

INVESTING IN WOMEN'S EQUALITY...

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LEAFlet

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WEST COAST LEAF Annual General Meeting

Thursday
September 22, 2011

EQUAL DIVISION OF ASSETS From *Murdoch* to *Brandsema*

By Avandi Wallace and Sania Ahmed

The assumption that in Canada, a man and woman receive equal assets after a divorce, isn't always reality. Two key Canadian cases trace the ongoing path towards substantive equality in separation agreements and both these cases played crucial roles in determining what it means for women to contest an inequitable agreement in court.

A ground-breaking case in our feminist legal history, *Murdoch v. Murdoch* explored matrimonial property division. In his book *Feminist Activism In The Supreme Court*, author Christopher P. Manfredi says this case, "spurred a movement for family property reform and galvanized feminist legal mobilization in Canada."

Upon matrimonial breakdown in 1968, Irene Murdoch submitted a claim to share in the family ranch, based on contributions through her labor. At the initial trial, the judge concluded that her work was that of "any ranch wife" and did not justify a property share. In her 1973 appeal to the Supreme Court of Canada, the claim was again denied.

While her claim was unsuccessful, the case opened the door to public discourse about valuing a spouse's contribution to a home or business. Also, it introduced concepts now incorporated into provincial legislation regarding matrimonial property division, according to Carol Rogerson's "From Murdoch to Leatherdale".

In a later and separate proceeding, Mr. Murdoch petitioned for a divorce. Before his divorce was granted, Mr. Murdoch transferred ownership of two quarter-sections of land to his son, and leased them back in order to deter his wife from attaining this property. The Supreme Court of Canada determined that he had a clear intent to "hinder his wife's claim" and Irene Murdoch successfully counter-petitioned and won \$65,000 in maintenance fees.

More than thirty years later, another case involving a farming couple addressed unequal distribution of assets in a divorce. Ms Rick jointly owned a farm with Mr. Brandsema, but upon their divorce, was left with substantially less than Mr. Brandsema.

The Supreme Court of Canada – with West Coast LEAF as an intervener – found the parties' separation agreement unfair and invalid, as Mr. Brandsema exploited Ms Rick's vulnerabilities and purposely misled her about the state of their financial affairs.

In the decision, the Court noted the emotional turmoil and power imbalances that may be present in the negotiation of separation agreements, and acknowledged the layers of vulnerabilities that specifically disempowered Ms Rick in this case.

Today, West Coast LEAF receives many calls from women who echo this experience. Based on this reaction, West Coast LEAF envisions hosting workshops for women's advocates around separation agreements and division of property.

DISCRIMINATORY POLICY AMENDED

Community groups are celebrating a change to an income assistance regulation that was the subject of a complaint to the BC ombudsperson filed by West Coast LEAF and Pivot in May 2010. Six community groups participated in the complaint.

At issue was a restrictive shelter allowance policy that was at odds with the stated reunification policy of the Ministry of Child and Family Development (MCFD).

The guiding principles of the Child, Family and Community Services Act, which is the legislative authority for the Ministry's Child Protection Services, state: "a family is the preferred environment for the care and upbringing of children."

However, the Employment and Assistance Regulation reduced parents' monthly shelter allowance three months after their children were placed in temporary care by the MCFD. This resulted in low income parents losing their homes, making it nearly impossible for them to get their kids back.

"It is our position that the legislative and policy scheme followed by MHSD in determining the shelter allowance for parents whose children are in temporary care of MCFD is unjust, oppressive, improperly discriminatory and contrary to the rule of law."

Ombudsperson's Complaint

Specifically, the practice was unfair to low income and Aboriginal parents. Aboriginal children, for example, are nearly ten times more likely to be taken into care.

On May 3rd 2011, the Ministry of Social Development revised the income assistance regulations to read that when a dependent child is temporarily in care, the shelter allowance may be maintained as long as the parent is actively working on the return of the child.

The complaint was filed after several years of correspondence with the Ministry of Housing and Social Development proved ineffective.

Administrative law strategies such as an ombudsperson's complaint are one of the "Big 5" legal strategies taught in West Coast LEAF's public education workshop Transforming Our Future.

For more information or to book a Transforming Our Future workshop, please visit www.westcoastleaf.org or call Education Manager Deanna Ogle at 604-684-8772 ext. 114.



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VOLUNTEER PROFILE Chantelle Coulson

By Ashly Hubert



Chantelle graduated from the University of Victoria with a Bachelor of Science and plans to attend law school in September of 2012. Currently she is employed as an Outreach and Education Facilitator at the Nanaimo

Recycling Exchange and regularly volunteers with the Nanaimo Women's Resource Centre as an Outreach Worker.

It is through Chantelle's work at the Nanaimo Women's Resource Centre that she first learned about West Coast LEAF. She is very passionate about the importance of educating today's youth about social rights and issues and enthusiastically volunteered with us in Nanaimo.

As one of our volunteers, Chantelle led West Coast LEAF's 'No Means No' and 'Youth in the Workplace' workshops for students aged 10-15. Her position involved working with other Youth Facilitators to create outlines and activities for each workshop as well as determine who would be responsible for the discussed material. Chantelle said that "during the delivery of the workshops, I came to fully realize the importance of the material we were teaching, as students engaged thoroughly with us through questions and sharing of personal stories."

Speaking about her future, Chantelle commented that she is "extremely passionate about women's rights and about the environment, [and intends] to use [her] law degree to positively affect change in both of these areas." In September of this year, she would like to continue her work with West Coast LEAF as a Youth Facilitator and hopes to remain involved with the organization, personally and professionally, because its mission closely aligns with her own beliefs and goals.

To learn more about West Coast LEAF's youth education programs, please visit youth.westcoastleaf.org and join us on facebook at West Coast LEAF Youth.

DONOR PROFILE Brenda McEachern-Keen

By Sania Ahmed

A dedicated monthly donor and member of the West Coast LEAF Themis Club for the last four years, Brenda McEachern-Keen is active in the charitable sector as a donor, volunteer, board member and speaker. In addition to supporting West Coast LEAF, Brenda is involved in many other organizations, such as national charities and arts organizations.

After graduating from the University of British Columbia in 1983, Brenda was called to the bar in 1984. For seventeen years, she ran a private legal practice. She went on to become a National Estate and Tax Planning Consultant with Canada Life and has had that position for the past ten years. In this role she is able to promote insurance-funded philanthropy.

When asked how she was introduced to West Coast LEAF, Brenda mentions that she had known of the organization all along. However, the 2008 Equality Breakfast was the first time she had attended a West Coast LEAF event and she has attended every Equality Breakfast since.

She sees West Coast LEAF as an integral advocate for women's issues. Brenda believes that the organization "gives women a voice" and that it is extremely important for those voices to be heard. West Coast LEAF's intervention on the issue of "public standing" in *SWUAV v AG Canada*, demonstrates the significance of organizations being able to bring forward **important constitutional** cases on behalf of women who cannot do so on their own.

Brenda also celebrated the efforts of West Coast LEAF in *Rick v Brandsema*, a case concerning matrimonial property division. Finally, she thinks that West Coast LEAF's audit of legislative initiatives is both creative and massively important because "who makes the rules matters". Brenda sees West Coast LEAF as creating a "wonderful environment to practice advocacy" with the result that "everybody wins", including the lawyers who gain valuable exposure to both the legislators and to the Supreme Court.



West Coast LEAF Youth
Visit youth.westcoastleaf.org for more info on our education programs



Linda McQuaig speaks to the audience at the West Coast LEAF 2011 Equality Breakfast
Photo by Kas Pavanantharajah

EQUALITY BREAKFAST 2011

By Alexandra Venner

On March 10, Canadian journalist and best-selling author Linda McQuaig inspired the audience with a powerful speech on the rise of economic inequality and its consequences in society. McQuaig says Canadians should fight for pay equity legislation, for stronger union rights and a return to a progressive tax system in Canada. Not only does McQuaig make individuals more aware of their political and economic surroundings, she also encourages people to take action to improve today's society. West Coast LEAF thanks our Equality Breakfast sponsors, guests and volunteers.

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