

# Family Law for Interpreters

## An Overview of Family Law Proceedings in a Chronological Order

Disclaimer: The content of this presentation is for information purposes only and does not constitute as legal advice.

# OUTLINE

1. **When lawyers need a interpreter**
2. **Cohabitation Agreements and Marriage Contracts**
  - Purpose and Timing
  - Recommendations
  - Common provisions/terms
3. **Separation Agreement**
  - Recommendations: financial disclosure and ILA/ILR
  - parenting, support payment, division of properties, waiver of rights to an estate
  - Logistics of obtaining a divorce order/divorce certificate
4. **Proceedings at the Family Court**
  - Exchange of pleadings: Application, Answer and Reply
  - MIP certificate
  - First Case Conference
  - Settlement Conference
  - Questioning
  - Trial Management Conference
  - Motions and Urgent Motions
  - Trial

# When Lawyers Need a Translator

1. Communications with Clients
2. Translation of documents
3. Translation for negotiation discussions
4. Translation for court proceedings

Qualities that I look for in a translator:

1. Ability to translate in plain language
2. Ability to spot legal jargon and to seek clarifications
3. Ability to maintain a neutral tone

# Cohabitation Agreements/Marriage Contracts

## Purpose and Timing

1. Before marriage: Cohabitation Agreements
2. Common Law Spouse: no less than three years in a conjugal relationship, or have a biological child
3. After Marriage: Marriage Contracts
4. Common Law Spouse v. Married Spouse: Different entitlements/rights

### Purpose of Cohabitation Agreement/Marriage Contract

- To avoid or reduce litigation upon a separation
- To protect assets/properties gifted or loaned from other family members
- To set out some rules re living situations

**\*\* Be aware of Unethical Clauses/Provisions\*\***

# Cohabitation Agreements/Marriage Contracts Recommendations

1. Separate Lawyers: ILA (independent legal advice) and ILR (independent legal representation)
2. May consider collaborative family law lawyers:  
Pros and Cons
3. Full and Honest financial disclosure (within Ontario and oversea)
4. Not too close to the wedding: claims re duress/undue influence

# Cohabitation Agreements and Marriage Contracts

## Common Issues

1. Spousal Support
2. Matrimonial Home
3. Division of Properties: Exclusion and Equalization
4. Joint Acquisition of Assets
5. Contributions of Living Expenses
6. Debts
7. Estate Rights
8. Pets

\*\* Parenting Provisions may not be Enforceable\*\*

# Separation Agreement Recommendations

1. Separate Lawyers
2. Full and Honest Financial Disclosure (Form 13.1)
3. Financial Disclosure Brief
4. ILA certificate
5. Affidavit of Execution

# Separation Agreement

## Parenting

- Custody (old) /Decision-Making Responsibilities (new)
- Access (old) / Parenting Time (new)
- Regular Schedule/Holiday schedule
- Primary Residence
- Sole/Joint Custody (old)
- Sole/Joint Decision-making Responsibilities
- Shared Custody (old) / Shared Parenting Time (new) \*\*40% rule\*\*
- Split Custody
- Relocation
- Child Support: Table
- Child Support: Special and Extraordinary Expenses /s.7 expenses
- Life insurance with children as beneficiaries: designation of trustees
- Family Responsibility Office (FRO)



# Separation Agreement

## Spousal Support

- Duration: With or without child
- Gross Income, Net Income, Imputed Income
- DivorceMate Calculations
- Material Changes in Circumstances
- The “20 year rule”
- Enforcement through Family Responsibility Office (FRO)
- Monthly v. Lump Sum
- Insurance for ex-partners/spouses

# Separation Agreement

## Division of Properties

- Date of Marriage or Date of Cohabitation
- Date of Separation
- Matrimonial home
- Parcel Register
- Joint Tenancy
- Tenants in Common
- Net family properties
- Equalization (only available to married spouses)
- Exclusion
- Loan and Loan Agreements
- Trust and Trust Agreements
- Gift and Letter of Gift
- Constructive Trust
- Duration of marriage (the 5-year rule)
- Unequal Division (domestic violence, transfer of properties during marriage, fraudulent conveyance etc.)

# Separation Agreement

## Waiver of Rights to an Estate

- Rule of Succession/Passing without a Will
- Wills/Estate v. Family Law Application
- Wills/Estate v. Dependant's Claim

# Separation Agreement

## Divorce Order and Divorce Certificate

1. Divorce Order/Divorce Certificate
2. Grounds for Divorce
3. Unilateral Divorce Application
4. Joint Divorce Application
5. Simple/Uncontested Divorce Application
6. Divorce Only v. Implementation of Terms of Separation Agreement
7. Child Support Deduction Order/Spousal Support Deduction Order

# Proceedings at Family Court

1. Pleadings: Application, Answer and Reply
2. Noting in Default and Uncontested Trial
3. Mandatory Information Program (MIP and MIP certificate)
4. First Case Conference: Dispute Resolution Officer (DRO) v. Judge
  - Jurisdiction
  - Endorsement
  - Interim Order/Final Order
  - Expert Report
  - Tracing
  - Business valuation
  - Conference Brief
  - Offer to Settle

# Proceedings at Family Court

5. Settlement Conference
6. Questioning/Leave to Conduct Questioning: Listen for Objections before translating
7. Trial Management Conference
8. Motions and Urgent Motions: parenting, support payments, preservation of properties, partition and sale, contempt of court, interim disbursement
  - Notice of Motion, Affidavit, Motion Record
  - Factum
  - Costs and Costs Submissions
5. Trial

Cohabitation Agreement	Sole/Joint/Shared/Split Custody
Marriage Contract	Trust/Trustees/Beneficiaries/Constructive Trust
Common Law Spouse	Spousal Support
Conjugal Relationship	Gross Income, Net Income, Imputed Income
ILA and ILR; ILA certificate	DivorceMate
Collaborative Family Law	Material Change in Circumstances
Financial Disclosure/Financial Disclosure Brief	FRO
Duress	Matrimonial Home
Undue Influence	Parcel Register
Child Support - Table	Joint Tenancy/Tenants in Common
Child Support – Special/Extraordinary/s,7 expenses	Equalization/Net Family Properties/Unequal Division
Affidavit/Affidavit of Execution	Fraudulent Conveyance
Custody and Access	Rule of Succession
Regular Schedule/Holiday Schedule	Family Law Application
Pleadings: Application, Answer, Reply	Dependant's Claim
Noting in Default	Joint Divorce Application/Simple Divorce Application/Uncontested Divorce Application
Child Support Deduction Order/Spousal Support Deduction Order	MIP/MIP certificate
Case Conference/Settlement Conference/Trial Management Conference/Conference Brief	Motion/Urgent Motion/Motion Record/Factum/Affidavit/Costs/Costs Submissions
DRO	Jurisdiction, Endorsement
Tracing/Business valuation	Questioning/Court Reporter/Transcript



RAINWOOD  
LAW

3601 HIGHWAY 7 EAST, SUITE 1101  
MARKHAM, ON L3R 0M3

Tel: 905.604.7881

Fax: 1.888.902.8178

[www.rainwoodlaw.ca](http://www.rainwoodlaw.ca)