PREPARING FACTUMS FOR THE DIVISIONAL COURT

John C. Murray* and Holly L. Rasky**

Preface

The purpose of this article is to share with you some of our views on what ingredients are necessary to produce a factum for a hearing before the Divisional Court which will best serve your client's position.

Generally, our comments apply equally to facta used on appeals and judicial reviews. Thus, for the sake of convenience references to "appeals" should be read as including judicial reviews, except where the contrary is indicated.

We hasten to point out, however, that appeals and judicial reviews are distinct proceedings, involving different standards of review and jurisdictional issues. Our convenient reference to appeals should not be construed as a statement that one type of factum will be appropriate in both types of proceedings. To the contrary: as will be more fully addressed in our article, just as the two types of proceedings are distinct, so must be the facta.

Introduction

Members of the bench and seasoned advocates will agree with Sopinka J.'s statement: "The most strategically important document in the appellant's appeal is its factum."

Your factum is the first and last opportunity you have to present your client's case to the court. It is usually the first (and sometimes, only) document the court will read prior to your argument, and it will be the most comprehensive summary of your argument the court will have if it reserves its decision. Understanding the use

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the design of The Canadian Charter of Rights and Freedoms and the patriation of Canada's Constitution Here Dr Strayer shares his experiences as a key legal advisor with a clear personal voice that yields an insightful contribution to Canadian history and political memoir He discusses the personal philosophies of Pierre Trudeau and F R Scott in addition to his meticulous accounts of the events and people involved in Canada's constitutional reform and the consequences of that reform which reveal that it was truly a revolution This is an accessible primary source for experts and non specialists interested in constitutional history studies political history of patriation and The Charter interpretation of The Charter and the nature of A Guide to Costs in Ontario Gordon Killeen, James Cooper Morton, Steinberg Morton Frymer, 2002 judicial review recueils de jurisprudence du Québec, publiés par le Barreau de Québec Québec (Province). Superior Court, 1907 Synthesis Margaret Elizabeth McCallum, Christina L. Kunz, Deborah A. Schmedemann, 2003 The Supreme Court Act R.S. C. 139 (1906) Practice and Rules Edward Robert Cameron, 1913 Les Rapports Judiciaires de Québec Québec Judicial Reforms Proposed by the Commission for the Codification of the Statutes (Province). Superior Court, 1907 Québec (Province). Commission to Consolidate the General Statutes, 1882 Official Report of Debates, House of Commons Canada. Parliament. House of Commons, 1892 **Courts from Hell - Family Injustice in Canada** Frank Simons, 2007-12 Since the introduction of the so called No Fault Divorce in Canada the divorce industry has evidenced unprecedented growth estimated at 6 billion per year The problem is that the Legal Court industry thrives off the B s generated by Tax payers and Families in crises For this they provide no value and in fact cause destruction of families by unnecessarily removing fathers from children's lives and lowering the standard of living for all family members This is done through unnecessary litigation biased decisions and unreasonable support orders which escalate conflict to perpetuate the status quo in support of their self serving business The Solution is to update divorce laws to reflect parental equality and get families out of court eliminating significant grief and s wasted by families and taxpayers An alternative to courts is identified in the book Official Reports of the Debates of the House of Commons of the Dominion of Canada Canada. Parliament. House of Commons, 1892

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