

Publisher's Note

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This release features updates to the case law in Volume 1, section 16 (Corollary Relief — Order for Custody) and Volume 3, Chapters 15 (Restructuring) and 16 (Ceilings and Floors). Additionally, new British Columbia spousal support quantum digests have been added to Volume 2.

Highlights

New spousal support quantum digests introduced in this release include:

- **Quantums — Spousal Support — British Columbia — Length of Relationship: 21-30 Years** — The parties married in 1986, had one child, and separated in 2009. The wife worked as a public health nurse before obtaining a graduate degree in nursing. In the early years of the marriage, the wife was the major income-earner, while the husband pursued further

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education. During the marriage, the wife moved with the husband so he could pursue his career. In 1995, the husband established an ophthalmology practice, and the wife worked with him as practice manager until 2005. The wife suffered from severe anxiety and alcohol addiction, for which she ultimately received treatment. The wife had been unemployed since separation. The parties proceeded to trial on several issues including spousal support. The husband was to pay \$24,000 monthly in spousal support from April 1, 2015 to August 1, 2015, and commencing September 1, 2015, the husband was to pay \$23,500 monthly based on his salary of \$982,626. The evidence supported finding that, between 1995 and 1999, the wife made significant contributions to establishing and managing the successful operation of the husband's practice. She continued to contribute, although to lesser extent, from 2000 until the onset of her alcoholism in 2006. The wife clearly established a claim for compensatory support. She had disrupted her own career to support his and had made a significant contribution to the establishment of the husband's practice. The husband's income-earning capacity was enhanced, which conferred an economic benefit on him, while the wife forwent career opportunities because of her role in the marriage. The wife's compensatory claim was not negated by her illness. She was entitled to non-compensatory spousal support. Notwithstanding the division of assets as ordered, the wife was in need and the husband had a corresponding ability to pay support: *N. (T.) v. N. (J.C.)*, 2015 BCSC 439, 2015 CarswellBC 748 (B.C. S.C.).

- **Quantums — Spousal Support — British Columbia — Length of Relationship: 21-30 Years** — The parties were married in June 1976 and separated in April 2004. An October 28, 2005 order awarded the wife interim spousal support of \$1,800 per month based on the husband's income of approximately \$66,000. The wife was disabled and unable to work due to medical conditions, including rheumatoid arthritis. In July 2013, the husband unilaterally began to reduce spousal support payments. As of April 24, 2015, arrears of \$13,249.49 were owed. The husband brought an application for reduction of spousal support and forgiveness of arrears. The wife brought an application for permanent spousal support. The husband's application was dismissed, the wife's granted. Spousal support in the amount of \$2,700 per month was awarded based on the husband's current income. The husband failed to satisfy the court that it would be grossly unfair not to reduce or cancel arrears of support. Given his substantial income, the husband clearly had the ability to pay ongoing support, but he had prioritized other expenses to the detriment of the wife's great need for that support. The wife had become disabled before separation. Given her disability, a permanent spousal support order was appropriate: *Kershaw v. Kershaw*, 2015 BCSC 925, 2015 CarswellBC 1495 (B.C. S.C.).