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**DIVORCE ACT MANUAL**

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**Release No. 101, September 2019**

**What's New in this Update:**

- *Haworth v. Haworth* (2018), 21 R.F.L. (8th) 15 (Ont. C.A.), leave to appeal refused 2019 CarswellOnt 13491(S.C.C.) — The Court of Appeal overturned a lower court's decision to reduce spousal support from \$4,000/month to \$1.00 as the lower court erred in determining that wife's failure to seek gainful employment constituted a material change in circumstances – spousal support had been agreed upon and ordered in the divorce judgment and it was payable until the payor died and the Wife was entitled to rely upon that.

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- *Gill v. Kaur*, 2019 CarswellMan 406, 305 A.C.W.S. (3d) 121, 2019 MBQB 68 (Man. Q.B.) — The husband petitioned for an annulment based on non-consummation of the marriage and the fact that the marriage was arranged for immigration purposes and therefore constituted a fraud. The Petition was dismissed by the court citing that the fact that the parties had never lived together had no impact on the validity of the marriage and that motive was irrelevant. The parties had capacity and had consented to wed. There was no mention of whether the parties obtained a divorce or not, instead the court indicated that they were free to apply. The court discussed the essential differences between nullity and divorce.
- *Lavallée v. Trevors* 2019 CarswellPEI 50 (P.E.I. C.A.) — The Court of Appeal was being asked to consider if the application judge erred in declining to award retroactive child support to a father who no longer had a week about with the children, but had a reduction in income prior to the children no longer going a week about; and did the application judge err in declining to reduce the table amount payable by the father due to increased access costs. The appeal was dismissed, and the decision of the application judge was upheld. Retroactive support would cause hardship for the mother and the children and is discretionary. The increased access costs were accounted for by a reduction in the contribution to section 7 expenses rather than to the table amount of support.