

**BALBI  
& COMPANY  
LEGAL CENTRE  
Barristers, Solicitors  
Notaries/Mediators**

# NEWSLETTER

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## **LONNY ELECTED TO NATIONAL EXECUTIVE**

In September, 1999, Lonny Balbi won an election to become a member of the Executive of the Canadian Bar Association National Family Law Section. The Section is an important voice in dealing with Family Law issues across the country.

Lonny has met with members of the Department of Justice to look at changes to both the Child Support Guidelines and law reform in relation to custody and access. We congratulate him and think his presence will be valuable to providing our clients with the most up-to-date information.

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## **CHILD SUPPORT RETROACTIVE!**

Our office recently settled a file whereby our client, the mother, received a tax-free \$70,000 payment as a lump-sum increase for past child support. Additionally, her monthly child support amount went from \$400 gross per month to \$2,500 net per month.

In 1998, prior to retaining our services, our client had simply asked her husband to change the \$400 per month from a gross amount to a net amount. He refused. She retained our office and we obtained full financial disclosure from him which revealed he had been earning a significant amount of income ever since they separated. Their daughter, now in her late teens, had essentially missed out on years of a better standard of living.

The matter was set down for a Court Application, but after receipt of our client's Affidavit detailing her and her daughter's lifestyle compared to that of the father, the parties were able to mediate a settlement. The end result was that our client, who

would have settled for \$400 net per month ended up receiving \$2,500 per month **and** \$70,000 free of tax.

This file brought to the forefront two important things:

1. The importance of obtaining legal advice **before** negotiating; and
2. It is never too late to mediate.

## **MORE BIG SAVINGS!**

A client contacted us in July of this year with a very serious problem. While visiting with his children here in Alberta, he was served with notice that his ex-wife was bringing an application claiming that he owed her \$185,000 in child and spousal support arrears. Since the parties' separation in 1996, our client had been paying fairly good support to his ex-wife and two children here in Alberta, in addition to supporting the eldest son who was attending university in Ontario. After paying considerable amounts for the support of his family, over the years, it came as quite a shock that he owed \$185,000 more!

His lawyer in Ontario recommended that he retain a firm that specialized in Family Law matters and he retained our office. The problem on his file was that he had entered into a Separation Agreement in 1996 which set out that he pay extraordinarily large amounts in support. That Agreement stated he was to pay 10% of his gross annual income to his ex-wife, 18% to his eldest son, 16% to his other son and 12% to his daughter. This of course totalled 56% of his annual income!

Despite the unfairness of the Agreement, he was given the opportunity to obtain independent legal advice on that Agreement and declined to do so. The majority of case law was against us and to put it simply, "a deal is a deal".

The matter went to Court. We did some calculations for the Judge which showed how much support our client would have paid under the Child Support Guidelines had they been in place when he signed the Agreement, and the overall fairness of the support he had been paying despite that it was not the same as he had agreed to pay in the Agreement.

We had made an offer to the other side prior to Court which was almost exactly what the Court ended up ordering. As a result, our client ended up having to pay what we had already offered to pay and his ex-wife was obliged to pay a significant part of his legal fees. Of course, none of this would have been necessary had our client simply received

independent legal advice on the Agreement years ago. He is very fortunate that a strict reading of the Agreement was not enforced against him. We estimate that we saved our client arrears in the approximate amount of \$100,000.



### **FREE STUFF!!!**

Articles: Divorce Magazine, Fall, 1999 Issue:

1. *Anger (Divorce-related anger can literally make you crazy....Here's how to cope.*
2. *The Co-parenting Relationship (Your marriage may be over, but your relationship with the other parent will continue as long as both you and your children are alive).*

For free copies of articles:

 **269-7300**



## **CAST & CREW**

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