

Publisher's Note

2019 — 2

Previous release was 2019-1

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Financial Principles of Family Law

This reference comprehensively brings together such varied family law financial issues as valuation, taxation, Federal Child Support Guidelines, income determination, and case law analysis. Preparation for examination for discovery and cross-examination of other experts on valuation issues is supported by a detailed analysis of valuation concepts, terminology, and methodologies for the valuation of business interests and other types of assets and liabilities.

This release features updates to the Spousal Support Quantum in Chapter 37 (Support) and the Words & Phrases section.

Highlights

Family law—Support—Spousal support under *Divorce Act* and provincial statutes—Lump sum award—Distinguished from division of assets—Parties commenced living together in 1983, married in 1985, had two children, and separated in 2009—Parties were initially shareholders in

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franchise which operated floor covering business; business was lost in fire—Parties went bankrupt together after business closed and they opened another business, initially run from parties’ rental home—Parties purchased home together in 2004, which was mixed commercial and residential property—Parties operated business from that location until separation—After separation, husband continued to run business as sole proprietorship and live in matrimonial home—Wife moved out of home—In 2010 parties entered into separation agreement drafted by wife which stated that husband could remain in home and pay expenses of home in return; spousal support was to be addressed at future date—Parties disputed as to whether there was reconciliation in 2013, and final separation in 2014—Home was eventually sold in 2018 and net proceeds of sale was about \$206,000. *Passfield v. Passfield*, 2019 ONSC 679, 2019 CarswellOnt 1042 (Ont. S.C.J.).

Goodwill—The case law endorsed in [*Jones v. Jones*, 2017 SKCA 46, 2017 CarswellSask 282, 95 R.F.L. (7th) 43, 280 A.C.W.S. (3d) 566 (Sask. C.A.)], uniformly accepts that a book of business is a proprietary interest and represents commercial goodwill. An admirably concise definition of goodwill was crafted by Lord Eldon, L.C., in *Cruttwell v. Lye* (1810), 34 ER 129 (Eng. Ex. Ch.), at p. 134, where he described goodwill as “the probability, that the old customers will resort to the old place”. It is particularly apt in the investment industry, where the level of client retention an investment advisor may reasonably expect upon switching brokerages is often the focal point of discussion in terms of valuing the book of business. *J.E.S. v. J.G.B.*, 2018 SKQB 17, 2018 CarswellSask 38, 292 A.C.W.S. (3d) 819 (Sask. Q.B.).