Gender Dynamics in Family Entrepreneurship: A Socio-Legal Perspective

Shubha Sandill, Graduate Student York University, Canada

ABSTRACT

The available literature on gender and entrepreneurship focuses on two diametrically opposite ends of a spectrum. On one end, the research tells the story of women in leadership positions facing gendered organizational challenges on their way to shattering the glass ceiling. Conversely, the other end focuses on the devaluation of unpaid care work in the home, termed by some scholars as the "second shift" (Hochschild 1989; Wharton 1994). This paper draws from case law, textual analysis, and a range of secondary sources to shed light on the thus far under-researched grey area between these two ends; namely, the disadvantages and challenges faced by women in family owned businesses. Taking on the responsibility of unpaid care work in this context then spills over to another role of running a business where pay may be negligible or foregone in the name of family duty.

This research investigates the contribution of women's work in family enterprises in order to reduce the risk that, without further research, this large section of the female working population may be denied key legal rights and social recognition. In particular, it looks at how involvement in family enterprises impacts Canadian women's legal rights to property upon marital breakdown and the value that family law in Canadian provinces places on their work. The case law review in this paper examines whether these women face reduced earning capacity for self-sufficiency purposes after divorce. It also investigates whether family law generally fails to account for their restricted re-employability upon marital breakdown due to reduced marketability and lack of seniority. Consequently, are family businesses legitimate spaces for female advancement in the Canadian labour market, or do they become sites of economic oppression? Thus, this paper challenges and explores an alternate dimension to the gender roles in family entrepreneurship, aiming to humanize the efforts of the "invisible" women of Canada's economy.

INTRODUCTION: JUST WHAT THE ORDINARY "RANCH WIFE" DOES

In the tradition of its common-law parent, Canada has developed its Family Law system in a timeline relatively in tandem with the reforms passed in the United Kingdom. Provincial family law legislation has focused on formal equality-style division of property upon marital breakdown, which can often fail to account for the actual methods in which couples may, often unequally, share wealth during a marriage. The Supreme Court has simultaneously developed principles of resulting trust, unjust enrichment, and constructive trust.

A turning point came in 1975 when the Supreme Court of Canada handed down a long-awaited family law ruling that dealt substantively with the principles of property division but had implications far greater than could have originally been forethought. The Applicant wife had

worked together with her husband on the family ranch in Alberta for over two decades, without pay and in addition to her caregiving work in the home. The Respondent husband was away from the properties five months a year, during which time the Applicant wife would take on duties ranging from haying, raking, swathing, moving, driving trucks and tractors, to working outside doing anything that was required for the operation of the farm. When the parties separated, the Applicant asked for a one-half interest in three-quarter sections of the ranch's land, as well as in all her husband's other assets, by way of a resulting or constructive trust arising from her contributions to the home and farm. The Alberta Court of Appeal denied her such relief.

The Supreme Court of Canada upheld this decision for controversial reasons, including the statement that, per the majority judgment, the work she had done was the work "done by any ranch wife."[1] Conversely, Laskin J voiced a strong dissent in favour of Mrs. Murdoch. As per Justice Laskin, Mrs. Murdoch's significant contribution to labour and finances founded a right to an interest in the ranch, denial of which would lead to Mr. Murdoch being unjustly enriched. Women's groups and legal commentators alike criticized *Murdoch v. Murdoch* at the time widely for its perceived undervaluation of women's unpaid work in a family business setting. It spawned intense lobbying by women's groups for family law reform, with media commenting that the decision represented a "warning" to other women. Editorials opined that "law reform was obviously needed to prevent other Irene Murdochs from being left out in the cold with less than $60 a week to show for a quarter-century of labour" (Mossman 1994,14). The decision did, in fact, spawn several new statutes to amend the laws of married women's property rights in each Canadian province (Atcheson, Eberts and Symes, 2006, 10).

This paper aims to provide an answer to questions surrounding the overall value of women's contributions to the home and society from a socio-legal perspective in some forty years after *Murdoch*. There is an interesting lack of discourse in particular on the work of women in family entrepreneurship, and this thesis specifically aims to remove the invisibility in which the law and the courts have treated unpaid caregivers such as Mrs. Murdoch. This will be done firstly through a literary analysis of the societal frameworks and concepts underpinning the ideas of women, work, and caregiving that feed into the law's perception of them. It will be followed by a general review of recent case law from Canadian courts to examine what value, if any, judges place

[1] *Murdoch v Murdoch* [1975] 1 S.C.R. 423 at p. 425

on the work done in the family business when granting divorce settlements. It will then conclude with an application of the legal concepts to the wider aspects of gendered entrepreneurship.

LITERATURE REVIEW

The Public/Private Divide

The debate that *Murdoch* spawned was neither new, nor surprising: while history and the law subsequently have evolved to include wide-ranging provisions for marital property division, spousal support, and agreements to represent the changing face of the Canadian family, a considerable amount of silence remains in both academic discourse and legal case law on the plight of women in the process of this change. The issue of the "second shift" has been a matter of discussion for feminist scholars such as Wharton and Hoschild for decades. However, the truly unique issues, in fact, stem from the intersection of public and private, within which the concept of the second shift operates. The family is the unit upon which members of societies structure their lives and relationships, often according to strongly gendered notions (Luxton 1983, 41). Per Boyd (1997), this widespread method of social order has been shifted and challenged over the last few decades by the substantial rise in women's participation in the paid workforce. Boyd argues that the "private sphere," so to speak, is evidently no longer a separated safe space for women and that in fact the "public/private divide between work and family, and between state intervention and the family, appears to have been challenged" (Boyd 1997, 6).

Nowhere is this more evident than the intersection between care duty at home, and work duty in the family business – which, as seen in *Murdoch*, is an environment where pay may be negligible, not to talk of title, recognition, and capacity for self-sufficiency upon marital breakdown. Indeed, although men are slightly more commonly engaged in "childcare and domestic labour in heterosexual households, women remain overwhelmingly responsible for these tasks" (Boyd 1996, 172). Research also evinces a trend of only slight increases in unpaid work time for men, with a simultaneous trend in women increasing the amount of time they spend in paid work. As a result, women seem to have taken on a "second shift," as discussed above with little reprieve compared to men, and thus have less time for leisure or personal development (Sayer 2005, 285). Concerns arise further where it is conceded that "private firms and individual households offer much more arbitrary and unreliable protections, especially for the weakest," and moreover, "the problems that will be increasingly hidden in the household will take longer to become evident in

the data, [while] the shifts in public and private will be played out in women's lives" (Armstrong 1997, 43).

Unpaid Labour

Access to benefits and social services in Canada, in spite of law reform, remains inconsistently based on variables that often intersect with gender, in spite of moves for policies focused on gender equality, shared familial responsibility, and enhanced positions for women in the labour force (Boyd 1996; Chunn 2005; Mossman 1994). Economic and social inequalities remaining in the market are seen as beyond the control of state powers, and therefore normal or natural (Olsen 1983, 1502). Because this is seen, therefore, as something the state cannot do much about, it becomes difficult to promote initiatives into private, non-government workplaces (Armstrong 1997), such as family businesses. Effecting change in such an atmosphere becomes even tougher when the public/private divide means that family is a sacrosanct elect of society, untouched and viewed as a "haven in a heartless world" (Boyd 1997,.9). Further grey areas are produced between traditional understandings of the role of men as the breadwinners and businessmen, while women carried the expectations to be homemakers. The work done by women in activities such as subsistence farming may be completely ignored in policy development, leading to further impoverishment (Goetz 1991, 137-138). Indeed, in this gendered world of family, women are argued to often take on more responsibility in the home, yet less able to exercise authority in decision making (Luxton 1983). McMullin states that "gender, class, social context and family background influence how paid and unpaid work is divided within families," where specifically "the social context of a given time conditions the options women and men have available to them in negotiating the balance of work and family responsibilities" (2005, 225). Moreover, it is worth noting that the cases visible in the higher courts may not necessarily be completely representative of day-to-day life in marital homes. The family owned business is still arguably dominated by several patriarchal norms, as argued by Ramona Heck in her study of American family businesses:

> In the family business, sons are often groomed as CEOs in waiting whereas daughters are considered mothers-in-waiting and are usually underemployed as helpers in the family business, often invisible and without voice to everyone, including themselves (Heck 2002; 155).

A similar yet far more widespread study of 391 family businesses revealed that 391 family business owning couples had the husband as the owner, and 57% of their wives worked in the business – with 47% being paid for their work (Danes and Olson 2003; 53). The study further

remarks on an invisible role of women in family businesses, where "the roles and rules of the family system, many of which are gender specified, are often unconsciously integrated into the family business culture" (Danes and Olson 2003; 53).

Unpaid work, thus, continues to exist on a widespread, arguably pervasive level, and its existence in modern economies should continue to be scrutinized because it remains central to today's capitalist economy, and is intricately linked to trends of power and subordination. For the purpose of specificity, I would adopt Pupo and Duffy (2012)'s characteristics to define what this type of reviewable unpaid work is, namely 1) obligatory or required work; 2) similar work, if it were done elsewhere, would have been remunerated; and 3) the participation in this work arises and mirrors a "historically specific pattern" of social hierarchies (Pupo and Duffy 2012, 28; 42).

Patricia Yancey-Martin (2003), in her fieldwork on gendered practices in workplaces, states, "Many gendering practices are done unreflexively; they happen fast, are 'in action' and occur on many levels. They have an emotive element that makes people feel inspired, dispirited, happy, angry, or sad, and that defies verbal description by all but the most talented novelist." (Yancey Martin 2003, 344). Yancey Martin cites with approval Acker's ideas (1998) of bringing harmful practices into visibility, and that by identifying and challenging them, "the cloak of gender's naturalness, essentialism and inevitability can be removed and gender's negative effects on contemporary social and cultural life eliminated" (Yancey-Martin 2003, 344). Perhaps such reasoning is an explanation for the scarcity of literature specifically on the issue of the law's treatment of spouses upon marital breakdown in terms of the benefits or entitlements owed from a family business that they worked in (with or) without pay. Scholars have discussed unpaid work against the backdrop of broader market trends and issues thus far. Phillips, for example, has discussed "unpaid market labour" collaborations of family members in paid duties in the context of the tax treatment of such activities. She denotes the advantage that a business owner or taxpayer may be able to take of the unpaid work of their family member, namely that they may be able to pay a version of concession on taxes because a family member helped, without pay, to earn that income (Phillips 2008, 65).

Halpern (2015) discusses the inequities that a family business setting creates for the purpose of the normal application of corporate law procedures. Piercing the corporate veil, and applying traditional mechanisms to raise issues within a corporation such as the remedy of

oppression, has been noted to be taking place in a different environment in family businesses. Pursuant to s. 241(1) of the *Canadian Business Corporations Act*[2], and s. 248(1) of the *Ontario Business Corporations Act*[3], a shareholder may apply for a remedy known as "oppression" against actions that oppress, unfairly prejudice, or unfairly disregard interests of any security holder, creditor, director, or officer of the corporation. Halpern notes that in family businesses, the oppression remedy is sought quite frequently given that these businesses "involve personal relationships and a high degree of trust and loyalty" (Halpern, 2015, 20). Seeking these remedies less for the sake of proper business management, and more for the sake of family loyalty, or a blend of family emotional conflict with business interests, brings the gendered, often strongly defined "private sphere" into what traditionally would be a very structured, organized "public sphere" of business decision making. Thus, the use of these remedies, if they are often sought in family businesses, may undermine their potential to solve business disputes, and may place those most vulnerable within the family in a further difficult position when attempting to have their say, if provided one at all, in a business decision

LAW AS A TOOL FOR CHANGE

Literature describing and investigating the law's potential for capturing shifts in gendered notions at work bears more use as a tool for this thesis. Censuses reveal that the "full-time homemaker is devalued in the legal and public policy realms, citing inequitable divorce settlements and the exclusion of unpaid workers from eligibility for benefits under worker's compensation legislation" (Luxton and Vosko, 1998, p. 61). Armstrong points out that "many line-parent mothers have foregone their education to support their husbands, and many more have interrupted their paid career in order to care for husbands and children," making it more difficult for separated and divorced single mothers to find meaningful work (Armstrong, 1997, 43). Law continues to be the blurred line between public and private. In another essay, Boyd notes the manner in which "[l]aw has also been invoked to deal with power issues in the private sphere. A key feminist slogan 'The Personal is Political' has symbolized calls for attention to be paid to the private or personal sphere and to address by law and other forms of state intervention for the abuses that prevail within that sphere" (Boyd, 1996, p. 170). In her opinion, however, the key foundations of the public/private divide have neither been changed by feminist research nor by the research that has made its way

[2] Canadian Business Corporations Act 86 at s. 241(1)
[3] Ontario Business Corporations Act 86 at s. 248(1)

into litigation and case law (Boyd, 1996, p. 175). Mary Jane Mossman (1994) cites Carol Smart (1986)'s famous phrase in support of her claims that women, pursuant to the operation of family law, are "running hard to stand still" and opines the following:

> …it is necessary to challenge the myth of the family as a private sphere, along with the use of formal equality concepts and the inherent limits of family law reform, to achieve fundamental reform, reform which can assure economic security for dependents on marriage breakdown and thus confront [tragic] poverty statistics arising out of divorce in a more meaningful way (Mossman, 1994, p. 32).

Armstrong agrees with Mossman, arguing that "we have a legal system that feminists have used regularly and often successfully to advance women's claims, but which has, perhaps just as often, rejected or undermined such claims" (Armstrong, 1997, 49).

If, as Mossman and Boyd assert, legal reforms thus far have failed to blur the public/private divide distinction, has case law evolved of its own accord to interpret jurisprudence in a manner more consistent with equity and more cognizant of the contributions of women in unpaid family business roles?

CASE LAW REVIEW: MOVING BEYOND THE MURDOCH ERA

Contrary to the criticism that the majority opinion drew in *Murdoch*, Laskin J's dissent was later held to be "prophetic" for the insight it gave into the way the law would develop in subsequent years and cases. Dickson J took the lead in adopting Laskin J's comments in *Murdoch* for two subsequently precedent-setting cases surrounding similar unjust enrichment conditions that would arise from acquiring property gained from one spouse's significant contribution to the joint family enterprise that came at that spouse's detriment.[4] In both *Rathwell v Rathwell* and *Pettkus v Becker*, Dickson J advocated for extending the understanding of familial contribution by a spouse to include tasks and achievements beyond mere financial contribution to attain assets – the direct opposite of the "ordinary ranch wife" duties approach that seemed to be endorsed by the Supreme Court a few years earlier in *Murdoch*. *Rathwell* saw the beginnings of this extension, which John D. McCamus and Larry Taman (1978) commend "for articulating a basis on which the traditional equitable jurisdiction to impose a constructive trust can be deployed to effect a partial solution to the injustice that might result from strict application of rules conceived in another and very different time" (p.760).

[4] *Rathwell v Rathwell* [1978] S.C.J. No. 14; *Pettkus v Becker* [1980] S.C.J. No. 103.

Perhaps the most far-reaching consequence of *Murdoch* in the initial years was the new wave of thought that was heralded through Laskin J's dissent. According to Korven (1993), the constructive trust remedy that Laskin J created in the *Murdoch* decision for familial unjust enrichment was applied in almost 100 cases in the decade following the ruling (Korven 1993; 1). Why did this opinion become the strongest out of the decisions voiced in that case, despite being a dissent? Madame Justice L'Heureux-Dube explains this well when she describes the 1970s as a time when the mood in the Supreme Court began to shift regarding the broader topics it dealt with. She believes, "Although it may not have been expressly stated at the time, it seems clear in retrospect that Laskin C.J.'s dissenting opinion in *Murdoch* appealed to a new and emerging social and political awareness of the need to recognize women's rights to equality" (L'Heureux-Dube, 2000; 505). This was an era that was leading up to the creation of the Canadian Charter of Rights and Freedoms – a charter which, in many respects, arguably overruled the definitions of marriage and gender differences in its provisions for equality rights in section 15. The case law does, in fact, begin to somewhat reflect this progressiveness in status for women, done mainly through developing the concept of unjust enrichment in family law contribution cases that had been largely introduced by *Murdoch*.

Unjust enrichment is an equitable doctrine that essentially prevents one person to be allowed to benefit at the unfair expense of another.[5] Logically it can be applied to cases where a wife provided services to a family business, or to the home and family in general, that might have been to her detriment but assisted in furthering the position of her husband. Post Murdoch, different cases have placed different levels of acceptance on this doctrine in family law scenarios. *Peter v Beblow*[6] reflected the progressive potential of applying this doctrine when it ruled that domestic services and care work could found a claim for unjust enrichment. Under this ruling, no spouse is obliged to perform housework or services for family members and could be entitled to compensation if the marriage comes to an end. This, of course, comes with its own qualifications: the court will look at the overall circumstances of the "bargain" and see whether the person giving up the workforce to perform the household work is being compensated sufficiently in return. The courts will ask whether the recipient of the care work in a marriage would be deemed unconscionable for keeping the benefits of that work without compensating their spouse, in order

[5] See *Garland v Consumers' Gas Co.* [2004] S.C.J. No. 21.
[6] *Peter v Beblow* [1993] 1 S.C.R. 980

to truly deem their enrichment as unjust.[7] *Petkus v Becker* discussed above was an additional foundational case in this area, out of which a three-prong test for unjust enrichment has been produced and evolved. The case is notable, for example, in requiring "absence of juristic reason" for the one person accepting enrichment at the expense of the unpaid spouse, which was subsequently defined and expanded in cases such as *Sorochan v Sorochan*[8] that dealt with similar issues. There was also favourable jurisprudence in the form of decisions such as *LeBlanc v LeBlanc*[9] which allowed for property and family business division in favour of the wife that had run the business in the absence of her alcoholic husband, given her substantial efforts to run the business and the husband's negligence in contributing during the marriage.

In the case of *Moge v. Moge*[10], a court determined that the husband, despite his claims to the contrary, did not contribute to household responsibilities, while the wife was assumed to have done so. In this instance, the Supreme Court of Canada reacted positively in continuing support for the wife who had suffered economic disadvantage as a result of the "gendered division of labour" that took place in the marriage, but did so along the lines of reasoning that the purpose of support was to encourage "self-sufficiency" rather than to compensate for economic disadvantages "suffered due to the assumption of unpaid labour (usually by women) in the private sphere" (Boyd, 1996, p. 177). A particularly key passage from the judgment is as follows:

> Women have tended to suffer economic disadvantages and hardship from marriage or its breakdown because of the traditional division of labour within that institution (p. 513). Hence, while the union survives, such division of labour, at least from an economic perspective, may be unobjectionable if such an arrangement reflects the wishes of the parties. However, once the marriage dissolves, the kinds of non-monetary contributions made by the wife may result in significant market disabilities. The sacrifices she has made at home catch up with her and the balance shifts in favour of the husband who has remained in the workforce and focused his attention outside the home. In effect, she is left with a diminished earning capacity and may have conferred upon her husband an embellished one. [11]

Self-Sufficiency Upon Marital Breakdown

This idea of self-sufficiency is, in fact, governed by s. 15.2(6)(d) of the *Divorce Act,*[12] when it

[7] *Stanish v Parasz* [1989] M.J. No. 578, judgment of Davidson J at p.4.
[8] *Sorochan v Sorochan* (1986) 29 DLR (4th) 1 (S.C.C.)
[9] *LeBlanc v LeBlanc* [1988] 1. S.C.R. 217
[10] *Moge v. Moge* [1992] 3 S.C.R. 813
[11] *ibid* at p.513-514
[12] *Divorce Act* (R.S.C., 1985, c. 3 (2nd Supp.))

states that the objective of spousal support, "in so far as practicable, promote the economic self-sufficiency of spouses within a reasonable period of time." This concept of self-sufficiency is less straightforward for a spouse who has, on the one hand, spent years working, albeit for free but is still treated in the same manner in many ways as a homemaker given that the family business may just be an extension of home duties. Mossman criticizes this approach to spousal support and the concurrent provisions of property division. She argues that law reforms focused on perpetuating self-sufficiency are removed from the reality in which families operate. In circumstances where a family may not own substantial property, to begin with, for example, equal property division would leave a formerly dependent wife with neither adequate property allocation nor adequate support. Furthermore, she points out, "the juxtaposition of analysis at marriage breakdown cannot achieve its goals when members of the family unit have behaved as part of a unit during the marriage, often making decisions then which work to their detriment at marriage breakdown" (Mossman, 1994, p. 25). Overemphasizing on self-sufficiency by the law further fails to accommodate mothers granted custody as well as, crucially, the needs of middle-aged divorced women who have spent the majority of their adult lives prioritizing child care and family responsibilities over gaining external work experience (Weitzman, 1985, p. 401). In fact, it was suggested by the defendant in Peter v. Beblow[13] that a woman's work "should not result in compensation but should simply be done for love."

Reduced Earning Capacity

An inability to market the skills that should have been valued during a women's time at a family business can lead very quickly to significant and sudden reductions in earning capacity. This is particularly the case where parties argue an interest in the business, similar to the Applicant in *Murdoch*, on the basis of unjust enrichment or unfairness. For example, in *Large v. Large,*[14] the applicant wife worked in a business in which she argued her husband, alongside his family, had an equity interest. The court held that notwithstanding her interest and work, it was not satisfied that she was entitled to a variation order on the basis of her husband's equity interest, and on the basis of her efforts in establishing the business. In *Juma v. Juma*[15] a wife's income after separation from her husband was set at zero and was seen to be able to contribute in a significant way to the family

[13] *supra* at note 5
[14] *Large v. Large* 1997 CarswellBC 1165
[15] *Juma v. Juma* 2013 ONSC 904

business as she had done during the marriage, but was awarded support that she asked for on an interim basis. Another Supreme Court case's dissent, this time of Abella J in *Stein v. Stein*[16], criticized the fact that a decision against the award of support failed to account for the economic consequences of the division of labour in the household, including the wife's absence from the paid workforce for over a decade. Prospects despite her retraining remained uncertain for her to re-enter the workforce, whereas the husband's earnings, future earning capacity, and experience placed him in a far better position. In Abella J's opinion, Courts needed to "strive to avoid undermining the goal of attempting to preserve an economic equilibrium between the resulting households."[17]

Even where self-sufficiency is not directly an issue, there seem to be rather small levels of recognition in the case law for efforts in the instance that recognition does occur. In *Urton v. Urton*[18], there occurred the ironic instance where a wife was successful in appealing an initial order that she was not entitled to maintenance despite her 20-year contribution to the business, but was only awarded a total of a $15,000 lump sum for her efforts. In a very similar instance, *Whitty v. Whitty*[19] saw a wife who had assisted a husband's fishing business with clerical tasks and co-signed a bank loan to obtain funds for the purchase of a lobster license but was denied substantial compensation for her efforts. The court took on the exercise of "valuing" her contributions as being merely 7.5% of the net value of the business and for those reasons her efforts were seen not to be affecting her employment. The husband's efforts were recognized as constituting the bulk of the fishing business, as a result of which she received $15,000 total for her 20 years of unpaid work. In *Milne v. Milne*[20] the wife became a massage therapist two years after separation. During the marriage, she had worked on top of her regular employment for her husband's photography business and remained substantially dependent on her husband for the vast majority of the marriage. Support was awarded only until the date that she had started training as a massage therapist, despite the court noting two things: 1) there were no long-term financial consequences to the wife arising from care of the child, even though this was her first time entering the workforce

[16] *Stein v. Stein* [2008] 2 SCR 263
[17] Stein v. Stein, ibid, p.2
[18] *Urton v. Urton* 1979 CarswellBC 65
[19] Whitty v. Whitty 2008 NSSC 243
[20] *Milne v. Milne* 2007 Carswell Alta 1792

in years, and 2) the wife's standard of living went down sharply after separation.

In other instances, one approach proposed, but perhaps not consistently applied, is that of unjust enrichment in recognition of the value of "domestic labour." In its decision on spousal support, *Jackson v. McNee*[21], at para. 41 quotes *Peter v. Beblow.*[22] In *Peter*, the wife took over housekeeping responsibilities, in addition to working on the property. The court sought to recognize value in the relationship, looking at the relationship as a "family enterprise" and determining whether any value was "value received" or "value survived," preferring, ultimately, the later quantification. Seemingly, however, this approach has been sparingly applied in specific family business cases in this paper's review, and more in terms of the "housewife" or "unpaid caregiver" scenario.

Another issue in this respect is the type of role a wife may seek post-divorce that will count towards self-sufficiency. The family business may restrict this aspect of a woman's self-sufficiency and earning capacity as well, as seen in *Geransky v. Geransky.*[23] In this instance, the wife petitioned for interim spousal support and family property distribution in a marriage where both parties had started a construction company. The wife managed bookkeeping for the company, while the husband was responsible for the business's day-to-day operations, and effectively held control of the company. Post separation, the wife remained unemployed until she began her own gel nail business a year later. The husband argued that the wife's income from that business should be imputed since she could, based on her experience in the family business, work as a full-time bookkeeper or earn additional income from her business. The motion judge, (in refusing to impute that said income), stated that her resume consisted mainly of her employment in the family business, a position he described as of "limited value when seeking new employment." The judge also commented that her gel nail business might take some time to build clientele, and made decisions in favour of granting support after considering that self-sufficiency was only one factor in assessing support entitlement. Judges are also to look to any economic disadvantages as a result of the marriage or its breakdown – and in this instance, the "limited value" of her experience in the family business.

[21] Jackson v. McNee 2011 ONSC 4651
[22] *Peter v. Beblow*, 1993 CanLii 126
[23] Geransky v. Geransky, 2012 SKQB 218

An interesting trend that came up in a few cases that were reviewed was the situation when roles were reversed, and it was the husband who had taken on economic disadvantage in his capacity in his wife's family business. Unlike many cases, where the contributions of women upon divorce may be compensated to some extent by a short-term support order until they reach self-sufficiency, *Bortinikov v Rakitova* [24] saw a court awarding employment law-style "reasonable notice" damages for a husband's termination from his employment at his wife's motel. Converse to the cases above which made orders for ongoing amounts of support, the husband was granted a lump sum of $44,412 in support in recognition of the fact that the wife had encouraged the husband to work full time at the motel, and the husband had foregone an "emerging career" for which the wife had receive substantial financial and personal benefits. In *Propper v. Vanleeuwen*[25], a husband was terminated from the family business, and only had a grade 11 education and sporadic experience outside the business. He ended up declaring personal bankruptcy, and due to his inability or lack of guarantees that he would be able to find comparable employment, there was a material enough change in circumstances that he was allowed to vary the amount of child support he was meant to pay to his former wife.

Property Interests

Cases such as *Peter v. Beblow* and *Sorochan v. Sorochan* demonstrate that awards seem to confine themselves mostly to the stereotype of the "homemaker" with no outside source of income. Domestic services were held in *Peter* to form the basis of a claim in unjust enrichment, along with a remedy of constructive trust in the home maintained through the services. In terms of property division, it seems that the unpaid work must need to have a necessarily "direct link" to the asset in dispute, as was the case in *Fox v. Fox*[26] where a legal secretary who worked without pay in her husband's law firm and dedicated many hours to help with the estate litigation against her mother-in-law was granted an interest through a constructive trust in an estate recovered from her ex-husband's mother (Phillips, 2008, p. 82). A similar approach was taken in *Serra v. Serra,*[27] where a wife made a constructive trust claim for deprivation from her contributions to the family business.

[24] *Bortinikov v Rakitova* 2015 CarswellOnt 6524
[25] *Propper v. Vanleeuwen* 1999 CarswellOnt 1922
[26] *Fox v Fox* 2011 BCSC 72
[27] *Serra v. Serra* 2009 ONCA 105

In ruling against her, the trial judge made the following comments (para 23.):

> Ms. Serra was sometimes paid a salary; sometimes, she was not. It would appear that the payment of a salary was more of an income-splitting device than compensation for work that Ms. Serra performed.

The focus, in this case, seemed to be on the lifestyle that the family business afforded her, rather than any disadvantage she suffered from the deprivation of her interests in the business (para. 23):

> However, Ms. Serra was compensated in ways other than salary. What she received in return was a very comfortable lifestyle. She had full-time staff to help her run the household and look after the children. She had cars: a Mercedes, a limousine, and a limousine driver. She had two homes: one in Orillia and one in Florida. She travelled in high style and ate in expensive restaurants. In later years, she resided half of the year in Florida. In short, she led the lifestyle of a wealthy woman.

Reduced Marketability

A strongly related issue to self-sufficiency is the reduced marketability and earning capacity that women face upon release from these family businesses. Though best known for its seminal pronouncements on marriage contracts, the Supreme Court Case of *Miglin v. Miglin*[28] provides much commentary on the concept and underlying principles of reduced marketability for self-sufficiency purposes in the obiter dicta of Justices LeBel and Deschamps' dissent. While the majority decision was rooted in furthering the legislative's objective of self-sufficiency, the dissent recognized that the approach was blind to the subtle ways in which the gender-based economic disparities between the parties and the parties' respective familial roles may play into the negotiating process and significantly influence its outcome. The dissenting justices were particularly concerned about the disproportionate economic disadvantage arising from the roles that the parties adopted during their marriage in both the business relationship and in their domestic lives. The family's lodge business had exclusively employed the wife; she left the marriage without any of the advantages typically flowing from long-term employment, such as seniority or job security. The limited opportunities that she had to develop marketability would have a long-term impact on her prospects for self-sufficiency, in addition to the limits that her childcare responsibilities would place on her employment opportunities and future earning capacity.

Finally, it is worth noting the law's relative lack of appreciation for the skills and training

[28] Miglin v. Miglin 2003 SCC 24

one may receive in a family business position. In *Bhopal v. Bhopal* [29], the wife was not permitted by the husband to seek employment and had left her job as an x-ray technician to move to be with her husband. She then worked in the husband's medical practice doing accounting and bookkeeping. She was awarded spousal support for five years, but was also termed as having greatly diminished abilities to find full-time work due to her "lack of experience, skills, and training." This was despite working with the husband for nearly 17 years. Similar was the case in *MacLeod v. MacLeod,*[30] where a wife, in spite of several years of experience working in her husband's business, (on top of working some part-time jobs at various periods), was awarded support on the belief that she was unlikely to find future employment in any job that did not offer more than minimum income.

The reaction from the law is therefore not flowing from consistent legal principles – in some instances, analogies are drawn between the position of a homemaker with no experience and the position of a person who should effectively be viewed as having years of experience, albeit discounted because of her involvement in the family business. Property division demands a direct connection or contribution to create a trust that would allow such an award. It is noted that many cases are also dependent on the request that a wife makes, i.e. whether it is support she seeks or support based on an interest in the business. While in some instances a contribution may be recognized, it may only lead to support until self-sufficiency is achieved rather than a substantive interest in the business going forward.

CONCLUSION: CURRENT LAWS

This discussion has seen several twists and turns on the double-edged sword that is the law. Several the cases discussed above have focused on the recognition, or lack thereof, for women's roles in the maintenance and economic situation of the home. It is worth mentioning at this stage that, during this research, searches for cases specifically about female contributions to family businesses revealed a large dearth of cases available for review, at least at the Supreme Court and higher provincial court levels.

After the development that followed the 1970s and 1980s cases, the current position is now in a much more favourable state regarding the case law decisions. The decisions that were once

[29] *Bhopal v. Bhopal* 1997 Carswell BC 1603
[30] *MacLeod v. MacLeod* 1999 Carswell PEI 26

focused on historic gendered hierarchies are now instead turning on classification issues: do their properties, including family businesses in which they may have worked for no pay, constitute "family assets" per provincial family law statutes? Division of these family assets operates on a principle of equal division from which judges should avoid departing[31] – a far cry from the days of *Murdoch*. Marital property is thus presumed to be divided equally regardless of the duration of marriage or the individual and financial contributions of one spouse.[32] To classify a family business as a family asset, a test has evolved very recently from *Anderson v Dudek*[33]: "where there is an economic integration of the parties such as sharing of expenses, joint bank accounts, purchasing properties jointly, or jointly assuming liabilities in absence of a formal accounting between the parties" there can be a dividable family business. *Kerr v Baranow*[34] provided further clarification on this test to look at the enrichment aspects of individual fact scenarios, whereby it must be shown that one party was enriched to the detriment, without reason, of the other person. A family enterprise can now be divided equally, similar to the one-half interest that Mrs. Murdoch asked for in the first place. The stringencies, however, are still in place in some areas: one will need "well-grounded" evidence of a joint family venture[35] for example, as well as equal contributions[36] and generally a direct link between contributions and wealth accumulations.[37]

The inequality notions of the past, however, have not completely disappeared, as seen in the high-income divorce cases that have been through the courts in the past few years. As per Julie Hannaford, some case law has created a formula whereby the amount of support should be enough to provide a lifestyle similar to that before separation. Yet, in each of the subsequent cases surveyed in Hannaford' article, spouses were generally awarded the lowest end of the Support Advisory Guidelines (Hannaford, 2012; 77). Both *Maskobi v Maskobi*[38] and *Trombetta v Trombetta*[39] resulted in decisions where one spouse who had no issue with the ability to pay was ordered to pay the bare minimum to their ex-wives, many of whom had been stay at home mothers (Hannaford,

[31] *Silverstein v Silverstein* [1978] I.J. No. 3415 at p.200
[32] Yorke v Yorke [2011] NBJ No.311
[33] *Anderson v. Dudek* 2011 ONSC 6495
[34] Kerr v Baranow [2011] SCC 10
[35] Broadbear v Prothero 2012 ONSC 1962.
[36] *Mitchell v Misener* [2011] ONSC 209.
[37] Jackson v McNee [2011] ONSC
[38] *Maskobi v Maskobi* 2010 ONSC 2540
[39] Trombetta v Trombetta 2011 ONSC 394

2012; 78). Hannaford admits that the analysis applied to spousal support claims, which is "means and needs driven," is still haunted by the "old underpinnings of spousal support claims" (Hannaford, 2012; 80).

Murdoch v Murdoch was a turning point – however, the argument can be made that it was more of a culmination point of years of patriarchal norms and conflicting values in the struggle for true equality in society versus the law for women's contributions to the home. It is within silence that the law is yet to come to terms with in its progression forward completely. The nineteenth century has a stark array of cases consisting of numerous instances of unfairness simultaneous to a number of progressive reforms that finally recognized the ability of women to break away from gendered norms. The 20th century moved further, albeit at a slightly slower pace, in recognizing women's workforce contributions, and focused mainly on a few specific issues. We are now finally at a place where there is a much more open discussion of women's contributions in the home, workforce, and society. It is probably safe to say that had Murdoch been decided today, the progressive steps that case law has taken since the 1970s would mean it would have at least not termed Mrs. Murdoch's work as that of a mere ordinary ranch wife. Yet the battle for equality is still ongoing, as seen in the often invisible and unofficial roles that women can play in family businesses, as well as some stringent tests still in place when classifying a family asset. As family law moves towards deciding more and more complex issues as the definition of the modern family changes, it shall be interesting to see how this historic legacy carries itself forward to apply to the new ways of family – hopefully, progressing further rather than backward.

The Ontario *Family Law Act*[40] assertively states in its preamble that it is "necessary to recognize the equal position of spouses as individuals within marriage and to recognize marriage as a form of partnership." In the many sacrifices and responsibilities that go into building a marriage and partnership, this paper calls upon the legal and academic community to shed some light on whether the law is living up to that promise of equal partnerships when a family's income and livelihood is based on a joint enterprise of contributions by both the wife and the husband in and around a home. The author challenges the academic community to break the shackles of silence around female unpaid contributors to family businesses.

*****

[40] *Family Law Act* R.S.O. 1990, c. F.3

REFERENCES

Acker, J. "The Future of 'Gender and Organizations': Connections and Boundaries." *Gender, Work, and Organizations* 5 (1998): 195-206.

Anthias, F, and N Mehta. "The Intersection Between Gender, the Family and Self-Employment: The Family as a Resource." *International Review of Sociology* 13, no. 1 (2003).

Armstrong, Pat. "Restructuring Public and Private: Women's Paid and Unpaid Work." In *Challenging the Public/Private Divide: Feminism, Law and Public*, edited by Susan B. Boyd, 37-61. Toronto, ON: University of Toronto Press, 1997.

Atcheson, Elizabeth M., Mary Eberts, and Beth Symes. "Women and Legal Action: Precedents, Resources and Strategies for the Future." *Canadian Advisory Council on the Status of Women*, 1984.

Backhouse, Constance B. Petticoats and Prejudice: Women and Law in nineteenth century Canada. Toronto, ON: Women's Press, 1991.

Backhouse, Constance B. "Pure Patriarchy: Nineteenth Century Canadian Marriage." *McGill Law Journal* 31 (1986): 264-312.

Blenkinsopp, J, and G Owens. "At the Heart of Things: The Role of the "Married" Couple in Entrepreneurship and Family Business." *International Journal of Entrepreneurial Behaviour & Research* 16, no. 5 (2010): 357-69.

Boyd, Susan B. "Can Law Challenge the Public/Private Divide? Women, Work and Family." *Windsor Yearbook Access to Justice* 15 (1996).

Boyd, Susan B. "Challenging the Public/Private Divide: An Overview." In *Challenging the Public/Private Divide: Feminism, Law and Public*, edited by Susan B. Boyd, 3-33. Toronto, ON: University of Toronto Press, 1997.

Bruni, A, S Gherardi, and B Possio. "Doing Gender, Doing Entrepreneurship: An Ethnographic Account of Intertwined Practices." *Gender, Work and Organization* 11, no. 4 (2004): 406-29.

Burns, S. "New Economy, New Equality: The Need to Recognize the Value of Unpaid Work." *New Economy* 7, no. 2 (2000): 111-13.

Busby, Karen, Lisa Fainstein, and Holly Penner, eds. *Equality Issues in Family Law*. Winnipeg, MB: Legal Research Institute of the University of Manitoba, 1990.

Calas, M, and L Smircich. "From the 'Woman's Point of View' Ten Years Later: Towards a Feminist Organization Studies." In *Handbook of Organization Studies*, edited by S Clegg, C Hardy, W Nord, and T.B. Lawrence, 284-346. 2nd ed. London: Sage Publications, 2006.

Chan, Wendy, Dorothy E. Chunn, and Robert Menzies, eds. *Women, Madness and the Law: A Feminist Reader*. London: Glasshouse Press, 2005.

Chunn, Dorothy E., and Dany Lacombe. *Law as a Gendering Practice*. Don Mills, ON: Oxford University Press Canada, 2000.

Chunn, Dorothy E. "Feminism, Law, and Public Policy: 'Politicizing the Personal'" In *Canadian Families: Diversity, Conflict and Change*, edited by N Mandell and A Duffy, 3rd ed. Toronto, ON: Nelson, 2005.

Chunn, Dorothy E. "Feminism, Law, and "The Family" Assessing the Reform Legacy." In *Locating Law*, edited by Elizabeth Cormack, 232-53. 3rd ed. Halifax, NS: Fernwood Publishing, 2014.

Cohen, M. G., and J Brodie. *Remapping Gender in the New Global Order*. New York, NY: Routledge, 2007.

Cossman, Brenda, and Judy Fudge, eds. *Privatization, Law and the Challenge to Feminism*. Toronto, ON: University of Toronto Press, 2002.

Danes, S., and Olson, P. "Women's Role Involvement in Family Businesses, Business Tensions and Business Success." *Family Business Review* 16, no. 1 (2003): 53-68.

Duffy, Ann, and N Pupo. *Part-Time Paradox: Connecting Gender, Work and Family*. Toronto, ON: McClelland & Stewart, 1992.

Dumas, C. "Women's Pathways to Participation and Leadership in the Family-Owned Firm." *Family Business Review* 11, no. 3 (1998).

Eichler, M. "The Limits of Family Law Reform, or the Privatization of Female and Child Poverty." *Canadian Family Law Quarterly* 7 (1991).

Ferguson, F, and J Durup. "Work-family conflict and entrepreneurial women: A Literature Review." *Journal of Small Business & Entrepreneurship* 15, no. 1 (1998): 30-51.

Fudge, J, and B Cossman. "Introduction." In *Privatization, Law and the Challenge to Feminism*, edited by Judy Fudge and Brenda Cossman, Toronto, ON: University of Toronto Press, 2002.

Gillis-Donovan, Joanne, and Carolyn Moynihan-Bradt. "The Power of Invisible Women in the Family Business." *Family Business Review* 3 (1990): 153-167.

Goetz, Anne-Marie. "Feminism and the Claim to Know: Contradictions in Feminist Approaches to Women in Development." In *Gender and International Relations*, edited by Rebecca Grant and Kathleen Newland, 133-57. Bloomington And Indianapolis, IN: Indiana University Press, 1991.

Halpern, Robert M. "When Legal Worlds Collide: The Impact of Corporate Law on Family Law Rights & Obligations Following a Relationship Breakdown." *4th Annual Recent Developments and Complex Issues in Property and Equalization* (March 4, 2015): 1-30.

Hamilton, R. "Challenging the Sexual Division of Labour: Family, Employment and Community." In *Gendering the Vertical Mosaic: Feminist Perspectives on Canadian Society*, 116-46. N.p.: Pearson, 1996.

Hannaford, Julie. "High Income Spousal Support – the Presentation of the Spousal Support Claim in the High Income Universe After Elgner." *Money & Family Law,* October 2012.

Heck, Ramona K.Z. "The Daughter Also Rises: How Women Overcome Obstacles and Advance in the Family Owned Business." *Family Business Review* 15, no.2 (2002): 155.

Hochschild, A. The Second Shift: Working Parents and the Revolution at Home. New York, NY: Penguin Books, 1989.

Hollander, B, and W Bukowitz. "Women, Family Culture and Family Business." *Family Business Review* 3, no. 2 (1990).

Jacobson, Peter. "Murdoch v Murdoch: Just about what the Ordinary Rancher's Wife Does." *McGill Law Journal* 20 (1974): 308.

Jones, Bernie D. "Revisiting the Married Women's Property Act: Recapturing Protection in the Face of Equality." *Journal of Gender, Social Policy & the Law* 22, no. 1 (2013): 91-147.

Kainer, Jan. "Locating Landmarks: Producing an Educational Video on Women and the Law." In *Feminism, Law, Inclusion: Intersectionality in Action*, edited by Gayle MacDonald et al. Toronto, ON: Women's Press, 2005.

Keet, Jean. "The Law Reform Process, Matrimonial Property and Farm Women: A Case Study of Saskatchewan, 1980-1986." *Canadian Journal of Women and the Law* 4, no. 1 (1990): 166-189.

Korven, Kim S. "Returning to its Rural Beginnings: Unjust Enrichment and the Constructive Trust from the Perspective of a Farm Child." *Saskatchewan Law Review* 57 (1993): 429-455.

Lerner, M, and A Malack-Pines. "Gender and Culture in Family Business: A Ten-Nation Study." *International Journal of Cross Cultural Management* 11, no. 113 (2011).

L'Heurex-Dube, (The Honourable) Clare. "The Dissenting Opinion: Voice of the Future?" *Osgoode Hall Law Journal* 38 (2000): 3-495.

Luxton, M. "Two Hands for the clock: Changing Patterns in the Gendered Division of Labour in the Home." *Studies in Political Economy* 12 (1983): 27-44.

Luxton, Meg, and Leah F. Vosko. "Where Women's Efforts Count: The 1996 Census Campaign and "Family Politics" in Canada." *Studies in Political Economy* 56 (1998): 49-81.

Martin, P. Y. "'Said and Done' Versus 'Saying and Doing': Gendering Practices, Practicing Gender at Work." *Gender and Society* 17, no. 3 (2003): 342-66.

Matthaei, J. "Healing ourselves, healing our economy: paid work, unpaid work and the next stage of feminist economic transformation." *Review of Radical Political Economics* 33 (2001): 461-94.

McCamus, John D., and John D. Taman. "Rathwell v Rathwell: Matrimonial Propert, Resulting and Constructive Trusts." *Osgoode Hall Law Journal* 16, no. 3 (December 2013): 741.

McMullin, J.A. "Patterns of Paid and Unpaid Work: The Influence of Power, Social Context and Family Background." *Canadian Journal on Aging* 24, no. 3 (2005): 225-36.

Mirchandani, K. "Feminist Insight on Gendered Work: New Directions in Research on Women and Entrepreneurship." *Gender, Work and Organization* 6, no. 4 (1999): 224-35.

Morton, Mary E. "The Cost of Sharing, the Price of Caring: Problems in the Determination of 'Equity' in Family Maintenance and Support." In *Investigating Gender Bias in Law: Socio-Legal Perspectives*, edited by Joan Brockman and Dorothy E. Chunn, Toronto, ON: Thompson Educational Publishing, 2003.

Mossman, Mary Jane. "'Running Hard to Stand Still' The Paradox of Family Law Reform." *Dalhousie Law Journal* 17 (1994): 5-33.

Newman, J, and L.A. White. "Liberal Feminism: How do you define equality?" In *Women, Politics and Public Policy: The Political Struggles of Canadian Women*, 25-28. Oxford: Oxford University Press, 2012.

Olsen, Frances E. "The Family and the Market: A Study of Ideology and Legal Reform." *Harvard Law Review* 96, no. 7 (1983): 1497-1578.

Phillips, L. "Helping Out in the Family Firm: The Legal Treatment of Unpaid Market Labour." *Wisconsin Journal of Law, Gender & Society* 23, no. 1 (2008): 65-111.

Philipps, L. "Silent Partners: The Role of Unpaid Market Labour in Families." *Feminist Economics* 14, no. 2 (2008): 37-57.

Poza, Ernesto J., and Tracey Messer. "Spousal Leadership and Continuity in the Family Firm." *Family Business Review* 14 (March 2001): 25-36.

Pupo, N, and A Duffy. "Blurring the Distinction Between Public and Private Spheres: The Commodification of Household Work - Gender, Class, Community and Global Dimensions." In *Work in Tumultuous Times: Critical Perspectives*, 289-325. Kingston, ON: McGill-Queen's University Press, 2007.

Pupo, N, and A Duffy. "Unpaid work, capital and coercion." *Work Organisation, Labour and Globalisation* 6, no. 1 (2012): 27-47.

Razack, Sherene. Canadian Feminism and the Law: The Women's Legal Education and Action and the Pursuit of Equality. Toronto, ON: Second Story Press, 1991.

Razack, S, ed. Race, Space and the Law: Unmapping a White Settler Society. Toronto: Between the Lines, 2002.

Salganicoff, Matilde. "Women in Family Businesses: Challenges and Opportunities." *Family Business Review* 10 (1990): 125-32.

Sayer, L. "Gender, Time and Inequality: Trends in Women's and Men's Paid Work, Unpaid Work, and Free Time." *Social Forces* 84, no. 1 (September 2005): 285-303.

Sheehy, Elizabeth. Adding Feminism to Law: The Contributions of Justice Claire L'Heureux Dube. Toronto, ON: Irwin Law, 2004.

Smart, Carol. "Feminism and the Law: Some Problems of Analysis and Strategy." *International Journal of the Sociology of Law* 14, no. 2 (1986).

Vadnjal, J, and Zupan, B. "The Role of Women in Family Businesses." *Economic and Business Review* 11, no. 2 (2009): 159-77.

Weitzman, Lenore. *The Divorce Revolution*. New York, NY: Free Press, 1985.

Wharton, C. S. "Finding Time for the 'Second Shift': The Impact of Flexible Work Schedules on Women's Double Day." *Gender and Society* 8, no. 2 (1994): 189-205.

TABLE OF CASES

Anderson v. Dudek 2011 ONSC 6495

Bhopal v. Bhopal 1997 CarswellBC 1603

Bortinikov v Rakitova 2015 CarswellOnt 6524

Broadbear v Prothero 2012 ONSC 1962

Crowe v Adams [1892] SCJ No. 62

Fox v Fox 2011 BCSC 72

Garland v Consumers' Gas Co. [2004] SCJ No. 21

Geransky v Geransky 2012 SKQB 218

Gerth v Gerth 2007 BCSC 488

Jackson v McNee [2011] ONSC

Juma v. Juma 2013 ONSC 904

Kerr v Baranow [2011] SCC 10

Kowalczuk v Kowalczuk [1973] 1 WLR 930

Large v Large 1997 CanLII 690 (BCSC)

LeBlanc v LeBlanc [1988] 1. S.C.R. 217

MacLeod v. MacLeod 1999 CarswellPEI 26

Malaka v Becker 2000 BCSC 1449

Maskobi v Maskobi 2010 ONSC 2540

Miglin v Miglin [2003] 1 SCR 303

Milne v. Milne 2007 CarswellAlta 1792

Moge v. Moge [1992] 3 S.C.R. 813

Morris v Morris 2005 NSSC 117

Murdoch v Murdoch [1975] SCR 423

M. v. H. [1999] 2 SCR 3

Peter v Beblow [1993] 1 S.C.R. 980

Pettkus v Becker [1980] S.C.J. No. 103

Propper v. Vanleeuwen 1999 CarswellOnt 1922

Rathwell v Rathwell [1978] S.C.J. No. 14

Sanford v R. 2002 FCA 381

Serra v. Serra 2009 ONCA 105

Silverstein v Silverstein [1978] I.J. No. 3415

Sorochan v Sorochan (1986) 29 DLR (4^{th}) 1 (S.C.C.)

Stanish v Parasz [1989] M.J. No. 578

Stergiou v Stergiou 2007 CanLII 17642

tein v Stein [2008] 2 SCR 263

Trombetta v Trombetta 2011 ONSC 394

Urton v. Urton 1979 CarswellBC 65

Whitty v. Whitty 2008 NSSC 243

Yorke v Yorke [2011] NBJ No.311

TABLE OF STATUTES

Canadian Business Corporations Act 86 at s. 241(1)

Divorce Act (RSC, 1985, c. 3 (2nd Supp.))

Family Law Act RSO. 1990, c. F.3

Ontario Business Corporations Act 86 at s. 248(1)