Index

affidavits, 15

- contents, 16
- who may swear, 17

appeals, 131

- appellate review, 132
- fresh/new evidence, 133
- standard of review, 132
- • errors of fact, 132
- • errors of law, 132

assessments, 59

- appointing an assessor, 65
- assessment report and assessor testimony, 66
- assessments in child protection, 66
- authority to order, 64
- child and family services act, s. 54, 61
- children's law reform act, s. 30, 60
- costs, 65
- courts ordered, 62
- need for clinical issue, 64
- procedure, 65

child protection proceedings, 89

- children's aid society defined, 91
- legal test and principles, 92
- • answer and plan or care, 93
- • apprehension hearing/temporary care hearing, 92
- • conferences, 95
- • costs, 100
- • disclosure, 95
- • hearing, 96
- statutory framework of child welfare proceedings, 91

child support, 333

• income, adjustments to, 360

- • additional amount, 279
- • business investment losses, 361
- • capital cost allowance, 362
- • capital gains and losses, 361
- • carrying charges, 361
- • child support, 360
- • dividends from taxable Canadian corporations, 361
- • employee stock options, 362
- • employment expenses, 360
- • net self-employment income, 279
- • partnership or sole proprietorship, 362
- • social assistance, 361
- support other than child support, 361
- standards of living, comparison of, 357
- • definitions, 357
- test, 358
- tables and schedules, 333
- • table for Ontario, 333

conferences, 31

- agreements, 39
- case conferences, 37
- • briefs, 38
- • purpose of, 37
- • rule 14(4) no motions before case conference, 37
- costs, 40
- orders, 39
- rule 17 conferences, 33
- settlement conferences, 38
- • purpose of, 38
- trial management conferences, 35

costs, 117

- bad faith, 122
- costs at each step, 121

FAMILY LAW LITIGATION HANDBOOK

costs (cont'd)

- costs enforced as support, 126
- costs for conduct affecting proceedings, 125
- · factors to consider, 124
- • dual counsel, 125
- • importance, complexity or difficulty, 124
- • reasonableness or unreasonableness,
- government agencies, 128
- interim disbursements, 130
- obligations of counsel, 129
- party who failed to attend court, 126
- purpose, 120
- self-represented litigants, 126
- successful party presumed to be entitled, 121

Court of Appeal, 309

 Practice Direction Concerning Civil Appeals at the Court of Appeal for Ontario, 309

disclosure, 9

- · documentary, 11
- financial, 10
- importance of in domestic contracts, 11
- importance of under family law rules,
- obligations of litigant, 12

experts, 103

- concerns/considerations, 108
- consultation with counsel, 108
- · disclosure, 101
- hot-tubbing, 109
- participant, 109
- qualifications, 106
- qualifications, 106
- quantum of experts, 106
- rules of civil procedure, 109
- · threshold of admissibility, 106
- whether expert needed, 105

family law rules, 3

- application, 3
- disclosure, 9
- matters not covered, 3
- objective, 3, 4

motions, 41

- court documents required, 53
- kinds of motions, 51
- • changing final order or agreement, 51
- • summary judgment, 51
- • temporary order, 51
- no motion before to case conference, 52
- • exceptions, 52
- rule 14 motions for temporary orders,
 43
- rule 15 motions to change a final order or agreement, 46
- rule 16 summary judgment, 49
- typical motion, 54
- • continuing record, contents, 55
- hearing day, 54
- • hearing of motions, 54
- • where a motion is heard, 54
- • who may make a motion, 54
- without notice, 55
- • consent adjournment, 57
- • evidence, 56
- • notice, 55
- • preconditions to questioning, 56
- relief, 56
- • service, 56
- • service of order, 55
- • where a motion is heard, 55
- 14B motion procedural, uncomplicated or unopposed matters, 57
- • factums, 57

offers to settle, 27

- formal requirements, 29
- formal requirements unmet, 29
- purpose of, 29
- rule 18 offers to settle, 27

INDEX

offers to settle (cont'd)

- · severable or bifurcated offers, 29
- standard practice, 30

office of the children's lawyer, 69

- children's evidence, 77
- • direct evidence, 79
- • hearsay problem, 77
- independent role of child's counsel, 75
- order, 84
- policy statement, 86
- position on behalf of the child, 67
- representing children and custody and access proceedings in Ontario, 70
- role of child's counsel, 71
- • contested hearing, 71
- • position on behalf of the child, 73

Ontario Court of Justice, 305

- Practice Direction regarding the Integrated Domestic Violence Court at 311 Jarvis Street, Toronto, 307
- rule 40 case management, 305

procedural issues, 7

- after court, 7
- prior to court, 7

questioning, 19

- client preparation, 25
- practice and procedure, 23
- practice tips, 25
- rule 20 questioning a witness and disclosure, 19
- undertakings and refusals, 25

solicitor's liens, 135

- · charging orders, 139
- future proceeds of litigation, 140
- general retaining lien, 137
- particular lien or special lien on fruits of the action, 139

spousal support advisory guidelines, 363

- application, 364
- entitlement, 364
- income, 365

- with child support formulas, 367
- • adult children, 369
- • custodial payor, 369
- • duration, 367
- • quantum, 367
- • shared custody, 368
- • split custody, 368
- • step children, 368

Superior Court of Justice, 141

- all regions, 141
- Consolidated Provincial Practice Direction, 147
- • rule 39 and 41 case management, 141
- central east region, 175
- Consolidated Practice Direction Concerning Family Cases in Central East, 176
- family motions information, 175
- Regional Calendar excerpts, 184
- central south region, 187
- Consolidated Practice Direction for the Central South Region, 188
- • family motions information, 187
- • Regional Calendar excerpts, 209
- central west region, 213
- Consolidated Practice Direction for the Central West Region, 215
- • family motions information, 213
- • Regional Calendar excerpts, 223
- Divisional Court, 295
- Consolidated Practice Direction for Divisional Court Proceedings, 296
- east, 227
- Consolidated Practice Direction for the East Region, 234
- family motions information, 231
- Regional Calendar excerpts, 240
- • rule 42 case manager, 227
- · northeast, 245
- Consolidated Practice Direction Concerning Family Cases in the Northeast Region, 248

FAMILY LAW LITIGATION HANDBOOK

Superior Court of Justice (cont'd)

- • family motions information, 245
- • Regional Calendar excerpts, 250
- northwest, 255
- • Consolidated Practice Direction Concerning Family Cases in the Northwest Region, 257
- • Consolidated Practice Direction for the Northwest Region, 255
- • family motions information, 255
- • Regional Calendar excerpts, 262
- southwest, 265
- • Consolidated Practice Direction for the Southwest Region, 267
- • family motions information, 265
- • Regional Calendar excerpts, 275
- Toronto, 288
- • Practice Directions of Justice Paisley, 290

•• rule 8.1 — mandatory information program, 283

trial considerations, 111

- document disclosure, Rule 19 & 20, 104
- rule 13 financial statements, 115
- rule 13 net family property statements, 115
- rule 18 offers to settle, 113
- rule 19 & 20 document disclosure,
- rule 22 request to admit, 114
- rule 23 expert report, 113
- rule 23 trial record, 114
- rule 23 witnesses, 115