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NEWSLETTER

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\$53,000 IN ARREARS WIPED OFF BOOKS

In January, 1996, a male client of ours was divorced and ordered to pay a combined child and spousal support payment of \$2,000 per month. Shortly after the divorce, his financial picture changed dramatically. His business suffered unforeseen financial losses. His work vehicle was destroyed by fire. It was not insured. He served over a year in jail because he was driving while impaired. He paid support when he could, but at a reduced rate.

We brought an application to the Court of Queen's Bench to eliminate the over \$53,000 in support arrears. The Judge was well aware of the 1994 Alberta Court of Appeal Decision in *Haisman* which makes the elimination of support arrears almost impossible. We argued that our client acted in good faith but his circumstances were such that a variation was the proper result. We were able to convince the Court that our client's voluntary support payments to date were very reasonable based on his income, and the Court While we have a number of very strong arguments that our client's wife should not share in the assets accumulated since

therefore agreed to extinguish the \$53,000 in support arrears. Ongoing child support was established using the Federal Child Support Guidelines.

Interestingly, our client had been turned down by other lawyers as his case was deemed "hopeless". Although most cases of this sort are difficult to prove, we felt the special circumstances would warrant the successful Order granted.

not dealing with matters in a timely fashion. Our client and his wife separated in 1992. In an effort to resolve matters amicably, our client agreed to his wife having the entire sale proceeds from the sale of the home, the family car, and all of the household contents. Additionally, our client assumed full responsibility for the matrimonial debts in the amount of \$11,000.00. Over time, our client paid off all those debts and has accumulated a significant amount of assets. Our client's wife has accumulated no assets since separation.

Our office was retained to complete the divorce, and our client's wife responded with a request for a further division of the matrimonial property. Technically, the date for a division of assets accumulated is the date of trial. Of course, there has been no trial, and as such, our client's assets, all of which have been accumulated since separation, are theoretically up for grabs.



TIME IS OF THE ESSENCE PART II

A file our office is currently handling brings to the forefront another problem resulting from

separation, he has put himself at a disadvantage that could have been avoided if a binding Separation Agreement had been entered into at the time of the original division of assets.

The bottom line is that no one is going to look out for your interests but you. So get on it and get some legal advice today, not tomorrow.

CHANGES TO THE DIVORCE ACT

Lonny Balbi is the Chair of the Canadian Bar Association Family Law Section in Calgary. He recently attended meetings with the Department of Justice in Ottawa to look at changes to the *Divorce Act* (child support, custody, access).

The Department of Justice is seeking the opinion of senior Family Law lawyers from across the country on how to change the laws to benefit Canadians.

Hopefully, the input from Lonny and the others will result in some amendments to the laws which will result in fairness being achieved for all parties and at a lower cost.

OF INTEREST

Krista Frohlich, one of our lawyers, recently accepted a new and challenging position with a firm in Edmonton. She was sad to leave the firm, but promised to keep in contact with us as to how her career is progressing. We wish Krista good luck!



WELCOME BEN AND PAM

We are all very pleased to announce that Ben Harries has joined the firm as an associate lawyer. Ben is a graduate of Oxford University in England. He has practiced law for two years in Calgary, and looks forward to the challenges of a matrimonial practice. Ben has a great sense of humour and an infectious positive attitude. He looks forward to meeting our clients.

Pam Bell, our globetrotting associate, has just arrived back and has told us that the travel bug is finally out of her body. She has some great stories. (I wonder if she learned any interesting legal concepts while in Indonesia?)



TOP TEN SIGNS YOU'VE HIRED A BAD LAWYER

10. Begins every sentence with "Well, as Ally McBeal once said..."
9. He keeps quoting decisions of Judge Judy.
8. Just before your trial starts he whispers, "The judge is the one with the little hammer, right?"
7. He thinks he'll win your case, "because there's a first time for everything".
6. He once failed to get a conviction of O. J. Simpson.

5. Whenever he says, "Your Honour" he makes those little quotation marks in the air.

4. Sign in front of law office reads "Practising Law Since 2:45".

3. Begins by telling jury, "You all look like you should be on Jerry Springer".

2. Giggles every time he hears the word "briefs".

1. His phone number is 1-600-SHYSTER.



CAST & CREW

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