

Index

ACCOUNTANTS

See FORENSIC EVIDENCE

ACTUARIES

See FORENSIC EVIDENCE

ADMISSIBILITY ISSUES

See also EXCLUSIONARY
ISSUES

Business records, § 1:20

Expert testimony, Generally, § 5:2

Forensic evidence, § 6:37

Fresh evidence

see FRESH EVIDENCE IN
FAMILY LAW ARBITRA-
TION; FRESH EVIDENCE
ON APPEAL

Hearsay

see HEARSAY

Medical reports, § 1:5

Party-retained experts

see EXPERT EVIDENCE

ADMISSIONS

Generally, § 2:18, § 9:8

ADVERSE INFERENCES

Generally, § 7:15

ADVERSE INTEREST

Personal diaries/cards of third parties,
admissibility, § 8:18

AFFIDAVIT EVIDENCE

Children's

see CHILDREN'S EVIDENCE

Motion for further and better affidavit
of documents, § 7:5

Motions, on, § 2:9

Provincial expert evidence provisions,
APP 6A § 6A:1 et seq.

AFFIDAVIT EVIDENCE—Cont'd

Trial, at, § 2:22

ALBERTA

Expert evidence provisions, APP
6A § 6A:1

New rules of court, 12:1 et seq.

APPEALS

See FRESH EVIDENCE ON
APPEAL

ASSESSMENTS

Generally

see EXPERT EVIDENCE

Children's evidence

see CHILDREN'S EVIDENCE

BRITISH COLUMBIA

Expert evidence provisions, APP
6A § 6A:2

BURDEN OF PROOF

See CHARTER LITIGATION

BUSINESS RECORDS

See EVIDENCE ACTS,
PROVINCIAL; HEARSAY —
exceptions to rule

BUSINESS VALUATION

See FORENSIC EVIDENCE

CANADIAN CHARTER OF RIGHTS AND FREEDOMS

See CHARTER LITIGATION

CHARTER LITIGATION

Generally, § 14:1, § 14:20, § 14:21

Burden and standard of proof,
§ 14:5 to § 14:10

justifying limitation, § 14:8

CHARTER LITIGATION—Cont'd

- Burden and standard of proof,
§ 14:5 to § 14:10—Cont'd
 - proving breach, § 14:6
 - case study (Gosselin v. Quebec (Attorney General)),
§ 14:7
 - remedy, § 14:9
 - case studies, § 14:10
 - R. v. Carosella, § 14:10
 - Schachter v. Canada, § 14:10
- Charter breach, identifying, § 14:1,
§ 14:2, § 14:6
- Discrimination, evidence re,
§ 14:14 to § 14:19
- Equality claim, § 14:2
 - Quebec (Attorney General) v. A.,
§ 14:2
- Evidence at first instance, § 14:3,
§ 14:4
 - case study re (A. (A.) v. B. (B.)),
§ 14:4
 - sufficiency of record, § 14:4
- Expert evidence, APP 14B, § 14:14
to § 14:19, § 14:21
- Family law and, § 14:20
- Forms of evidence, § 14:14 to
§ 14:19
 - Bedford v. Canada, § 14:19
 - expert evidence, § 14:15
 - Halpern v. Toronto (City),
§ 14:18
 - social science evidence, § 14:16
- Framework of Charter claim, § 14:2
- Life, liberty and security of person
claim, § 14:2
- Marriage, common law definition
 - case study (Halpern v. Toronto
(City)), § 14:15
 - evidence, § 14:15
- Practise and, § 14:1
- Remedy issue, § 14:2, § 14:9
- Reported cases, chart re, APP 14A,
§ 14:21
- S.C.C. attitude to evidence, § 14:1

CHARTER LITIGATION—Cont'd

- Social science evidence, § 14:14 to
§ 14:19
- Time limitation issue, § 14:2
- Types of evidence, § 14:11 to
§ 14:13
 - adjudicative facts, § 14:12
 - legislative facts, § 14:13

**CHILD PROTECTION
PROCEEDINGS**

- See also EXPERT EVIDENCE
- Bringing children to a place of
safety, § 11:7
- Fresh evidence on appeals, § 11:60
- Motions for summary judgment
 - generally, § 11:14
 - genuine issue for trial, § 11:16
 - test, § 11:15
- Overview, § 11:1 to § 11:6
 - duty to act fairly, § 11:5
 - evidence, general principles,
§ 11:4
- Temporary care and custody hear-
ings, § 11:8 to § 11:13
 - “credible and trustworthy in the
circumstances,” § 11:12
 - person having charge, § 11:9
 - status review proceedings,
§ 11:13
 - test, temporary care hearing,
§ 11:10
 - variation, temporary care order,
§ 11:11
- Trial
 - burden of proof, § 11:17
 - business records, § 11:25
 - children’s statements, § 11:26
 - expert assessments, § 11:27
 - Social Science Literature and
Evidence, § 11:29
 - general hearsay exceptions,
§ 11:20
 - informality provisions, § 11:20
 - onus, § 11:18
 - openness orders, § 11:19

CHILD PROTECTION**PROCEEDINGS—Cont'd****Trial—Cont'd**

- past parenting evidence, § 11:24
- res judicata/issue estoppel, § 11:23
- section 93(1) CYFSA, § 11:22, § 11:24
- statutory exception to the hearsay rule, § 11:24
- society staff as expert witnesses, § 11:28

CHILDREN'S EVIDENCE**Generally, § 4:1, § 4:39****Affidavits**

- child's, § 4:9
- clinical letters, reports/notes attached to, § 4:10
- hearsay evidence in, § 4:8
- Amicus curiae, § 4:33
- Assessment reports, § 4:12
- Children's statements, child protection hearings, § 11:26
- Child's communication capacity, psychological research re, § 4:5
- Child's legal capacity to testify, § 4:6
- Child's notes
 - categories of, § 4:11
 - evidentiary force of, § 4:11
 - privacy interest, § 4:11
- Child's participation rights, § 4:2
- Child's wishes and preferences, § 4:3
- "Common sense approach" to, § 4:6
- Communication of evidence, capacity re, § 4:6
- Court discretion, § 4:6, § 4:19
- Hearsay evidence in affidavit, § 4:8
- Interim applications, clinical letters, reports/notes, § 4:10
- Judge's chambers, testimony in, § 4:34

CHILDREN'S EVIDENCE**—Cont'd****Judicial interviews**

- generally, § 4:36
- post-decision, § 4:38
- purpose, § 4:37

Motions

- contempt motions, § 4:13
- evidence on, § 4:7
- summary judgment, § 4:14

Police records, § 4:13.50**Practical considerations re child's testimony, § 4:35****Pre-trial evidence, § 4:7 to § 4:14****Quebec Family Law, § 13:4 to § 13:10**

- best interests of child, § 13:5
- capacity of child to testify, testimony of a child, § 13:6
- cross-examination, § 13:7
- definition of maturity, § 13:6
- practical aspects of child's testimony, testimony of a child, § 13:8
- role of child's attorney, § 13:9, § 13:10
- court of appeal trilogy, § 13:10
- testimony of a child, § 13:4 to § 13:8

Sworn vs. unsworn evidence, § 4:6**Third parties, child's evidence through, § 4:27 to § 4:33**

- amicus curiae, § 4:33
- counsel for child, § 4:32
- hearsay and state of mind, § 4:28
- hearsay related through another witness, videotape, etc., § 4:27
- mental health professional, testimony of, § 4:31
- Office of the Children's Lawyer, § 4:32, § 5:34
- text messages, § 4:30
- video and audiotape, § 4:30
- voir dire, § 4:28, § 4:29

CHILDREN'S EVIDENCE

—Cont'd

- Trial, at, § 4:15 to § 4:22
 - accommodations to child, § 4:23 to § 4:26
 - age of child, § 4:20
 - child's ability to communicate, assessment of, § 4:22
 - child's understanding of nature of oath, assessment of, § 4:21
 - closed-circuit television, § 4:24
 - court's discretion
 - criteria for making decision, § 4:16
 - cross-examination of child, § 4:26
 - information source for court, § 4:18
 - legislative reforms, § 4:23
 - methods of bringing evidence before court, § 4:15
 - support person to child, § 4:25
 - third parties
 - see third parties, child's evidence through, *supra*
 - timing for making decision, § 4:17
- U.N. Convention on the rights of the Child, § 4:2
- Voice of the Child Report, § 4:4, § 5:21

COUNSEL, ROLE OF

- Amicus curiae, § 4:33
- Evidence gathering
 - see FORENSIC EVIDENCE
- Office of the Children's Lawyer, § 4:32, § 5:21

DISCLOSURE

- Forensic evidence, § 6:30
- Inadvertent disclosure, discretion re preservation of privilege, § 8:8
- Non-disclosure of assets/income determination, § 3:27
- Records of assessor, § 5:27

DISCLOSURE—Cont'd

- Rules re
 - see FAMILY LAW RULES (ONTARIO) or FAMILY LAW RULES (ALBERTA)

DISCOVERY

- See ELECTRONIC DISCOVERY

DIVORCE

- Generally, § 2:26

ELECTRONIC

- Discovery
 - see ELECTRONIC DISCOVERY
- Recording evidence, § 2:22
- Records, § 1:9

ELECTRONIC DISCOVERY

- Generally, § 3:1 to § 3:7, § 3:28
- Costs of production, § 3:17
- Deleted information, § 3:11
- "Documents," meaning of, § 3:2
 - Atlantic provinces, § 3:3
 - Central and Western provinces, § 3:4
 - Territories, § 3:5
- Electronic preservation notice, § 3:20
- Electronic records, discoverability list, § 3:7
- Examinations for discovery, § 3:21
- Family law cases re, § 3:24
 - non-disclosure of assets/income determination, § 3:27
- Family Law Rules and, § 3:23
- Form of production, § 3:8, § 3:9
- Hard drive, court-ordered production, § 3:6
- Litigation hold, § 3:20
- Metadata, § 3:6, § 3:12
- Non-parties, production from, § 3:27
- Practical advice, § 3:19 to § 3:21
- Privilege re production, § 3:16

ELECTRONIC DISCOVERY

—Cont’d

- Problems re, Generally, § 3:1 to § 3:7 to § 3:17
- Production of deleted data - Mareva orders, § 3:25
- Remedies, Stolen Documents, § 3:26.50
- Rules of Civil Procedure vs. Family Law Rules, § 3:23
- Sedona Conference, § 3:6
- Sedona Principles re managing e-discovery, § 3:18
- Social media, § 3:7
- Sources of electronic records, § 3:6
- Spoilation and preservation, § 3:13
 - Canadian approach to, § 3:14
 - sanctions, § 3:15

EVIDENCE

- Admissibility
 - see ADMISSIBILITY ISSUES
- Affidavit
 - see AFFIDAVIT EVIDENCE
- Charter litigation
 - see CHARTER LITIGATION
- Children’s
 - see CHILDREN’S EVIDENCE
- Electronic
 - see ELECTRONIC DISCOVERY
- Exclusion
 - see EXCLUSIONARY ISSUES
- Expert
 - see EXPERT EVIDENCE
- Forensic
 - see FORENSIC EVIDENCE
- Fresh
 - see FRESH EVIDENCE IN FAMILY LAW ARBITRATION; FRESH EVIDENCE ON APPEAL
- Obtaining
 - see FORENSIC EVIDENCE; TRIALS, FAMILY LAW

EVIDENCE—Cont’d

- Opinion
 - see OPINION EVIDENCE
- Quebec
 - see EVIDENCE ACTS, PROVINCIAL
- Rules
 - see FAMILY LAW RULES (ONTARIO) or FAMILY LAW RULES (ALBERTA)
- Statutes re
 - see EVIDENCE ACTS, PROVINCIAL

EVIDENCE ACTS, PROVINCIAL

- Generally, § 1:1
- Business records, § § 1:2 to § 1:21
 - Ares v. Venner, effect of, § 1:12
 - “business,” defined, § 1:14
 - common law, at, § 1:11
 - hearsay, law re, § 1:11, § 1:12
 - “in the usual and ordinary course of business,” § 1:17
 - lack of motive to misrepresent, § 1:18
 - negative inferences, § 1:21
 - “records” defined, § 1:14
 - regularity and contemporaneity, § 1:16
 - requirements re admissibility, § 1:20
 - statutory provisions re, § 1:13 to § 1:21
- Communications made during marriage, privilege re, § 1:2
- Electronic records, § 1:9
- Heirs, actions by/against, § 1:8
- Medical reports, § 1:22 to § 1:30
 - all reports to be produced, § 1:24
 - cross-examination, right of, § 1:28
 - election, § 1:25
 - hearsay in, § 1:27
 - medical reports not expert reports, § 1:26
 - notice, § 1:29

EVIDENCE ACTS, PROVINCIAL

—Cont'd

Medical reports, § 1:22 to § 1:30

—Cont'd

service requirements re
testimony, § 1:30

statutory provisions re, § 1:23

Opinion evidence, limitation on,
§ 1:3 to § 1:7

leave, granting of, § 1:7

leave requirements, § 1:6

medical reports, admissibility,
§ 1:5

per trial vs. per fact in issue,
§ 1:4

Provisions, table of, **APP 6A**
§ 6A:1 et seq.

Quebec, **13:1 et seq.**

generally, § 13:2

children, § 13:4 to § 13:10

best interests of child, § 13:5

capacity of child to testify,
testimony of a child,
§ 13:6

court of appeal trilogy, § 13:10

cross-examination, § 13:7

definition of maturity, § 13:6

practical aspects of child's
testimony, § 13:8

right to be heard, § 13:4

role of child's attorney, § 13:9,
§ 13:10

testimony of a child, § 13:4 to
§ 13:8

expert evidence, § 13:17 to
§ 13:19

courts not bound, § 13:18

probative value of court-ap-
pointed expert, § 13:19

probative value of jointly
appointed expert, § 13:19

foundations, § 13:1

illegally obtained evidence,
§ 13:11 to § 13:16

generally, § 13:16

EVIDENCE ACTS, PROVINCIAL

—Cont'd

Quebec, **13:1 et seq.**—Cont'd
illegally obtained evidence,

§ 13:11 to § 13:16—Cont'd
authenticity of recordings,
§ 13:12

breach of fundamental rights,
§ 13:14

bringing the administration of
justice into disrepute,
§ 13:15

circumstances under which
obtained, § 13:13 to
§ 13:16

principle of proportionality,
§ 13:3

principle of reasonableness,
§ 13:3

table of concordance, **App. 1D**

EXCLUSIONARY ISSUES

See also **ADMISSIBILITY ISSUES**

Adultery, evidence re, § 8:14

Personal diaries/cards of third par-
ties (obtained by adverse inter-
est parties without consent),
admissibility, § 8:18

Polygraph evidence, admissibility
of, § 8:17

Privilege

see **PRIVILEGE**

Video/audio tape-recorded
conversation, admissibility,
§ 8:15

EXPERT EVIDENCE

See also **FORENSIC EVIDENCE**

Generally, § 5:1, § 5:51

Admissibility, **APP 6A § 6A:5**

Alberta, expert evidence provisions,
APP 6A § 6A:1

Assessments

assessment order, § 5:37

costs of, § 5:20, § 5:36

EXPERT EVIDENCE—Cont’d

Assessments—Cont’d

court-appointed

see court-appointed assessments, *infra*

joint retainer letter, § 5:37

ordering, § 5:32 to § 5:37

factors influencing decision to order/not to order, § 5:33

“focused assessment,” § 5:33

jurisprudence re, § 5:32

reports from Ontario Office of the Children’s Lawyer, § 5:34

test re, § 5:32

timing, § 5:32

Assessors

court-appointed

see court-appointed assessments, *infra*

judicial attitudes to

see judicial attitudes to assessors/experts

judicial rejection of, § 5:35

judicial selection of, § 5:35

selection of, § 5:35

British Columbia, expert evidence provisions, APP 6A § 6A:2

Calling at trial, rules re

Alberta Rules of Civil Procedure, APP 6A § 6A:1

Manitoba provisions, APP 6A § 6A:3

Saskatchewan provisions, APP 6A § 6A:12

Charter litigation and, APP 14B, § 14:14 to § 14:19, § 14:21

Child protection hearings, § 5:41 to § 5:44

generally, § 5:41 to § 5:44

agency-retained professionals/employees as “experts,” § 5:43

court-ordered assessments in basis for ordering, § 5:42

EXPERT EVIDENCE—Cont’d

Child protection hearings, § 5:41 to § 5:44—Cont’d

court-ordered assessments in —Cont’d

content of order, § 5:42

costs, § 5:42

“parenting capacity” focus, § 5:42

report, contents of, § 5:42

parent-retained experts, § 5:44

Costs

Alberta Rules of Civil Procedure, APP 6A § 6A:1

Court-appointed assessments

assessment process, § 5:20

assessment report, § 5:20

child protection hearings, § 5:20

cost, § 5:20

critique of, § 5:39

disclosure of records of assessor, § 5:27

“fact finding,” § 5:20

forms of assessment, § 5:20

higher status professional, privileging, § 5:20

interviews, § 5:20

methodology, § 5:20

“multi-modal” assessment, § 5:20

negative consequences, potential, § 5:26

private disputes, § 5:20

psychological tests, § 5:20

purposes of, § 5:22

child’s out-of-court statements, § 5:24

information for parents and settlements, § 5:25

information re child, § 5:24

judge education, § 5:23

settlements and, § 5:12

social workers vs. psychologists, etc., § 5:20

EXPERT EVIDENCE—Cont'd

- Court-appointed assessments
—Cont'd
 - Voice of the Child Reports,
§ 5:21
- Court-appointed experts
 - Alberta Rules of Civil Procedure provisions, **APP 6A § 6A:1**
 - B.C. Rules of Civil Procedure provisions, **APP 6A § 6A:2**
 - New Brunswick Rules of Civil Procedure provisions, **APP 6A § 6A:4**
 - Newfoundland and Labrador Rules of Civil Procedure, **APP 6A § 6A:5**
 - Northwest Territories Rules of Civil Procedure, **APP 6A § 6A:6**
 - Prince Edward Island Rules of Civil Procedure provisions, **APP 6A § 6A:10**
- Demand for expert's attendance
 - Alberta Rules of Civil Procedure, **APP 6A § 6A:1**
- Family litigation, unique nature of, § 5:6
 - court-appointed assessors, settlements and, § 5:12
 - event focus v. relationship/personality orientation, § 5:9
 - jury vs. judge alone, § 5:7
 - litigation between parties vs. "best interest inquiry," § 5:11
 - party vs. court-appointed expert, § 5:10
 - retrospective vs. prospective, § 5:8
- Judges as "gatekeepers," § 5:1
- Judicial attitudes to assessors/experts, § 5:28 to § 5:31
 - best interests of the child, as value-based determination, § 5:28

EXPERT EVIDENCE—Cont'd

- Judicial attitudes to assessors/experts, § 5:28 to § 5:31
 - Cont'd
 - broad approach, § 5:30
 - expert recommendations, § 5:30
 - narrow approach, § 5:28, § 5:29
 - scepticism, § 5:28
 - settlement effect of assessment, § 5:30
- Judicial weight and discounting assessor/expert testimony, § 5:45 to § 5:50
 - application of incorrect principles, § 5:50
 - further assessments and critiques, § 5:47
 - incompetence/inaccuracies, § 5:49
 - objectivity issues, § 5:46
 - prior professional role and bias, § 5:48
- Manitoba, expert evidence provisions, **APP 6A § 6A:3**
- Mohan case, effect of, § 5:2 to § 5:13
 - generally, § 5:1
 - admissibility criteria, § 5:2
 - cases subsequent to Mohan, § 5:2
 - civil cases and, § 5:4
 - dangers of expert evidence, § 5:2
 - expert witness
 - qualifying as, § 5:3
 - role of, § 5:3
 - family litigation and
 - see family litigation, unique nature of, *supra*
 - mental health professionals, criminal context, § 5:2
 - Mohan discussed, § 4:7
 - scientific "reliability," § 5:2
- New Brunswick, expert evidence provisions, **APP 6A § 6A:4**
- Newfoundland and Labrador, expert evidence provisions, **APP 6A § 6A:5**

EXPERT EVIDENCE—Cont'd

- Northwest Territories, expert evidence provisions, **APP 6A § 6A:6**
- Notice to adduce expert evidence
 - Alberta Rules of Civil Procedure, **APP 6A § 6A:1**
- Nova Scotia, expert evidence provisions, **APP 6A § 6A:7**
- Ontario, expert evidence provisions, **APP 6A § 6A:9**
- Opinion evidence at trial
 - B.C. Rules of Civil Procedure provisions, **APP 6A § 6A:2**
- Participant experts, § 5:5
- Party-retained experts, admissibility issues
 - critique of court-appointed assessment, § 5:39
 - limitations on opinions of, § 5:38
 - therapist/physician, expert testimony by, § 5:40
- Pre-trial conference, **APP 6A § 6A:5, APP 6A § 6A:9, APP 6A § 6A:10**
- Prince Edward Island, expert evidence provisions, **APP 6A § 6A:10**
- Qualification as expert, § 5:31
- Quebec, expert evidence provisions, **APP 6A § 6A:11**
 - courts not bound by, § 13:18
 - probative value of court-appointed expert, § 13:19
 - probative value of jointly appointed expert, § 13:19
 - role of, § 13:17 to § 13:19
- Reports, § 5:20, § 5:42
- SCC criminal case jurisprudence, application to family cases, § 5:13
- Settlement conference brief, **APP 6A § 6A:4**
- Settlements, assessment effect on, § 5:12, § 5:30

EXPERT EVIDENCE—Cont'd

- Social science knowledge and child-related litigation, § 5:14 to § 5:19
 - expert witness testimony, § 5:19
 - “filtering” process, § 5:15
 - judge’s common sense, § 5:18
 - judge’s reading, § 5:16
 - judicial education programs, § 5:17
 - judicial experience, § 5:18
 - judicial notice, § 5:16
 - legislation and precedents, § 5:15
- Trial, rules re
 - court directions, **APP 6A § 6A:9**
 - expert witness reports, serving, **APP 6A § 6A:5**
 - New Brunswick provisions, **APP 6A § 6A:4**
 - very long trials, Alberta Rules of Civil Procedure, **APP 6A § 6A:1**
- Yukon, expert evidence provisions, **APP 6A § 6A:13**

FAMILY LAW RULES (ONTARIO)

- Generally, § 2:1, § 2:27
- Admission of facts, § 2:18
- Conferences, § 2:4
- Disclosure, documentary, § 2:6
- Disclosure, financial, § 2:5
 - financial statements, § 2:5
 - full and frank disclosure, § 2:5
 - limitation on, § 2:5
 - material change, § 2:5
 - scope of, § 2:5
- Divorce, § 2:26
- Motions
 - generally, § 2:9
 - affidavits, § 2:9
 - applications, etc., vs., § 2:2
 - bifurcation, for, § 2:17
 - change/variation to final order, § 2:15
 - consent/unopposed, § 2:10

FAMILY LAW RULES (ONTARIO)

—Cont'd

Motions—Cont'd

contempt proceedings, § 2:14

evidence on, § 2:9

hearsay rules and, § 2:9

striking pleadings/denying audience, § 2:16

summary judgment, for, § 2:13

temporary orders, re, § 2:9

urgent basis, on, § 2:11

without notice, § 2:12

Particulars, demand for, § 2:3

Pleadings, § 2:2

Questioning, § 2:7

third parties, § 2:8

Settlement conferences, § 2:4

Starting case, § 2:2

Third parties, disclosure/questioning re, § 2:8

Trials, § 2:19 to § 2:25

affidavit evidence, § 2:22

calling opposing party as witness, § 2:25

electronic recording evidence, § 2:22

expert witness evidence, APP 6A § 6A:5, § 2:23

financial statements, § 2:20

net family property statements, § 2:20

reading in evidence, § 2:24

trial record, APP 6A § 6A:5, § 2:21

**FAMILY LAW RULES
(ALBERTA), NEW**

See RULES OF COURT
(ALBERTA)

FAMILY LITIGATION

See CHARTER LITIGATION;
EXPERT EVIDENCE; TRIALS,
FAMILY LAW

**FAMILY VIOLENCE AND
PARENTING DECISIONS**

Acquittals, § 16:4

Evidence, Affidavit and Viva Voce

Evidence, § 16:2

Evidence, from the Children's

Aid Society Workers and/or

Police, including 911 Recorded

Calls, § 16:3

FINANCIAL DISCLOSURE

See FAMILY LAW RULES
(ONTARIO) OR FAMILY
LAW RULES (ALBERTA)

FINANCIAL EXPERTS

See EXPERT EVIDENCE

FINANCIAL STATEMENTS

See FORENSIC EVIDENCE

FORENSIC EVIDENCE

See also EXPERT EVIDENCE

Generally, § 6:1, § 6:5

Accountants, of, § 6:5 to § 6:12

circumstances requiring, § 6:7

income analysis, § 6:9

miscellaneous functions, § 6:10

net family property determinations, § 6:8

role of at different stages in case, § 6:11

Actuaries, of, § 6:5

Analytic procedures, § 6:22

“Business valuation,” defined, § 6:4

Canadian Society of Forensic Science, § 6:5

Counsel's role in obtaining, § 6:26 to § 6:31

disclosure, § 6:30

expert, selecting, § 6:27

joint expert issues, § 6:28

litigation privilege issues, § 6:30

overview re, § 6:26

working with expert, § 6:29

FORENSIC EVIDENCE—Cont'd

Experts
 cost/benefit analysis re, § 6:12
 opinion of, § 6:6
 reports
 see reports, *infra*
 role of, § 6:6
 Financial statements, review of,
 § 6:14
 audit, § 6:15
 audit vs. review, § 6:20
 circumstances suggesting need
 for, § 6:19
 compilation, § 6:16
 example, § 6:18
 review, § 6:17
 “Forensic,” defined, § 6:2
 “Forensic accounting”
 see also accountants, of, *supra*
 defined, § 6:3
 Forensic document examiners, role
 of, § 6:5
 Funds tracing, § 6:23
 analysis on discounts, minority
 interests, § 6:25.50
 described, § 6:23
 examples of, § 6:23
 “first in, first out” approach,
 § 6:24
 “pro-rata” method, § 6:25
 Health care professionals, of, § 6:5
 Lifestyle analysis, § 6:21
 Opposing expert’s report, checklist
 re, § 6:42
 Presentation of, § 6:37 to § 6:41
 admissibility, § 6:37
 at trial, § 6:38
 procedural rules, § 6:39 to § 6:41
 Evidence Act, § 6:40
 Family Law Rules, § 6:39
 non-Ontario jurisdictions,
 § 6:41
 Reports, § 6:32 to § 6:36
 Alberta Rules of Civil Procedure,
 APP 6A § 6A:1

FORENSIC EVIDENCE—Cont'd

Reports, § 6:32 to § 6:36—Cont’d
 B.C. Family Law Rules, APP 6A
 § 6A:2
 B.C. Rules of Civil Procedure,
 APP 6A § 6A:2
 critique reports, § 6:35
 income reports, § 6:34
 limited critique reports, § 6:35
 New Brunswick Rules of Civil
 Procedure, APP 6A § 6A:4
 Newfoundland and Labrador
 Rules of Civil Procedure,
 APP 6A § 6A:5
 Northwest Territories Evidence
 Act, APP 6A § 6A:6
 Nova Scotia Rules of Civil Pro-
 cedure, APP 6A § 6A:7
 Ontario Rules of Civil Procedure,
 APP 6A § 6A:9
 opposing expert’s
 see opposing expert’s report,
 supra
 Prince Edward Island Evidence
 Act, APP 6A § 6A:10
 Prince Edward Island Rules of
 Civil Procedure, APP 6A
 § 6A:10
 Quebec Rules of Civil Procedure,
 APP 6A § 6A:11
 “reports vs. schedules” issue,
 § 6:36
 types of reports, § 6:32 to § 6:36
 valuation reports, § 6:33
 Yukon Evidence Act, APP 6A
 § 6A:13

FRESH EVIDENCE ON APPEAL

Generally, § 10:1
 Admission of fresh evidence,
 exception, § 10:3
 Child protection appeals, § 10:11,
 § 11:30
 Family law appeals
 consent, § 10:10

FRESH EVIDENCE ON APPEAL

—Cont'd

- Family law appeals—Cont'd
 - court's discretion to refuse to admit, § 10:10
 - due diligence, § 10:7
 - evidence about events occurring after trial, § 10:10
 - reasonably expected to affect result, § 10:9
 - relevant and credible, § 10:8
 - where evidence would not be admissible at trial, § 10:10
 - where parties were not represented in court below, § 10:10
- Family Law Rules appeal provisions, § 10:5
- Fresh evidence vs new evidence, § 10:4
- Practice Directions, § 10:5
- Procedural considerations, § 10:2
- Re-opening case to introduce further evidence, § 10:17
 - after judgment rendered, § 10:18
 - before judgment rendered, § 10:19
- Setting aside or varying order in court that made it, § 10:12
 - court's jurisdiction to set aside or vary own orders, § 10:12
 - tests for setting aside or varying under R. 25(19) FLR, § 10:13
- Statutory provisions, § 10:5

FUNDS, TRACING

See FORENSIC EVIDENCE

HEALTH CARE

PROFESSIONALS

- See also MEDICAL REPORTS
- Evidence of, § 6:5
- Mental health professionals, § 4:31, § 5:2

HEARSAY

- Generally, § 9:1, § 9:25
- Admitting, advocate's analysis for, § 9:2
- Affidavits, children's evidence, § 4:8
- Baldree case, § 9:4
- Business records and, § 1:11, § 1:12
- Child's evidence, § 4:8, § 4:27, § 4:28
- Definitions of, § 9:4
- Exceptions to rule, categorical
 - see also principled approach to, *infra*
 - admissions by party, § 9:8
 - emails and text messages, § 9:8
 - limitations on, § 9:8
 - scope of, § 9:8
- business records, § 9:10
 - common law exception, § 9:12
 - statutory exceptions, § 9:11
- children's wishes, statements re, § 9:16
- former testimony, § 9:9
- limited admissibility, § 9:24
- list of, § 9:7
- past recollection recorded, § 9:13
- present intention to do future act, § 9:15
- statements re physical/mental/emotional state, § 9:14
- “state of mind,” statements re, § 9:14
- Excluding, advocate's analysis for, § 9:2
- Khan case, significance of, § 9:2, § 9:17 to § 9:23
- Medical reports, in, § 1:27
- Motions and, § 2:9
- Non-hearsay purposes of out-of-court statements, § 9:5
- Onus re, § 9:2

HEARSAY—Cont'd

- Principled approach to
 - see also exceptions to rule, categorical, *supra*
 - generally, § 9:17 to § 9:23
 - Blackman case, § 9:23
 - Bradshaw case, § 9:23
 - child abuse hearsay exception, § 9:18
 - children's statements beyond Khan, § 9:21
 - K.G.B. exception, § 9:22
 - Khan case, § 9:17 to § 9:23
 - Khelawon case, as complete statement of, § 9:23
 - limited admissibility and, § 9:24
 - "motive to lie" analysis, § 9:23
 - necessity factor, § 9:19
 - reliability factor, § 9:20
- Rule re, § 9:1

HEIRS, ACTIONS BY/AGAINST

- Generally, § 1:8

INTIMATE PERSONAL VIOLENCE

- Generally, § 15:1, § 15:28
- Damages and quantification,
 - aggravated damages, § 15:13
 - future care cost, § 15:12
 - general damages, § 15:11
 - punitive damages, § 15:14
- Evidence
 - challenges, § 15:15
 - character evidence, § 15:24
 - corroborative evidence, § 15:23
 - criminal convictions, § 15:20
 - experts, § 15:16
 - marriage counsellors, § 15:21
 - paramedic/medical reports, § 15:18
 - participatory evidence, § 15:17
 - police reports, § 15:19
 - similar fact evidence, § 15:25
 - therapists, § 15:22

INTIMATE PERSONAL**VIOLENCE—Cont'd**

- Evidence—Cont'd
 - waiver of privilege, § 15:26, § 15:27
- Tort Claims
 - assault, § 15:4
 - battery, § 15:5
 - defamation, § 15:7
 - intentional infliction of mental suffering/emotional distress/nervous shock, § 15:6
 - internet harassment, § 15:9
 - libel, § 15:7
 - limitation periods, § 15:3
 - public disclosure of private information, § 15:10
 - slander, § 15:7
 - tortious invasion of privacy, § 15:8

JUDGES

- Court-appointed assessment, purposes of, § 5:23
- Expert evidence, assessment by see EXPERT EVIDENCE
- "Gatekeepers," as, § 5:1
- Judge's chambers, testimony in, § 4:34
- Social science knowledge, attitudes to see EXPERT EVIDENCE

LAWYERS

- See COUNSEL, ROLE OF

LITIGATION PRIVILEGE

- See PRIVILEGE

MANITOBA

- Charter litigation, APP 14D § 14D:1 et seq.
 - generally, APP 14D § 14D:1
 - burden of proof, APP 14D § 14D:4 to 14D:6
 - justifying the breach, APP 14D § 14D:5

MANITOBA—Cont'd

Charter litigation, **APP 14D**
 § **14D:1 et seq.**—Cont'd
 burden of proof, **APP 14D**
 § **14D:4 to 14D:6**—Cont'd
 proving the breach, **APP 14D**
 § **14D:4**
 remedy, **APP 14D § 14D:6**
 evidence at first instance, **APP**
 14D § 14D:3
 framework of claim, **APP 14D**
 § **14D:2**
 standard of proof, **APP 14D**
 § **14D:4 to 14D:6**
 justifying the breach, **APP 14D**
 § **14D:5**
 proving the breach, **APP 14D**
 § **14D:4**
 remedy, **APP 14D § 14D:6**
Child protection proceedings, **APP**
 11B § 11B:1 et seq.
 generally, **APP 11B § 11B:1**
 appeals in child protection cases,
 APP 11B § 11B:7
 bringing children to a place of
 safety, **APP 11B § 11B:2**
 fresh evidence on appeal, **APP**
 11B § 11B:8
 hearsay evidence in child protec-
 tion cases, **APP 11B**
 § **11B:5**
 records from third parties, **APP**
 11B § 11B:6
 temporary and permanent orders,
 APP 11B § 11B:3
 voluntary placement agreements,
 APP 11B § 11B:4
E-discovery, **APP 3B**
Evidence, types and forms, **App.**
 14A4
Evidence Act, **APP 1B § 1B:1 et**
 seq.
 business records, **APP 1B § 1B:6**
 documentary evidence as to facts
 in issue, **APP 1B § 1B:7**

MANITOBA—Cont'd

Evidence Act, **APP 1B § 1B:1 et**
 seq.—Cont'd
 electronic records, **APP 1B**
 § **1B:5**
 evidence as to sexual relations,
 APP 1B § 1B:2
 limitation, opinion evidence,
 APP 1B § 1B:3
 medical reports, **APP 1B § 1B:4**
 privilege for marital communica-
 tions, **APP 1B § 1B:1**
Exclusionary issues, **APP 8B**
 § **8B:1 et seq.**
 generally, **APP 8B § 8B:1**
 disclosure made to third party,
 APP 8B § 8B:5
 disclosure of privileged com-
 munications to prove settle-
 ment, **APP 8B § 8B:4**
 discussions at case conference,
 APP 8B § 8B:6
 documents at pre-trial, **APP 8B**
 § **8B:7**
 implied undertaking, litigation
 privilege, **APP 8B § 8B:8**
 inadvertent disclosure of privi-
 lege documents, **APP 8B**
 § **8B:3**
 solicitor-client privilege, **APP 8B**
 § **8B:2**
Expert evidence provisions, **APP**
 6A § 6A:4
Family Law Rules, **APP 2B § 2B:1**
 et seq.
 generally, **APP 2B § 2B:1**
 affidavit evidence at trial, **APP**
 2B § 2B:23
 basics, **APP 2B § 2B:2 to 2B:5**
 answering a petition, **APP 2B**
 § **2B:3**
 complete pleadings,
 importance of, **APP 2B**
 § **2B:5**
 petition, **APP 2B § 2B:2**
 reply, **APP 2B § 2B:4**

MANITOBA—Cont'd

Family Law Rules, **APP 2B § 2B:1 et seq.**—Cont'd

- case conferences, **APP 2B § 2B:18**
- family evaluator, **APP 2B § 2B:12**
- family property reference, **APP 2B § 2B:20**
- financial disclosure, **APP 2B § 2B:6 to 2B:10**
 - failure to comply with financial disclosure, **APP 2B § 2B:10**
 - financial statement and disclosure under the child support guidelines, **APP 2B § 2B:8**
 - urgent relief and financial statements, **APP 2B § 2B:9**
 - when financial statement or parts of a financial statement are not required, **APP 2B § 2B:7**
- interim proceedings, **APP 2B § 2B:13 to 2B:17**
 - affidavit evidence, **APP 2B § 2B:15**
 - improper affidavits, **APP 2B § 2B:16**
 - interrogatories and examinations, **App. 2B**
 - motion brief, **APP 2B § 2B:17**
 - on notice, **APP 2B § 2B:13**
 - without notice, **APP 2B § 2B:14**
- mediation, **APP 2B § 2B:11**
- parent information program, **APP 2B § 2B:19**
- pre-trial conferences, **APP 2B § 2B:21**
- trial record, **APP 2B § 2B:22**
- variation of final orders, **App. 2B**
 - child support, **App. 2B**
 - spousal support, **App. 2B**

MANITOBA—Cont'd

Forensic evidence, **APP 6C § 6C:1 et seq.**

- assets acquired during marriage, **APP 6C § 6C:3**
- assets acquired prior to marriage, **APP 6C § 6C:3**
- expert reports, **APP 6C § 6C:1**
- expert witness role, **APP 6C § 6C:4**
- family property reference, **APP 6C § 6C:2**
- responding to expert evidence, **APP 6C § 6C:5**

Fresh evidence on appeal, **APP 10B § 10B:1 et seq.**

- adducing fresh evidence on appeal, **APP 10B § 10B:9**
- setting aside or varying an order, **APP 10B § 10B:10 to 10B:13**
 - materials required for a motion under the Court of Queen's Bench Rules, **APP 10B § 10B:11**
 - rules regarding, **APP 10B § 10B:10**
 - varying a custody order, **APP 10B § 10B:12**
 - varying a support order, **APP 10B § 10B:13**

statutory provisions, **APP 10B § 10B:1**

- appealing, Child Protection Proceeding, **APP 10B § 10B:5**
- appealing, from Court of Queen's Bench, **APP 10B § 10B:4**
- appealing, from Master, **APP 10B § 10B:2**
- appealing, from Provincial Court, **APP 10B § 10B:3**
- appealing, The Family Maintenance Act, **APP 10B § 10B:6**

MANITOBA—Cont'd

Fresh evidence on appeal, **APP 10B**

§ **10B:1 et seq.**—Cont'd

statutory provisions, **APP 10B**

§ **10B:1**—Cont'd

appealing decision made in
chambers, **APP 10B**

§ **10B:8**

appeals in the Court of Appeal,
APP 10B § 10B:7

Hearsay rule, **APP 9B § 9B:1 et
seq.**

generally, **APP 9B § 9B:1**

child protection cases, **APP 9B
§ 9B:3**

children's evidence, **APP 9B
§ 9B:4**

exceptions, **APP 9B § 9B:6 to
9B:9**

bank records and business
records, **APP 9B
§ 9B:6**

documentary evidence, **APP
9B § 9B:8**

hearsay evidence in
affidavits, **APP 9B
§ 9B:9**

medical reports, **APP 9B
§ 9B:7**

former testimony, **APP 9B
§ 9B:10**

out-of-court statements, **APP 9B
§ 9B:11**

principles to consider, **APP 9B
§ 9B:2**

statements made by deceased
person, **APP 9B § 9B:5**

MARRIAGE

Common law definition

case study (Halpern v. Toronto
(City)), § **14:15**

evidence, § **14:15**

Communications made during,
§ **1:2**

MEDICAL PERSONNEL

See **HEALTH CARE PROFESSIONALS**

MEDICAL REPORTS

Admissibility, § **1:5**

Election re, § **1:25**

Hearsay issue, § **1:27**

Provincial statutes re
chart, **APP 6A § 6A:1 et seq.**
provisions

see **EVIDENCE ACTS,
PROVINCIAL**

MOTIONS

Affidavit evidence and
see **AFFIDAVIT EVIDENCE**

Children's evidence and
see **CHILDREN'S EVIDENCE**

Hearsay and, § **2:9**

Motion for further and better affidavit
of documents, § **7:5**

Motions for summary judgment
genuine issue for trial, § **11:16**
test, § **11:15**

Rules re
see **FAMILY LAW RULES
(ONTARIO) OR FAMILY
LAW RULES (ALBERTA)**

NEW BRUNSWICK

Expert evidence provisions, **APP
6A § 6A:4**

**NEWFOUNDLAND AND
LABRADOR**

Expert evidence provisions, **APP
6A § 6A:5**

NORTHWEST TERRITORIES

Expert evidence provisions, **APP
6A § 6A:6**

NOVA SCOTIA

Expert evidence provisions, **APP
6A § 6A:7**

ONTARIO

Expert evidence provisions, **APP 6A § 6A:9**

Rules

see **FAMILY LAW RULES (ONTARIO) OR FAMILY LAW RULES (ALBERTA)**

OPINION EVIDENCE

Experts, of, § 6:6

Party-retained experts, § 5:38

Statutory provisions re
see **EVIDENCE ACTS, PROVINCIAL**

ORDERS

Assessment order

see **EXPERT EVIDENCE**

Setting aside/varying, § 10:3 to § 10:11

Family Law Rules re, § 10:4

“changing orders,” meaning of, § 10:4

test, § 10:4

motions, § 2:15

Rules of Civil Procedure provisions re, § 10:3

Temporary orders, § 2:9

PARTICULARS

Generally, § 2:3

PLEADINGS

Family Law Rules re, § 2:2

Striking pleadings, § 2:16

PRINCE EDWARD ISLAND

Expert evidence provisions, **APP 6A § 6A:9**

PRIVILEGE

See also **EXCLUSIONARY ISSUES**

Generally, § 8:1

Case-by-case privilege

balancing principle, § 8:3

described, § 8:2

family law cases, in, § 8:3

PRIVILEGE—Cont’d

Case-by-case privilege—Cont’d

Wigmore criteria, application of, § 8:3

Class privilege, § 8:2

Communications made during marriage, § 1:2

Evidentiary onus re, § 8:12

Litigation

generally, § 8:9 to § 8:11

dominant vs. substantial purpose, § 8:10

piercing, § 8:11

Policy reasons for, § 8:1

Settlement communications

application of privilege to, § 8:13

confidentiality of under Family

Law Rules, § 8:13

“without prejudice,” meaning of, § 8:13

Solicitor-client

generally, § 8:4 to § 8:8

exceptions to, § 8:5

inadvertent disclosure, discretion re preservation of privilege, § 8:8

waiver of

by implication, § 8:7

inadvertent disclosure and, § 8:6, § 8:8

Ontario Cases re, § 0:4

QUEBEC

Evidence in family law, § 13:1 et seq.

REPORTS

See **CHILDREN’S EVIDENCE; EVIDENCE ACTS, PROVINCIAL; MEDICAL REPORTS; EXPERT EVIDENCE; FORENSIC EVIDENCE**

RULES

Ontario

see **FAMILY LAW RULES (ONTARIO) OR FAMILY**

RULES—Cont'd

Ontario—Cont'd

LAW RULES (ALBERTA)

Provincial, **APP 6A § 6A:1 et seq.**

RULES OF COURT (ALBERTA)

Conclusion, **§ 12:16**

Family law proceedings, general,
§ 12:3 to § 12:16

actions commenced by originating application, **§ 12:13**

alternate dispute resolution,
§ 12:9

applications to vary, **§ 12:6**

disclosure, **§ 12:8, § 12:12**

expert witnesses and Family Law
Practice Note “7,” **§ 12:15**

interim applications, **§ 12:6**

proceedings under Divorce Act,
§ 12:4

proceedings under Family Law
Act, **§ 12:10**

proceedings under Matrimonial
Act, **§ 12:4**

protection and restraining orders,
§ 12:14

questioning, **§ 12:12**

response, **§ 12:5**

service, **§ 12:5**

summary judgment, **§ 12:7,**
§ 12:11

Introduction, **§ 12:1**

Purpose, **§ 12:2**

SASKATCHEWAN

Appeals and fresh evidence, **APP**
10A § 10A:1 et seq.

adducing fresh evidence on
appeal, **APP 10A § 10A:8**

evidentiary issues in setting aside
or varying an order, **APP**
10A § 10A:10

rules, **APP 10A § 10A:1 et**
seq.

introduction, **APP 10A § 10A:1**

SASKATCHEWAN—Cont'd

Appeals and fresh evidence, **APP**
10A § 10A:1 et seq.—Cont'd
statutory provisions, **APP 10A**
§ 10A:2 to 10A:7

appealing decision in Child
Protection Proceeding,
APP 10A § 10A:4

appealing decision made under
The Family Maintenance
Act, 1997, **APP 10A**
§ 10A:5

appealing decision made under
The Family Property Act,
APP 10A § 10A:6

appealing from Court of
Queen's Bench, Family
Division, **APP 10A**
§ 10A:3

appealing from provincial
court, **APP 10A § 10A:2**

relevant provisions regarding
appeals in Court of
Appeal, **APP 10A**
§ 10A:7

Charter litigation, **APP 14C**
§ 14C:1 et seq.

generally, **APP 14C § 14C:1**

burden of proof, **APP 14C**
§ 14C:4 to 14C:6

justifying the limitation, **APP**
14C § 14C:5

proving the breach, **APP 14C**
§ 14C:4

remedy, **APP 14C § 14C:6**

evidence at first instance, **APP**
14C § 14C:3

framework, **APP 14C § 14C:2**

standard of proof, **APP 14C**
§ 14C:4 to 14C:6

justifying the limitation, **APP**
14C § 14C:5

proving the breach, **APP 14C**
§ 14C:4

remedy, **APP 14C § 14C:6**

SASKATCHEWAN—Cont'd

Child protection proceedings, **APP 11A § 11A:1 et seq.**
 generally, **APP 11A § 11A:1**
 access, **APP 11A § 11A:5**
 agreements, **APP 11A § 11A:4**
 applications
 child in need of protection
 bringing children to a place of safety
 child in need of protection
 consents, **APP 11A § 11A:4**
 evidence, **APP 11A § 11A:6**
 business proceedings, **APP 11A § 11A:9**
 children's statements, **APP 11A § 11A:7**
 expert assessments, **APP 11A § 11A:10**
 previous proceedings, **APP 11A § 11A:8**
 hearings, **APP 11A § 11A:3**
 orders, **APP 11A § 11A:3**
 Electronic discovery, **APP 3A**
 Evidence act, **APP 1A § 1A:1 et seq.**
 generally, **APP 1A § 1A:1**
 business records, **APP 1A § 1A:7**
 communications during marriage, privilege, **APP 1A § 1A:2**
 effect of apology on liability, **APP 1A § 1A:5**
 electronic records, **APP 1A § 1A:6**
 expert witnesses, limitation on number, **App. 2A**
 medical reports, **APP 1A § 1A:4**
 Exclusionary issues, **APP 8A § 8A:1**
 introduction, **APP 8A § 8A:2**
 pre-trial conference, **APP 8A § 8A:3**
 solicitor-client privilege, **APP 8A § 8A:2**

SASKATCHEWAN—Cont'd

Expert evidence provisions, **APP 6A § 6A:3**
 Family rules, **APP 2A § 2A:1 et seq.**
 applications to appoint a mediator, **APP 2A § 2A:25**
 basics, **APP 2A § 2A:7 to 2A:9**
 answering a petition, **APP 2A § 2A:8**
 pleadings and starting a case, **APP 2A § 2A:7**
 reply, **APP 2A § 2A:9**
 child support, **APP 2A § 2A:24**
 custody and access, **APP 2A § 2A:23**
 disclosure, **APP 2A § 2A:14 to 2A:19**
 correcting and updating disclosure, **APP 2A § 2A:19**
 failure to disclose, **APP 2A § 2A:18**
 financial statements and property statements, **APP 2A § 2A:14**
 notice to disclose, **APP 2A § 2A:16**
 notice to reply to written questions, **APP 2A § 2A:17**
 when statements not required, **APP 2A § 2A:15**
 evidence, **APP 2A § 2A:12**
 evidence from non-parties, **APP 2A § 2A:20, 2A:21**
 disclosure by non-parties, **APP 2A § 2A:20**
 discover of non-parties, **APP 2A § 2A:21**
 informality of family law procedures, **APP 2A § 2A:2**
 interim relief, **APP 2A § 2A:10, 2A:11**
 affidavit evidence, **APP 2A § 2A:11**
 motions, **APP 2A § 2A:10**

SASKATCHEWAN—Cont'd

Family rules, **APP 2A § 2A:1 et seq.**—Cont'd

introduction, **APP 2A § 2A:1**

medical reports, **APP 2A § 2A:26**

privacy and confidentiality, **APP 2A § 2A:3 to 2A:5**

adultery, **APP 2A § 2A:6**

financial document

confidentiality, **APP 2A § 2A:5**

private hearings, **APP 2A § 2A:3**

restricted access to court

records, **APP 2A § 2A:4**

uncontested family law proceedings, **APP 2A § 2A:13**

variation of orders, **APP 2A § 2A:22**

Forensic evidence, **APP 6B § 6B:1 et seq.**

affidavit evidence, **APP 6B § 6B:2**

appraisal reports, **APP 6B § 6B:3**

expert reports, **APP 6B § 6B:1**

Hearsay and exceptions to hearsay, **APP 9A § 9A:1 et seq.**

children's evidence, **APP 9A § 9A:4**

children's preferences, **APP 9A § 9A:4**

exceptions, **APP 9A § 9A:6 to 9A:11**

business records, **APP 9A § 9A:6**

certificate regarding convictions, **APP 9A § 9A:10**

hearsay evidence in affidavits, **APP 9A § 9A:1 et seq.**

medical report, **APP 9A § 9A:9**

proof of adultery, **APP 9A § 9A:10**

public records, **APP 9A § 9A:1 et seq.**

SASKATCHEWAN—Cont'd

Hearsay and exceptions to hearsay, **APP 9A § 9A:1 et seq.**

—Cont'd

hearsay evidence, **APP 9A § 9A:3**

introduction, **APP 9A § 9A:1**

principles to consider regarding hearsay evidence, **APP 9A § 9A:2**

statements made by deceased person, **APP 9A § 9A:5**

statements made out-of-court, **APP 9A § 9A:12**

SETTLEMENT

COMMUNICATIONS

Generally, **§ 8:13**

SETTLEMENT CONFERENCES

Rules re, **§ 2:4**

Settlement conference brief, **APP 6A § 6A:7**

SETTLEMENTS

Assessment and, **§ 5:30**

Court-appointed assessors, and, **§ 5:12, § 5:30**

Information for, **§ 5:25**

SOCIAL SCIENCE KNOWLEDGE

See **EXPERT EVIDENCE**

SOLICITOR-CLIENT

PRIVILEGE

See **PRIVILEGE**

TEXT MESSAGES

Admissions, **§ 9:8**

Children's evidence, **§ 4:30**

THIRD PARTIES

Child's evidence through

see **CHILDREN'S EVIDENCE**

Personal diaries/cards of third parties, admissibility, **§ 8:18**

Questioning, **§ 2:8, § 7:9**

TRIALS, FAMILY LAW

- See also FAMILY LAW RULES (ONTARIO) OR FAMILY LAW RULES (ALBERTA)
- Generally, § 7:1
- Brief of authorities, preparation, § 7:12
- Children's evidence
 - see CHILDREN'S EVIDENCE
- Document preparation, elements of, § 7:2
- Evidence, obtaining, APP 7A, § 7:3 to § 7:12
 - cross-examination preparation, § 7:11
 - expert reports, § 7:7
 - joint exhibit books, § 7:8
 - motion for further and better affidavit of documents, § 7:5
 - questioning, § 7:3
 - questioning third parties under FLR, § 7:9
 - request to admit, § 7:4
 - witness/party preparation, § 7:10
- Expert evidence at
 - see EXPERT EVIDENCE
- Planning, § 7:2
- Provincial provisions, APP 6A § 6A:1 et seq.
- Trial, presentation at, APP 7A, § 7:13 to § 7:16
 - adverse inferences, establishing, § 7:15
 - memos of argument, § 7:16
 - objections to documents/oral evidence, § 7:14

TRIALS, FAMILY LAW—Cont'd

- Trial, presentation at, APP 7A, § 7:13 to § 7:16—Cont'd
 - opening, § 7:13

VIDEO AND AUDIOTAPE

- Admissibility, § 8:15
- Children's evidence, § 4:30
- Hearsay related through, § 4:27

VOIR DIRE

- Generally, § 4:28, § 4:29

YEAR IN REVIEW

- 2022, § 0:1 to § 0:4
 - Family Decisions
 - Ontario Court of Appeal, § 0:3
 - Ontario Decision, Waiver of Privilege, § 0:4
 - Supreme Court of Canada, § 0:2
- 2023, § 0:50:1 to § 0:50:21
 - Family Decisions
 - Appellate Courts, § 0:50:3
 - Supreme Court of Canada, § 0:50:2
- 2024, § 0:60:1 to § 0:60:23
 - Family Decisions
 - Alberta Court of Appeal, § 0:60:11
 - Fresh Evidence on Appeal, § 0:60:2

YUKON

- Expert evidence provisions, APP 6A § 6A:13