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EVIDENCE IN FAMILY LAW

Harold Niman

Release No. 8, October 2026

This unique resource is structured to follow the evolution of a family law case through trial and appeal and provides detailed analysis regarding how to best obtain, preserve and present evidence. It also examines specialized areas of family law such as Charter litigation and child protection proceedings, looking at how to establish the proper evidentiary framework.

What's New in this Update

This release includes updates to Appendix CD (Case Digests).

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Highlights

This release includes the following updates to Appendix CD (Case Digests):

- **Family law — Practice and procedure — Procedure on appeal — Fresh evidence —** Photographs or official document from Iranian Marriage Office having no bearing on decisive issue and having no effect on result which turned on finding that enforcement of marriage agreement would be unfair under *Family Relations Act*: *K.S. v. C.W.K.*, 2026 CarswellBC 1223, 2026 BCCA 170 (B.C.C.A.)
- **Family law — Practice and procedure — Procedure on appeal — Fresh evidence —** Former spouses settled property and debt division by consent order after separation — Woman was required to pay man equalization payment, secured by certificate of pending litigation (CPL) on her property — Woman failed to pay full amount, leading to orders for sale of property and her eventual eviction — Woman appealed, seeking to set aside consent order, and brought application to adduce fresh evidence on appeal — Appeal and application dismissed — Woman failed due diligence requirement from test set out in *R. v. Palmer*, as documents were available to her before consent order — Woman's proposed affidavits did not explain when or how she discovered evidence, and evidence of threats or violence were either inadmissible hearsay or not credible — There was no probative or admissible evidence that woman was prevented from presenting evidence earlier due to family violence. *Lucion v. Garcia Hernandez*, 2026 CarswellBC 1619, 2026 BCCA 212 (B.C.C.A.)