

THE VOGEL INSIDER

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ARTICLING STUDENTS
KASEY ANDERSON,
MANDEEP DHILLON
& LESLIE TAYLOR



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SUMMER 2018 ISSUE

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We are pleased to share the Summer 2018 Edition of "The Vogel Insider" with you. In this edition, you can find Vogel LLP lawyer spotlights, interesting articles related to our industry and highlights of our work in the community.

No Full Ride, No Free Ride



by **Aida Rafie**

There are no absolutes when it comes to post-secondary child support, as per a recent Confirmation Hearing decision by the Honourable Justice R. A. Graesser in *Williams v. Wallace*, 2017 A. J. No. 696. This decision was a result of an application by the mother of a post-secondary student seeking to confirm the terms of a Provisional Order made by the Nova Scotia Supreme Court. The terms of the Provisional Order that the mother was seeking to confirm (and related to the Confirmation Hearing) set out that the father was to continue paying \$550/month in child support for the parties' child during the months she was in school attending post-secondary. The mother's basis for her variation application was that the post-secondary program the child took required the child to live away from the mother's residence, such that she incurred significant living expenses that required increased child support.

The mother argued in this case that the increased costs of the child's post-secondary education should be divided between the mother and father and that the child's contribution to same should consist of half her income, all of her grants, and none of her student loans. The

father argued that he had fully paid all court ordered amounts and that he had paid enough for the child's two degrees. While the mother believed that the total income of the mother and father (over \$150,000 with \$140,000 of that amount from the father) made it unreasonable for the child to incur debt to obtain her education, the father feared that he would not be able to provide similar levels of education for his other 4 children if he was ordered to pay more than what he already had.

While the Divorce Act and the Family Law Act provide that children who are attending post-secondary institutions may remain children of the marriage or relationship requiring child support, the Courts have a wide discretion as to what contributions the mother and father should make to the adult child's education. The case law tells us that post-secondary child support for adult children involves a thorough analysis of each case, requiring an individual approach rather than the "table" approach mandated for primary and secondary students. The *Williams* case confirms this, noting at paragraph 25 that:

... *"Requiring a parent to pay for post-secondary education is an interesting power of the*

courts, available mainly when parents have separated. When parents remain together, they are able to turn their children loose on the world when their children have completed high school, or otherwise left their parents' control. Children in Alberta do have the ability to pursue claims against their parents themselves for post-secondary education costs, but those claims are rare."

The *Williams* case recognizes that in considering the fair division of the child's post-secondary expenses, the mother and father's household incomes and expenses are valid considerations when looking at their means and circumstances. In this case, while the father's income was noted to be substantial, his obligations were also noted to be substantial, since he was supporting a family of six and had already paid over \$46,000 to or for the child in the past 5.5 years. As noted in paragraph 65, "there is a limit to what non-wealthy parents should be required to pay".

Additionally, as there is no absolute requirement that a mother or father contribute to the child's post-secondary education, another valid and significant factor to consider is the ability of the child to contribute to their own education. In the *Williams*

case, the means of the parents were noted to not seem sufficiently great enough for the child to reasonably expect to come out of her second program debt free. The child's student loans disclosed amounted to \$24,000, which was characterized as not seeming to be an unreasonable burden, especially considering that the mother and father would likely need to go into debt themselves in order to pay down the child's loans.

It was thus found that given the individual circumstances affecting the child, the mother's household and the father's household, it was appropriate for the child to bear the burden of the student loans. The mother and father's circumstances were found not to be so prosperous as to be able to reasonably afford to pay more than what they already had and it was additionally distinguished that without a significant improvement to the father's financial conditions, it appeared unlikely that the father would be able to assist his other children with their future educations to the same extent he had here. As noted in this specific case, the interests of the father's other children needed to be balanced with the interests of the firstborn and the firstborn "should be grateful for the significant assistance provided to her over the past five and a half years".

Our Articling Students

Kasey Anderson joined Vogel LLP as an articling student in June 2017. She recently completed her articles and will be called to the Alberta Bar in July. We are pleased that Kasey will be continuing on with our firm as an Associate.



Mandeep Dhillon joined Vogel LLP in February 2018 after attending law school at the University of Birmingham. He has been actively involved in many files and has already appeared in Court several times.



Leslie Taylor started with Vogel LLP as a summer student in 2017 and has just recently started her articles. She has jumped right in with both feet, and is already working on files in all practice areas.



Lawyer Spotlight: Emily Gajda

Emily practices in and assists lawyers in all areas of Family Law, Personal Injury and Estate Litigation. Emily has appeared before the Provincial Court of Alberta, the Court of Queen's Bench of Alberta and the Court of Appeal of Alberta.

Emily joined Vogel LLP as a summer law student in 2014 and began her articles with the firm in June 2016. Emily obtained her J.D. from the University of Calgary in 2016. In 2013, Emily graduated from Mount Royal University with a Bachelor of Arts (Honors) in Policy Studies and a minor in Economics.

During law school, Emily volunteered as a caseworker with Student Legal Assistance, where she worked with clients with various legal issues. Emily also actively volunteered with ProBono Students Canada; in her second year, Emily volunteered with the Emergency Protection Project, where she interviewed and provided legal information to victims of domestic violence. In her final year of law school, Emily

became the Project Leader for the Civil Claims Duty Counsel Project, where she worked with unrepresented litigants in Small Claims Court. In early 2016, Emily completed a twelve week clerkship at the Provincial Court of Alberta where she worked one-on-one with Provincial Court Judges, gaining litigation experience from the judicial perspective.

Emily was born and raised in Calgary. She is an active volunteer with Inn from the Cold Calgary and the Canadian Cancer Society. In her free time, Emily enjoys being outdoors and spending time with friends and family.



Changes to Parking

Please note that parking changes have come into effect as of June 1, 2018. Parking for under 2 hours is still free, but you must register your vehicle at the parking meter in the building lobby to avoid being ticketed.



If your meeting at Vogel LLP will be longer than 2 hours, please take advantage of our Vogel LLP Reserved stalls in the northwest corner of the parking lot. If you do so, kindly register your vehicle with our receptionist when you arrive.

Future Lawyers? Class of 2043!



Vogel LLP lawyers Andy Hayher, Melody Rodger and Brett Coleman have all welcomed baby girls in recent months. Welcome Kalyana, Noah & Ella!

Client Testimonials

"I write this in appreciation of the work done on my family law matter by one of the best lawyers ever, Mr. Andy Hayher. It's rare that a father gets sole custody of a child, but Andy made that happen for me. He was very detailed in his work and was professional in dealing with me and my family during this stressful time. Nobody could have done a better job. Andy fought as if he was fighting for himself and his own family and got the best result possible. He went above and beyond and guided us through the entire process, working in the best interest of my family. He knew what steps needed to be taken and when to take them. We could not have chosen a better lawyer. Also, the entire Vogel staff including the Receptionists, Assistants and Students were outstanding and I thank them from the core of my heart for working so hard for me. In what you have done for me, you have given me my life back." ~ S.K.

"I have used Vogel LLP numerous times over the years, and the expertise, service and concern demonstrated makes this firm a highly valued resource that I would recommend with no hesitation." - S.S.

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