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### **FAMILY PROPERTY LAW AND PRACTICE IN CANADA**

**Wilton & Joseph**

**Release No. 5, September 2025**

This unique work delivers both a thorough introduction to matrimonial property law and a detailed examination of the specific issues arising in every province which practitioners must be familiar with. This resource discusses: unequal divisions of property, excluded property, the valuation of the various kinds of property including pensions and the specific legislation and case law pertinent to each jurisdiction.

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

This release features updates to Chapter 8 (Ontario).

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## Highlights

In this release sections on setting aside a domestic contract in Ontario (*Family Law Act*, R.S.O. 1990, c. F.3, s. 56(4)) and Ontario family arbitrations (*Family Law Act*, R.S.O. 1990, c. F.3, ss. 59.1 to 59.8) have been completely rewritten and updated. Notable cases include:

### Domestic Contracts

- The husband's failure to notify the wife of an impending large investment for his company was significant enough for the wife to meet the first requirement of s. 56(4) of the *Family Law Act*. See *Tsarynny v. Topchiy*, 2023 ONSC 6157, 2023 CarswellOnt 18425 (Ont. S.C.J.), affirmed 2025 CarswellOnt 2715, 2025 ONCA 175 (Ont. C.A.).
- The disclosure requirement prior to entering a domestic agreement occurs at the time the contract is entered, not sometime prior. See *Irving v. Irving*, 2024 CarswellOnt 17129, 2024 ONSC 102 (Ont. S.C.J.).
- A party cannot fail to ask the correct questions and then make an allegation of lack of disclosure. See *Singh v. Khalil*, 2023 ONSC 6324, 2023 CarswellOnt 17342 (Ont. S.C.J.), affirmed 2024 CarswellOnt 19477, 2024 ONCA 909 (Ont. C.A.).
- Where the wife lived with the husband while the separation agreement was negotiated, and she often felt extremely unsafe on account of his history of family violence, the agreement was not negotiated under unimpeachable conditions. See *Huang v. Guo*, 2023 ONSC 5717, 2023 CarswellOnt 15789 (Ont. S.C.J.).
- A claim of mental illness alone, without supporting evidence of impaired cognitive function, is not sufficient to set aside a domestic agreement on the basis of failing to understand the nature of the agreement or its consequences. See *Rose v. Rose*, 2023 ONSC 1833, 2023 CarswellOnt 4080 (Ont. S.C.J.).

### Family Arbitration

- Where the arbitrator proposed by the husband to conduct a secondary arbitration arising from the parties' separation agreement did not have the requisite training to conduct family arbitrations, the court had no jurisdiction to appoint him. See *F.W. v. D.B.*, 2024 CarswellOnt 13642, 2024 ONSC 4823 (Ont. S.C.J.).
- Where an arbitrator has no jurisdiction to enforce a court order, he or she consequently has no jurisdiction to invalidate a court order. See *Murphy v. Murphy*, 2023 CarswellOnt 21429, 2023 ONSC 1762 (Ont. S.C.J.).

## ProView Developments

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