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DOMESTIC CONTRACTS, 2ND ED. Hugh G. Stark & Kirstie J. MacLise Release No. 4, July 2024
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This text contains the expert analysis and commentary, practical guidance, and sophisticated materials you need to draft effective domestic agreements. Domestic Contracts includes checklists, many sample agreements (including marriage agreements, cohabitation agreements and separation agreements), numerous additional clauses, case annotations, as well as authoritative commentary and relevant case law.

What's New in this Update

This release features updates to Chapter 1 (Preliminary Considerations), Chapter 2 (Marriage Agreements), Chapter 4 (Same Sex Cohabitation Agreements).

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Highlights

- **CHAPTER 1 — PRELIMINARY CONSIDERATIONS — § 1:9.50 Comply with Formal Requirements and § 1:82 Under Statute— Ontario Family Law Act** — In *El Rassi-Wight v. Arnold*, 2024 ONCA 2, 2024 CarswellOnt 30 (Ont. C.A.), the Court of Appeal ruled that a putative domestic contract, which had been initialled by the parties but not witnessed, did not meet the strict requirements of s. 55(1) of the *Family Law Act* and was accordingly unenforceable. In doing so, the Court pointed to the clear decision by the legislature, as embodied in s. 55(1), that domestic contracts must ordinarily have at least some degree of formality, partly to underscore the fact that they should be taken seriously by the parties who sign them.
- **CHAPTER 1 — PRELIMINARY CONSIDERATIONS — § 1:13.50 Be Aware Legislative Requirements and Constraints** — In *Anderson v. Anderson*, 2023 SCC 13, 2023 CSC 13, 2023 CarswellSask 224, 2023 CarswellSask 225 (S.C.C.), the Supreme Court of Canada has definitively ruled that the parties to a domestic contract are entitled to come to an agreement respecting the division of their property, notwithstanding that agreement and a strict application of matrimonial property legislation may have dictated a different result; see also *Carroll v. Carroll*, 2024 CarswellAlta 906, 2024 ABKB 227 (Alta. K.B.).
- **CHAPTER 2 — MARRIAGE AGREEMENTS** — The sample clauses for Marriage Agreements have been updated throughout, to reflect the change in terminology from “custody” and “access” to “parenting time” and “decision-making responsibility” under recent widespread changes to the *Divorce Act*, R.S.C. 1985, c. 3 (2d Supp.).

ProView Developments

Your ProView edition of this product now has a new, modified layout:

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