even interruptions in contact with the other parent arise from time-to-time that may adversely impact the child, unless the risk to the child is imminent and serious, and in such event variation proceedings ought to be promptly initiated.

Moreover, maintenance of the integrity of the judicial system requires compliance with orders made by the court, especially orders of custody and access in family proceedings.

Shared Custody in Child's Best Interests: MBQB

The court refused to vary a shared custody consent order to give either parent primary care and control in [Delaney v. Radford](#), 2011 MBQB 242, finding it would not be in the child's best interest to change a care and control arrangement that had been in place for the last half of his life. Instead the court ordered that the joint regime continue, but that the child be in the care and control of the father on school days and with his mother otherwise, and that holidays be shared. The order also specified where the child was to attend school, thus doing away with the unacceptable compromise of the child attending two different schools.

In Force Legislation

Sections 1 and 8 to 25, s.26 except insofar as it enacts ss. 61.3 and 61.4 of *The Family Maintenance Act*, and ss. 27, 29 and 30 of [The Strengthened Enforcement of Family Support Payments and Miscellaneous Amendments Act \(Various Acts Amended\)](#) will come into force December 3, 2011; and s. 26 (insofar as it enacts ss. 61.3 and 61.4 of *The Family Maintenance Act*) will come into force April 1, 2012.

[Maintenance Enforcement Regulation 142/2011](#) will also come into force on December 3, 2011, except for ss.22-27, which will come into force April 1, 2012.

These amendments will mean significant changes to Manitoba's [Maintenance Enforcement Program](#) as noted in this April 2010 [news release](#) and the [explanatory note](#) to Bill 30. As noted below, the Law Society has planned three programs on the new legislation.

Recommended Reading

[The Family Way](#) - The October 2011 CBA National Family Law section newsletter contains articles on [family mediation](#), [Family Matters](#) (the TV show resulting from the book *Tug of War*), and an [update](#) on retaining judicial discretion as to the "best interests of the child" test, among others.

[The voice of the child in family court](#) - the author of this *Lawyers Weekly* article argues lawyers need special training to properly represent the growing voice of children in family courts. And, the article [Move From Law to Action and Hear the Child](#) (written by a member of the B.C. Hear the Child Society and published in *The Family Way*, above) discusses how that objective might be achieved.

[All over the map](#) - a *Canadian Lawyer* article suggesting it's time for the Supreme Court of Canada to address the conflicting case law concerning spousal support awards where income exceeds \$350,000.

[Ottawa moves to curb marriages of convenience](#) - a *Globe and Mail* article from October 26, 2011 describing federal government initiatives to crack down on marriage fraud. Critics of the proposed new regulations to make permanent residency conditional on living together for an as yet unspecified period of time argue this will make new immigrants vulnerable to domestic abuse.

B.C. Endorses Best Practice Guidelines for Family Lawyers

The Law Society of British Columbia has endorsed the report of its family law task force setting out [Best Practice Guidelines for Lawyers Practising Family Law](#). The report reviews the history leading to the decision to strike the task force and recommends that the 9 point guidelines be endorsed as "aspirational standards" for family law lawyers.

Back From the Brink: Insolvency in the New Era - 2011 Isaac Pitblado Lectures

It's not too late to [register](#) for the [2011 Isaac Pitblado Lectures](#), which will explore the latest developments in bankruptcy and insolvency law, with a focus on "made in Manitoba" problems and solutions. Keynote speakers include Bob Klotz, author of *Bankruptcy, Insolvency and Family Law*, 2d ed., Professor Janis Sarra, and Frank Bennett. The lectures will be held November 25 and 26 at the Fort Garry Hotel.

Maintenance Enforcement CPD: LSM

The Law Society has organised [three program sessions](#) on the upcoming changes to *The Strengthened Enforcement of Family Support Payments and Miscellaneous Amendments Act* and regulation discussed above. There will be live programs in both Winnipeg (December 12, 2011) and Brandon (January 17, 2012) and a webinar on December 19, 2011. The director of the Maintenance Enforcement Program and two lawyers from the Family Law Branch will review the changes to the legislation and to the MEP, including how to read the MEP printouts and how the new legislation and computer system have changed the program.

MBA Programs

[Improving your Practice Part Two - Tips from both sides of the Bench](#) - The Honourable Madam Justice Goldberg and Lawrence Pinsky are the speakers at this MBA Family Law section program on November 7, 2011. The program runs from 12:00 noon to 1:30 p.m. at the Law Society classroom.

The Family Law section has also set the date for its annual holiday party, which will take place from 5:30 - 8:30 p.m. on December 14, 2011 at Taylor McCaffrey LLP's Blackstone Lounge.

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