



Family Law Strategy & Legal Research



After enjoying some time to recharge over the holidays, Lam Family Law extends our deepest gratitude for your continued trust and support. We enter 2025 excited to continue building strong and supportive relationships. We wish you and your loved ones a year filled with good health, happiness, and many new adventures!

Welcome to the **Lam Family Law Newsletter**, featuring timely and relevant updates on Ontario family law and practice. We send our newsletter out every two months.

January 2025 Issue

Case Law Commentary

- **Child Protection in 2024:** Looking to brush up on issues raised in child protection cases last year? Check out our blog post: [Key 2024 Child Protection Cases](#).
- **Surreptitious Recordings:** Many parties secretly record communications with their former partner, child(ren), or third parties in hopes of capturing a “smoking gun” to use in court. How do family courts deal with surreptitious recordings? Check out our blog

post: [Proceed with Caution: The Reluctance and Risks of Surreptitious Recordings in Family Law Proceedings](#).

- **Seeking Leave to Appeal to the Divisional Court from an Interim Order (Part 1 of 2):**

Knowing the strict test will help you advise clients about whether they should seek leave to appeal an unfavourable interim decision from the Superior Court of Justice, and what alternatives they may consider instead. Check out our blog post: [Appealing an Interim Order to the Divisional Court, Part 1: The Test for Leave to Appeal](#). Stay tuned for Part 2, which will deal with the steps, materials, and deadlines for seeking leave.

In Case You Missed It – Practice Direction and Rule Changes

- **Updated Practice Direction Applicable to All Superior Court of Justice Cases:**

Effective January 3, 2025, the [Consolidated Provincial Practice Direction for Family Proceedings at the Superior Court of Justice](#) was updated to include the following notable changes (which are also set out in the [Provincial Notice to the Public and Profession](#)):

- For long motions, Affidavits are limited to 20 pages of narrative: [Part I: F2b](#)).
 - Parties with counsel and institutional litigants (e.g., FRO, OCL, and CAS) are no longer permitted to file materials in paper at the court counter. They must file online through the [Family Submissions Online Portal](#). This remains subject to the [exceptions](#) set out in the practice directions: [Part I: A2](#).
 - Self-represented parties may continue to file paper copies of their materials at the court counter: [Part I: A3](#).
 - If an order or endorsement has already been uploaded to the Orders and Endorsements bundle in Case Center, it is not necessary to upload it again for a conference or a motion. Simply refer to the date of the endorsement, the name of the judge, and the case-generated page number: [Part I: E1b](#))g (re: conferences) & [Part I: F2b](#))g (re: motions).
- **Ottawa Practice Changes:** Effective February 3, 2025, there will be several major procedural changes for any new family law matter (not including child protection cases) before the Ottawa Family Court. The [Family Law Townhall Handout](#) sets out these changes, which relate to Trial Scheduling and Trial Management, Case Conferences, Notices of Approaching Dismissals, and Dispute Resolution Officers.
- **Amendments to the Rules of Civil Procedure re: Factum Certificates:** Our [November 2024 Newsletter](#) discussed amendments to rr. [4.06.1](#), [61.11\(1\)\(f\)](#), and [61.12\(3\)\(f\)](#) of the [Rules of Civil Procedure](#), which added new requirements for what must be certified in a factum. The amendments apply to family law appeals at the Divisional Court and Court of Appeal for Ontario. Please contact [Sierra Larmand](#) to receive Lam Family Law's updated template for a precedent Appellant's and/or Respondent's Certificate.

In Case You Missed It – Substantive Law Changes

• **Changes to Estate Laws for Separated Spouses:** On January 1, 2025, important changes to the *Succession Law Reform Act*, ss. [17\(3\)-\(5\)](#) and [43.1](#), came into full effect and impact married spouses who are separated but not divorced. After a married spouse dies, the surviving separated spouse may be treated as if they were divorced, instead of married, upon certain conditions being met: ss. [17\(4\)](#) and [43.1\(2\)](#). These amendments will affect married spouses who are separated when their spouse dies and who:

- separated on or after January 1, 2022, and have been separated for 3 or more years immediately prior to their spouse's death, or
- have not been separated for 3 or more years immediately prior to their spouse's death, but have a family law separation agreement, arbitration agreement, or court order, dated on or after January 1, 2022.

For more details on who this applies to and the impact of these amendments, see [this summary](#) from Community Legal Education (CLEO).

• **Changes to the Canada Pension Plan (CPP):** Effective January 1, 2025, several [amendments to CPP](#) took effect:

- creating new child benefits for dependent children of disabled or deceased contributors attending school part-time,
- adding a top-up to the death benefit for CPP contributors who die before claiming a retirement or disability pension and leave behind no spouse or common-law partner,
- extending eligibility for the Disabled Contributor's Child's Benefit (DCCB) when the parent reaches age 65 (in addition to extending the incapacity provisions to protect the DCCB, which was an amendment that was already in effect prior to January 1, 2025), and
- ending entitlement to a survivor's pension following a CPP credit split.

Supreme Court of Canada – Family Law Updates

- *Dunmore v. Mehralian*, [2024 CanLII 121992 \(SCC\)](#): This case, about determining a child's habitual residence when the Hague Convention related to child abduction does not apply, was heard in the Supreme Court of Canada on December 9, 2024. The case was dismissed, with reasons to follow including on costs.
- *Ahluwalia v. Ahluwalia*: The Supreme Court of Canada is scheduled to hear this appeal, from the [Court of Appeal for Ontario's decision](#) to reject a tort of family violence, on February 11-12, 2025, beginning at 9:30AM. Access to the [live webcast](#) should be updated closer to the hearing date.

Speaking Event

- [The Osgoode Certificate in Family Law Skills and Practice](#) is back for 2025! This intensive, practice-based program is 10 modules, spread out over about three months (from March 25 to June 3, 2025). All of the modules will be delivered virtually. Vanessa Lam will be speaking on May 13, 2025, about written advocacy on motions. There is still time to register! And if you are a new registrant, you can contact [Vanessa Lam](#) for a referral discount code.

Free Resource

- [Steps in a Family Law Case: Interactive Flowcharts](#): CLEO offers three free interactive flowcharts that go through the steps in a family law case. When you click on a step in a flowchart, you will be directed to a page with more information about that step, including timelines and the necessary court forms.

Sharing Our Newsletter

- If this newsletter has been shared with you by a colleague, and you would like to subscribe, simply click [here](#) or contact [Sierra Larmand](#).

Our Services

Lam Family Law provides family law lawyers with valuable and strategic advice and research-related services, including:

- ✓ Drafting factums, statements of law, annotated case books, submissions, affidavits, and other court documents
- ✓ Drafting appeal materials (e.g., seeking or opposing leave to appeal, stay pending appeal materials, further evidence on appeal materials, and substantive appeal materials including the notice of appeal and factum)
- ✓ Lengthier legal opinions / research memos
- ✓ Shorter emails / informal memos highlighting legislation, cases, and/or secondary sources
- ✓ Consulting services to help lawyers navigate file-related challenges, including providing lawyers with guidance and/or a second opinion
- ✓ Assisting with litigation and dispute resolution strategies, brainstorming potential resolutions, and assessing the strengths and weaknesses of a case

Yours Truly,

The Lam Family Law Team

([Vanessa Lam](#), [Maria Golarz](#), [Rebecca Winninger](#),
[Kayleigh Pink](#), and [Sierra Larmand](#))