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The 2017/2018 Year in Access to Justice Issues on ABlawg

By: Drew Yewchuk

Planning is underway to hold Alberta's first ever Access to Justice week from September 29-October 5, 2019. Alberta will join [Ontario](#), Saskatchewan and [British Columbia](#), who each have a [week in October dedicated to Access to Justice](#). In anticipation, this year the Access to Justice Committee of the Canadian Bar Association (Alberta Branch) is taking a week to highlight some of the important initiatives already underway in Alberta. Every day this week they will be posting information about different justice sector organizations in Alberta and the important work they are doing to make access to justice a reality in this province. We would encourage you to check out their website: [here](#).

To mark the occasion, this is a summary of some of ABlawg's posts from September 2017 to September 2018, that covered important issues on access to justice issues.

Professor Jennifer Koshan wrote on the 2017 report of the Family Violence Death Review Committee in [Alberta's Family Violence Death Review Committee: Recent Reports, Recommendations and Reflections](#), and the post covers Alberta's attempts to provide for effective court access and useful legal remedies for victims of domestic violence. The blog concludes that the *Protection Against Family Violence Act*, [RSA 2000, c P-27](#) is in need of significant updates to provide effective protection and assistance to those experiencing domestic violence. (Early 2017 also saw the release of the e-book [Landlords, Tenants, and Domestic Violence](#) collecting ABlawg posts concerning residential tenancies and victims of domestic violence by Jennifer Koshan and Jonnette Watson Hamilton.)

A post by Laura Buckingham, [Breaking Up Is Hard to Do, But Dividing Property Shouldn't Be](#), covered the Alberta Law Reform Institute recommendations for legislation to simplify and speed property division at the end of common-law partnerships. As self-represented litigants are common in family law matters, attempts to simplify and improve any aspect of Alberta's family law legislation are a valuable initiative.

On a developing issue for self-represented litigants, Professor Jonnette Watson Hamilton wrote [The Increasing Risk of Conflating Self-Represented and Vexatious Litigants](#) on the Alberta's courts changing approach to restricting court access for litigants it suspects of being vexatious. Alberta Courts have been developing a rapid response to any sign that a self-represented litigant may be employing an Organized Pseudolegal Commercial Argument (OPCA), and taking quick steps to limit their ability to bring lawsuits. OPCA litigants have been a drain on court resource that contributed to the access to justice problem in the past, but struggling self-represented litigants may be caught up in the dragnet.

A notable change that has gone without a dedicated blog post has been the effort to fill the vacancies on the Alberta courts. Alberta was very short of both Court of Queen's Bench and Court of Appeal justices for an extended period of time (see [here](#) for a jeremiad about the problem from the low point in 2016), 2017 and 2018 saw numerous appointments to the Alberta Courts, alleviating the severity of the problem. Working in the opposite direction was the pressure brought by the Supreme Court of Canada's decision in [R v Jordan, 2016 SCC 27](#), where the Charter right to trial increased pressure on the courts and prosecutors to move criminal charges through the system faster.

Access to justice, in my opinion, is ultimately a question of whether society and the courts treat justice as a public good that should be provided to all people, or as a commodity made available based on ability to pay. The issues discussed above are questions likely to be key indicators for the progress or failure of access to justice initiatives into the future. The outcome of these four challenges will give an indication of how open and accessible justice will be to the public in the future:

- (1) whether courts and prosecutors can successfully end the culture of delay for criminal trials the Supreme Court commented on in *Jordan*,
- (2) whether legislative or judicial action will be taken to provide worthwhile legal remedies to victims of domestic violence,
- (3) whether family law statutes are changed to speed and simplify familial separations, and
- (4) whether the courts will take care to accurately distinguish attempts to abuse legal processes from earnest but unusual or misguided attempts to make use of those processes.

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