

FAMILY LAW

LAWG 273 (001)

Professor Angela Campbell

Summer 2008 Reading List

Course Plan

The topics planned for each week are set out below. In addition to these readings, I will ask that you read through the legislative provisions assigned for each class on WebCT. These will be posted weekly.

Monday May 5

- Introduction – What is a “family”?

Consideration of *Buzzanca v. Buzzanca*

Tuesday May 6

- Introduction con't – Approaches to Problems in Family Law

Readings:

1. *Family Law Course Syllabus.*
2. Art. 541 *Civil Code of Québec*
3. *Family Law Act*, R.S.A. [S.A. 2003, c. F-4.5](#), s.12
4. Assisted Human Reproduction Act, S.C. 2004 (3rd Sess.) 52-53 Eliz. II, c.2, s.6
5. *Uniform Parentage Act* § 8 (2000)
6. Mary Becker, “Four Feminist Theoretical Approaches and the Double Bind of Surrogacy” (1993) 69 Chi.-Kent. L. Rev. 303.

Wednesday May 7

- Relationships between Children and Parents– Locating Parents “by blood”/”natural” parentage: Presumptions and Fictions

Readings:

1. Philippe Jestaz, “La parenté”, (1996) 41 McGill L.J. 387
2. *R. v. S.*, [1988] O.J. No. 2788 (Prov. Ct.)
3. *Massie c. Carrière*, [1972] C.S. 735

4. *Rypkema v. H.M.T.Q. et al.*, [2003] BCSC 1784 (IIJCan)

Thursday May 8

- Relationships between Children and Parents– Locating Parents “by blood”/”natural” parentage: Locating *Paternity*

Readings:

1. *Trociuk v. British Columbia (Attorney General)*, [1999] B.C.J. No. 1146 (QL)
2. *L. (T.D.). c. L. (L.R.)* (1994), 114 D.L.R. (4th) 709 (Ont. Gen. Div.)
3. *S. (E.A.) v. B. (K.M.)* (1989) 24 R.F.L. (3d) 220 (Ont. D. Ct.)
4. *Tenby v. Hawke*, 1999-05-11, N.W.T.S.C. (IIJCan)

Monday May 12

- Relationships between Children and Parents– Locating Parents “by blood”/”natural” parentage: locating *paternity*

Readings:

1. *Silber v. Fenske* (1995), 11 R.F.L. (4th) 145 (Ont. Gen. Div.)
2. *Droit de la famille 2143*, [1995] R.D.F. 137 (C.S.)
3. *L.C. v. S.G.*, [2004] J.Q. no. 7060 (QL) (C.A.).
4. *Jhordan C. c. Mary K.* (1986), 179 Cal. App. 389; 224 Cal. Rptr. 530 (Cal. C.A.)
5. *L.B. v. Li. Ba* 2006 QCCS 591 (IIL Can)

Tuesday May 13

- Relationships between Children and Parents– Locating Parents “by blood”/”natural” parentage: locating *maternity*

Readings:

1. *A.A. v. B.B.*, 2007 ONCA 2 (CanLII)
2. *K.M. v. E.G.* 37 (2005) Cal. 4th 130 (Cal. Sup. Ct.)
3. --, France: Gay couple recognized as parents (Sept. 24, 2004)
4. --, French lesbian parents granted family status (Sept. 22, 2004)

Wednesday May 14

- Becoming a Parent by Adoption: Introduction; the role of consent; closed vs. plenary adoption

Readings:

1. *In re Robert Paul*, 481 N.Y. 2d 652 (C.A. 1984)
2. *Droit de la famille 1914*, [1996] R.J.Q. 219 (C.A.).
3. *Re B.C. Birth Registration No. 030279* (1990), 24 R.F.L. (3d) 437 (B.C.S.C.)
4. *Droit de la famille 1704*, [1993] R.J.Q.1 (C.A.)
5. *J.-M. J. c. S.V. et D.J.* [2002] R.D.F. 167 (C.S.)
6. *J.G. (Dans la situation de)*, [\[2005\] J.Q. no 17572](#) (C.Q.).

Thursday May 15

- Becoming a Parent by Adoption: the role of consent; Aboriginal traditions

Readings:

1. *Racine c. Woods*, [1983] 2 R.C.S. 173
2. *Re Adoption of Katie* (1961), 32 D.L.R. (2d) 686
3. *Kalaserk v. Strickland* 1999-08-11 NWTSC (IJCAn)

Monday May 19

Victoria Day – No Class

Tuesday May 20

- Locating Parenthood Functionally: Possibilities for multi-parenthood family configurations?: *In loco parentis*

Readings:

1. *Chartier c. Chartier*, [1999] 1 R.C.S. 242
2. Carol Rogerson, “The Child Support Obligation of Step-Parents” (2001) 18 Can. J. Fam. L. 9 (excerpt).
3. *A.(V.) c. F. (S.)*, 2000 CanLII 11374 (QC C.A.)
4. *Doe v. Alberta*, (2007) ABCA 50

Wednesday May 21

- Locating Parenthood Functionally: Possibilities for multi-parenthood family configurations?: *Other relationships with children*

Readings:

1. *M.L. c. P.M.* [2001] R.D.F. 246 (C.S.)
2. *P.(D.) c. L.(L.)* 2002-06-05 QCCS 500-04-027165-019 (IIJCan)
3. *Droit de la famille-2492* [1996] R.D.F. 662 (C.S.)
4. *C.R. v. B.L.B.* [2005] A.J. No. 726 (ABQB)

Thursday May 22

*** NOTE: Part 1 of the optional assignment (journaling exercise) is due at the SAO by 14h00**

- Relationships between parents and children: The meaning and scope of parental authority and custody; Challenges to understanding and implementing the “best interests of the child” principle

Readings:

1. Nicholas Kasirer, “Note on Parental Authority”, dans Recueil de textes, Faculté de droit, Université McGill, 1997
2. *W.(D.) c. G.(A.)*, 2003 IIJCan 47442 (QC C.A.)
3. *V.L. v. D.L.* (2001), [97 Alta. L.R. \(3d\) 51](#) (C.A.)
4. Shauna Van Praagh, “Religion, Custody and a Child’s Identities” (1997) 35 Osgoode Hall L.J. 309 (excerpt).
5. *Van de Perre c. Edwards*, [2001] 2 R.C.S. 1014 (excerpt)

Monday May 26

- Relationships between parents and children: Challenges to understanding and implementing the “best interests of the child” principle con’t

Readings:

1. *Pollastro v. Pollastro* (1999) 43 O.R. (3d) 486 (Ont. Ct. App.)
2. Nicholas Bala, *Spousal Violence in Custody in Access Disputes: Recommendations for Reform* at 26-34
3. *Harrison v. Harrison* [1987] M.J. No.447 (QL)

4. *Rogerson v. Tessaro*, [2006] O.J. No. 1825 (C.A.)

Tuesday May 27

- Relationships between parents and children: Obligations of support ; Child support guidelines – their role and application

Readings:

1. *Cole v. Cole* (1995) 15 R.F.L. (4th) 399
2. *Droit de la famille - 138* (1984) C.A.Qué.
3. *Dalep v. Dalep* [1987] B.C.J. No.2138 (QL)
4. *Skrzypacz c. Skrzypacz* (1996), 22 R.F.L. (4th) 450 (Ont. Prov. Div.)
5. *Droit de la famille 2626*, [1997] R.J.Q. 1117 (C.S.)

Optional:

6. *Francis c. Baker*, [1999] 3 R.C.S. 250
7. *D.B.S. v. S.R.G.; L.J.W. v. T.A.R.; Henry v. Henry; Hiemstra v. Hiemstra*, 2006 SCC 37.

Wednesday May 28

- La “Vie Commune”/Conjugal Life: Evolving Norms of Conjugal Life

Readings:

1. *Miron c. Trudel* [1995] 2 R.C.S. 418 (extraits)
2. *L. L. c. È. J.*, 2004 CanLII 39851 (QC C.S.)
3. Brenda Cossman and Bruce Ryder, “What is Marriage-Like Like? The Irrelevance of Conjugal Life” (2001) 18 Can. J. Fam. L. 269.
4. *Halpern v. Canada (Attorney General)* [2003] O.J. No.2268 (QL)

Optional:

5. Ethel Groffier, « Les époux de fait dans le droit civil du Québec » dans *The Legal and Administrative Response to Cohabitation*, p.235.

Thursday May 29

- Effects of Conjugal Life: Spousal rights and responsibilities

Readings:

1. *Horvath c. Fraess* (1997) 36 R.F.L. (4th) 32.

2. *Baron c. Bull* (1987) 5 R.F.L. 427 (Alta. Q.B.)
3. *Droit de la famille — 841* [1990] R.J.Q. 1571 (C.S.)

Monday June 2

- Dissolution of Conjugal Life: Nullity (grounds and effects)

Readings:

1. H.R. Hahlo, “Legal Requirements for a Valid Marriage”, dans *Nullity of Marriage in Canada*, Toronto, Butterworth, 1979, à la p.1 (excerpts)
2. *S.(A.) c. S.(A.)* (1988) 15 R.F.L. (3d) 443 (Ont. U.F.C.)
3. *Leung v. Liang* 2001 BCSC (IIJCan)
4. *J.L. c I.D.R.* 2003 Cour supérieure du Québec (IIJCan)
5. *Droit de la famille 2269* 1995 CarswellQue 724 (C.S. Qué.) (eCarswell)

Tuesday June 3

- Dissolution of Conjugal Life: Divorce; Evolutions of law; Religion, culture, and divorce

Readings:

1. *Morrison v. Morrison*, [\[1972\] P.E.I.J. No. 48](#)
2. *S.E.P. v. D.D.P.*, [\[2005\] B.C.J. No. 1971](#) (S.C.)
3. *Re Morris and Morris* (1973) 42 D.L.R. (3d) 550 (Man. C.A.)
4. *Bruker v. Marcovitz*, 2007 SCC 54 (headnote)
5. Pascale Fournier, “The Erasure of Islamic Difference in Canadian and American Family Law Adjudication” (2001) 10 J.L. & Pol’y 51 (excerpt).

Wednesday June 4

- Dissolution of Conjugal Life: Support obligations between spouses

Readings:

1. *Moge c. Moge* [1992] 3 S.C.R. 813
2. *Bracklow c. Bracklow* [1999] 1 S.C.R. 420
3. *Miglin c. Miglin* [2003] 1 S.C.R. 303

Thursday June 5

*** NOTE: Part 2 of the optional assignment (op-ed exercise) is due at the SAO by 14h00**

- Review Session