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FAMILY PROPERTY LAW AND PRACTICE IN CANADA

Wilton & Joseph
Release No. 3, May 2026

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 s. 5(6) (unequal division of net family property), s. 9 (powers of the court including vesting property and partition and sale of the matrimonial home) and advances against equalization (interim disbursements) have been updated. Notable cases include:

Section 5(6):

- The unequal division “lens” was not the appropriate framework through which to consider the issue how best to address the amount owing on account of the third refinancing undertaken by the wife after separation and without the husband’s consent. See *Alami v. Haddad*, 2025 CarswellOnt 11652, 2025 ONCA 527 (Ont. C.A.).
- Where the husband had visibility during the marriage to the expenditures the wife made in establishing her business, there was no basis to award unequal division based on her alleged misappropriation of joint funds. See *Happy v. Narouz*, 2024 ONSC 2780, 2024 CarswellOnt 7982 (Ont. S.C.J.), additional reasons 2024 ONSC 4211, 2024 CarswellOnt 12161, 2024 CarswellOnt 12160 (Ont. S.C.J.), affirmed 2025 ONCA 634, 2025 CarswellOnt 14855 (Ont. C.A.).
- Removal of funds from joint lines of credit with the purpose of limiting the wife’s access to funds post-separation was abusive and the resulting debt incurred by the husband was not to be divided equally. See *A.B. v. F.J.S.*, 2025 CarswellOnt 19997, 2025 ONSC 6741 (Ont. S.C.J.).
- The wife’s decision to let her sister keep money she did not request was reckless and resulted in a reckless or intentional depletion of net family property. See *Merchant v. Amir Ali*, 2024 CarswellOnt 11072, 2024 ONSC 2522 (Ont. S.C.J.).

Section 9:

- The court declined the wife’s request for payment of equalization in instalments and instead ordered the equalization payment be satisfied by a rollover from the husband’s pension to a LIRA for the wife. See *Korie v. Korie*, 2025 CarswellOnt 6889, 2025 ONSC 2530 (Ont. S.C.J.).
- The court found that when considering a vesting order to satisfy an equalization payment from an estate, it must consider the testator’s intention while still providing the wife with the appropriate payment owed by the estate. See *Leith v. Eccles*, 2024 CarswellOnt 12957, 2024 ONSC 4769 (Ont. S.C.J.).
- Partition and sale not ordered where the wife had established a prima facie case for a vesting order. See *Caringi v. Caringi et al*, 2025 CarswellOnt 18307, 2025 ONSC 6268 (Ont. S.C.J.).

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