

## INDEX

### A

#### **affidavits**

- contents, 27, 28-29
- cross-examination on
  - answers recorded, *see* transcript
  - court discretion, 33
  - credibility, 33
  - form of questioning, 36
  - legislative authority, 35
  - procedure, 36
  - purpose, 31, 35
  - qualified recorder, 36-37
  - questioner, responsibilities of, 37
  - relevance, 32, 33
  - Rules of Court, 33-35
  - scope, 31, 37
  - summary, 31-33
  - transcript, 36
- exhibits to, 27, 29-30
- summary, 27-28
- who may swear, 29

**allowance**, *see* questioning

#### **appeals**

- appeal record
  - fast-track appeal, 174
  - generally, 172-173

- standard appeal, 173
- applications
  - admit new evidence, to, 181
  - deciding of, 179-180
  - format, 179
  - generally, 179
  - permission to appeal, 180
  - reconsider previous decision, to, 181
  - restore appeal, to, 181
  - stay pending appeal, 181
- arbitrations, from, 169
- book of authorities
  - format, 177-178
  - generally, 177
- child protection, re, 107, 119
- costs
  - factum and, 183
  - failure to comply with Rules, 183
  - security for, 182
  - successful party, 183
- delay, consequences of, 181
- extracts of key evidence
  - format, 177
  - generally, 176-177
- factums
  - content, 175-176
  - cost ramifications, 183

FAMILY LAW LITIGATION HANDBOOK — ALBERTA EDITION

appeals (*cont'd*)

- • fast-track appeal, 175
  - • formatting, 176
  - • length requirements, 176
  - • standard appeal, 174-175
  - fresh evidence, 165-166, 167-168
  - judgments, 182
  - new evidence, 165-166, 167-168
  - no right of appeal, 168
  - orders, 182
  - permission to, 168-169
  - procedure
    - • documents
      - • • filing, 182
      - • • formatting, 182-183
    - • electronic appeals, 170
    - • enforcement, stay of, 172
    - • fast-track appeals, 171-172
    - • notice of appeal
      - • • contents, 171
      - • • filing, 170-171
      - • • format, 171
      - • • where to file, 171
    - • notice of cross appeal
      - • • contents, 171
      - • • filing, 171
      - • • format, 171
    - • standard appeals, 171-172
  - purpose, 166
  - restoring appeal
    - • deadline for, 182
    - • generally, 182
  - sanctions for failure to comply with Rules, 183
  - scheduling
    - • fast-track appeal, 178-179
    - • generally, 178
    - • standard appeal, 178
  - security for costs, 182
  - standard of review
    - • errors of fact, 165, 166-167
    - • errors of law, 165, 167
    - • Rules of Court, involving, 168
  - stay of enforcement, 172
  - striking of, mandatory, 181
  - summary, 165-166
- applications within proceeding**
- judge vs. master in chamber, 63, 65
  - jurisdiction, 63, 65
  - provincial court
    - • content, 64, 70
    - • costs, 64, 71
    - • filing, 70
    - • form of application, 64, 70
    - • hearing, 64, 71
    - • notice, 64, 71
    - • order, 64, 71
    - • rules for applications, 64, 70
    - • service, 64, 71
  - Queen's Bench
    - • abridging time for service, 63, 66
    - • affidavit in support, 63, 66, *see also* affidavits
    - • content, 63, 65
    - • *ex parte*, 64, 67
    - • filing
      - • • affidavits, 67
      - • • application, 67
      - • • dispute resolution requirements, 67-68, 71-73

## INDEX

- applications within proceeding (*cont'd*)
- parenting after separation seminar, 68
  - form, 63, 65
  - hearing
    - family law morning chambers, 64, 68-69
    - morning chambers procedure, 69
    - ordinary chambers, 68
  - orders
    - appeals, 64, 70
    - content, 69-70
    - effective date, 69
    - form, 69
  - response, 66
  - time for making
    - abridging time for service, 66
    - commencing claim under Family Law Act, 66
    - originating application, commenced by, 66
    - other applications, 66
  - summary, 63-64
- appointment, notice of**
- allowance, 51-53
  - generally, 50-53
  - lawyer's responsibilities, 54
- B**
- bifurcation**, *see* severance
- C**
- Calderbank offers**
- clear language, 60
  - costs, 61, 144, 159-160
  - generally, 60
- case management**, *see also* dispute resolution; family law conferences
- application of Part 4 of *Family Law Rules*, 83, 85-91
  - court assistance, 83, 93-94
  - managing litigation, 83, 91-92
  - parties' responsibilities, 92
  - summary, 83-84
- child apprehension orders**
- court application, 114-115
  - custody on apprehension, initial, 115
  - with order, 114
  - without order, 114
- child protection**
- administrative review, 107, 119-120
  - agreements
    - access agreement, 106, 112
    - custody agreement, 106, 111-112
    - family enhancement agreement, 105, 111
    - permanent guardianship agreement, 106, 112
  - appeals, 107, 119
  - applications, notice of, 107, 115-116
  - apprehension orders
    - court application, 107, 114-115
    - custody on apprehension, initial, 107, 115
    - with order, 106, 114
    - without order, 106, 114

## FAMILY LAW LITIGATION HANDBOOK — ALBERTA EDITION

- child protection (*cont'd*)
    - court orders
      - • permanent guardianship order, 106, 113
        - • • duration, 113
      - • private guardianship order, 107, 117-118
      - • review of orders, 113-114
      - • supervision order, 106, 112
      - • temporary guardianship order, 106, 112-113
        - • • duration, 113
    - confidentiality, 107, 120
    - director's course of action
      - • appropriate action, 105, 111
      - • emergency care, 111
      - • investigation, 105, 111
      - • move child to complete investigation, 105, 111
    - factors, 108-110
    - hearings
      - • adjournments, 116
      - • court powers, 116
      - • disclosure, 116
      - • exclusion from, 116
      - • evidentiary restrictions, 118
        - • • age of child, 118
      - • right to appear, 118
    - intervention
      - • duty to report, 105, 110
      - • penalties for failure to report, 110
    - legislative authority, 105, 107-108
    - maintenance enforcement, 118
    - procedural rights, 110
    - secure services certificate, 107, 117
    - summary, 105-107
- Child Support Guidelines (Alberta)**
- adjustments to income
    - • additional amount, 322-323
    - • business investment losses, 322
    - • capital cost allowance for property, 323
    - • capital gains and capital losses, 322
    - • carrying charges, 322
    - • child support, 321
    - • deemed split-pension amounts, 323
    - • disposal of share, 323
    - • dividends from taxable Canadian corporations, 322
    - • employee stock options with Canadian-controlled private corporation, 323
    - • employment expenses, 320-321
    - • net self-employment income, 322
    - • partnership or sole proprietorship income, 323
    - • social assistance, 322
    - • special or extraordinary expenses, 321-322
    - • spousal or adult interdependent partner support, 321
  - comparison of household standards living test, 317-320
  - financial disclosure, 13
- Child Support Tables (Alberta)**
- adoption of federal tables, 285

## INDEX

### Child Support Tables

(Alberta) (*cont'd*)

- tables, 285-317

### costs

- advance payment, 144, 161
- appeal costs
  - factum and, 183
  - failure to comply with Rules, 183
  - security for, 182
  - successful party, 183
- Calderbank offers, 144, 159-160
- general rule, 141
- impecuniosity, 162-163
- informal offers, 144, 159-160
- legislative authority, 141, 144-150
- merits, 162
- offers to settle, 143, 157-159
- purpose of, 141, 150-151
- scale, 142, 152-154
- Schedule C, 142, 154
- solicitor, against, 160-161
- solicitor-client, 143, 154-157
- special circumstances, 163
- summary, 141-144

**Court Services Programs**, *see* also regional court information

- Alberta Aboriginal Court Worker Program, 263
  - Criminal Court, 263-265
  - Family Court, 265-267
- Alberta Law Libraries, 262-263
- Civil Claims Mediation Program Provincial Court, 259-260
- Civil Mediation Service, 259

- Education Services
  - Focus on Communication in Separation, 273-274
  - Parenting After Separation, 271-272
  - Parenting After Separation For Families in High Conflict, 272-273
- Family Court Assistance
  - Provincial Court, 280-281
- Family Justice Services, 267-269
- Information Services, 269-271
- Intake Services, 274-276
- Law Information Centre, 260-261
- Mediation/Dispute Resolution Programs
  - Child Protection and Intervention Mediation Program — Provincial Court, 278-279
  - Dispute Resolution Officer Program (Calgary) and Child Support Resolution Program (Edmonton), 279-280
  - Family Mediation Program - Provincial Court and Court of Queen's Bench, 276-277
- Parenting Intervention, 282-283
- purpose and application, 257

**courts**, *see* regional court information

## D

### disclosure

- affidavit of records, 14
- child protection hearing, 116
- continuing duty, 48

## FAMILY LAW LITIGATION HANDBOOK — ALBERTA EDITION

### disclosure (*cont'd*)

- documents, 122
- domestic contracts, in, 12-13
- procedure, 13
- • notice to disclose, 13
- • notice to reply to written interrogatories, 13
- provincial court, 126
- summary, 11

### **discovery**, *see also* questioning

- legislative authority, 41
- materiality, 42
- procedure, 43
- purpose, 41
- relevance, 42, 43-44
- scope, 41
- summary, 41-42
- transcripts, use of, 49-50

### **dispute resolution**, *see also* case management; family law conferences

- by agreement, 84, 94-97
- by judge, 84, 97-100
- child support resolution project, 103-104
- dispute resolution officers, 101-104
- summary, 83-84

## F

### **factums**

- content, 175-176
- cost ramifications, 183
- fast-track appeal, 175
- formatting, 176
- length requirements, 176

- standard appeal, 174-175

### **family law conferences**, 100-101, *see also* case management; dispute resolution

### **Family Law Rules**

- appeals, 8
- court actions, 3-4
- disclosure of information, 5
- foundational rules, 2
- judgments and orders, 6
- managing litigation, 4-5
- parties to litigation, 3
- preserving rights, 5-6
- resolving claims without full trial, 6
- resolving issues, 5-6
- service of documents, 7-8
- summary, 1-2
- trial, 6

### **Federal Child Support Guidelines**

- financial disclosure, 13

## I

### **interpreter**

- use of, 54

### **interrogatories**, *see also* discovery, questioning

- written, 44-45

## J

### **judgments and orders**

- appeals, 182
- child protection
- • permanent guardianship order, 106, 113

## INDEX

- judgments and orders (*cont'd*)
- duration, 113
  - private guardianship order, 107, 117-118
  - review of orders, 113-114
  - supervision order, 106, 112
  - temporary guardianship order, 106, 112-113
  - duration,, 113
  - correcting errors or mistakes, 127, 137
  - discharging, 129, 139
  - enforcing, 140
  - further/other order after judgment or order, 129, 138
  - legislative authority, 127, 129-134
  - overview, 134-136
  - re-opening case before judgment or order, 128, 137-138
  - setting aside, 129, 139
  - summary, 127-129
  - varying, 129, 139
- L**
- Law Society of Alberta Code of Conduct**
- solicitor-client relationship, 16
- O**
- offers to settle**
- formal offers
  - acceptance, 58, 61
  - confidentiality, 58, 61
  - costs consequences, 57, 59-60, 157-159
  - counteroffer, effect of, 59
  - genuine offer, 58
  - length of time offer open, 59
  - rejection, 59
  - requirements, 57, 58
  - revocation, 57, 59
  - timing of, 57, 58-59
  - informal offers
  - Calderbank offer, 58, 60-61
  - costs, 159-160
  - generally, 60
  - purpose, 57, 58
  - summary, 57-58
- orders, see** child protection; judgments and orders
- P**
- privilege, see** solicitor-client privilege
- Q**
- questioning, see also** discovery
- allowance, 50-53
  - appointment, notice of, 50-53
  - appropriate questions, 46-48
  - attendance, 55
  - interpreter, 54
  - lawyer's responsibilities, 54
  - objections, 46-48
  - oral, 45
  - procedure, 45-46
  - Rules, under the, 43-44
  - transcripts, use of, 49-50
  - undertakings, 49
  - written, 44-45

FAMILY LAW LITIGATION HANDBOOK — ALBERTA EDITION

**R**

**regional court information**

- calendar, 191
- 2014, 191
- 2015, 192
- Court of Appeal
- Justices, 199
- sitting dates, 193-197
- speaking to the list date, 198
- Court Services Programs
- Alberta Aboriginal Court Worker Program, 263
- Criminal Court, 263-265
- Family Court, 265-267
- Alberta Law Libraries, 262-263
- Civil Claims Mediation Program Provincial Court, 259-260
- Civil Mediation Service, 259
- Education Services
- Focus on Communication in Separation, 273-274
- Parenting After Separation, 271-272
- Parenting After Separation For Families in High Conflict, 272-273
- Family Court Assistance
- Provincial Court, 280-281
- Family Justice Services, 267-269
- Information Services, 269-271
- Intake Services, 274-276
- Law Information Centre, 260-261
- Mediation/Dispute Resolution Programs
- Child Protection and Intervention Mediation Program - Provincial Court, 278-279
- Dispute Resolution Officer Program (Calgary) and Child Support Resolution Program (Edmonton), 279-280
- Family Mediation Program - Provincial Court and Court of Queen's Bench, 276-277
- Resolution Program (Edmonton), 279-280
- Parenting Intervention, 282-283
- purpose and application, 257
- directory
- Alberta Review Board, 251
- Appeals Branch, 256
- Court of Appeal, 238
- Courts Administration Service (Federal), 256
- General Prosecutions Branch, 253
- Office of the Sheriff — Civil Enforcement, 241
- Provincial Court Base & Circuit Points, 241-251
- Public Prosecution Service of Canada, 256
- Queen's Bench, Court of, 239-241
- Sheriff's and Security Operations, 251-252
- Specialized Prosecution Branch, 255-256



## INDEX

### regional court information (*cont'd*)

- • Transcript Management Services, 252
- Masters-In-Chambers
  - • Masters, 212
  - • sitting dates, 210-212
- Provincial Court Civil
  - • Judges, 237
  - • Justices of the Peace, 237-238
  - • sitting days, 237
- Provincial Court Criminal
  - • docket sittings, 214-221
  - • Judges, 222-225
  - • map — circuits, 213
  - • Supernumerary Judges, 226
- Provincial Court Family and Youth
  - • docket sittings, 228-235
  - • Judges, 236
  - • map — circuits, 227
- Queen's Bench, Court of
  - • Justices, 208-210
  - • map — sitting points, 200
  - • sitting dates, 201-207

## S

**Schedule C**, *see* costs

**settlement**, *see* offers to settle

### severance

- appeal, 77, 80-81
- foundational rules, 75
- introduction to, 78-79
- legislative authority, 75, 77-78
- summary, 75-77
- test for, 76-77, 79

### solicitor-client privilege

- general principles, 23, 24
- substantive rule of law, as, 23, 24
- summary, 23-24
- waiver
  - • consequences of, 26
  - • deemed, 23, 25-26
  - • express, 23, 25
  - • general, 23, 24-25
  - • implied, 23, 25-26

### solicitor-client relationship

- circumstances of case, 15
- dockets, 15
- family law context, 15
- first dealings, 15
- jurisprudence, 17-21
- Law Society of Alberta Code of Conduct, 16
- retainer, 15
- summary, 15-16

### Spousal Support Advisory Guidelines

- reference guide
  - • application, 326-327
  - • child support formula
    - • • with formula
      - • • • adult children, 333-334
      - • • • basic formula: quantum (outside Quebec), 331
      - • • • custodial payor, 333
      - • • • duration, 331-332
      - • • • generally, 330-331
      - • • • shared custody, 332-333
      - • • • split custody, 333
      - • • • step-children, 333

FAMILY LAW LITIGATION HANDBOOK — ALBERTA EDITION

Spousal Support Advisory  
Guidelines (*cont'd*)

- without formula
- generally, 329
- quantum, 330
- duration, 330
- income, 327-329
- overview, 325-326

**standard of review**

- errors of fact, 165, 166-167
- errors of law, 165, 167
- Rules of Court, involving, 168

**T**

**technology**

- digital book of experts, 187-188
- electronic appeals, 170
- electronic filing, 188
- electronic hearings, 185-187
- fax filing, 188
- trial, during, 187

**transcripts**

- affidavits, 36
- questioning, on, 49-50

**trial of an issue**, *see* severance

**trials**

- disclosure of documents, 121, 122-123
- expert reports, 121, 123-124
- introduction, 122
- miscellaneous points, 125
- notice to admit facts, 121, 124-125
- offers to settle, 121, 124
- provincial courts, 122, 126
  - disclosure, 126
  - expert reports, 126
  - evidence, 126
  - pleadings, 126
- summary, 121-122
- witnesses, 121, 125

**U**

**undertakings**, *see* questioning

**W**

**witness allowance**, *see* questioning