

Law Society of Upper Canada

Annual Family Law Summit – May, 2012

Philip M. Epstein, Q.C.

Anderson v. Dudek

In this case the parties had a relatively short term relationship but nevertheless, after a careful review of facts, Justice Métivier finds that they were engaged in a joint family venture. There was a great deal of evidence about the various properties in which the parties were involved. It is this wealth of evidence that eventually helps Justice Métivier sort out an appropriate result. It is a reminder that these kinds of cases turn very specifically on their facts. The law is becoming reasonably well settled, but the law cannot be applied to the fact situation unless counsel painstakingly put all of the appropriate evidence before the trial judge. The length of cohabitation, the values of property at various stages of the cohabitation, appropriate and reliable appraisals, the roles of the parties during the cohabitation, relevant documentation as to income and out go of monies and the nature of the relationship must all be put before the trial judge and wherever possible corroborated.

The case is a good example of the kind of detailed evidence that must be lead to support or defend these kinds of claims.