

West Coast LEAF

The West Coast Legal Education and Action Fund (LEAF) was established in British Columbia in 1985. West Coast LEAF's mission is to achieve equality by changing historic patterns of systemic discrimination against women through BC-based equality rights litigation, law reform and public legal education.

Strategies

West Coast LEAF articulates and advances women's rights issues through litigation, education, and law reform.

Litigation: West Coast LEAF attempts to advance women's equality by making submissions to all levels of court in certain cases which involve equality rights issues. This involves monitoring equality rights cases and intervening in, and developing, provincial cases that further women's equality in BC.

Education: A public that is more educated about women's rights is more likely to protect and exercise these rights. West Coast LEAF provides education workshops to explain the importance of human and civil rights as set out by the *Charter of Rights and Freedoms*.

Law Reform: To ensure governments keep their constitutional promise to the women of British Columbia, West Coast LEAF researches and tracks existing and proposed legislation and makes suggestions for law reform. Consulting with community groups to identify areas of change, we also present briefs to governments, tribunals and other bodies.

Success Stories

- A young woman was sexually assaulted during a job interview in the groundbreaking Ewanchuk case (1999). The Supreme Court of Canada supported LEAF's position that "no means no" and that sexual consent cannot be implied by external factors such as how a woman is dressed
- Based on that case, "No Means No" workshops have been conducted for youth aged 10-15 since 2001. In 2009, approximately 90 students have participated in the Lower Mainland.
- *R. v. Watson and Spratt* is a case in which two men were charged for protesting within the no-protest 'bubble zone' around abortion facilities. Counsel representing a coalition of women's organizations including LEAF intervened in this case. The argument to uphold the legislation was successful at the BC Court of Appeal.
- *Rick v. Brandsema* is a B. C. family law case in which the parties entered a separation agreement that left Mr. Brandsema with substantially more assets than Ms. Rick after 27 years of marriage. There was evidence of a power imbalance between the parties and non-disclosure on the part of Mr. Brandsema. West Coast LEAF intervened in Ms. Rick's appeal to the Supreme Court of Canada. The SCC recently allowed Ms. Rick's appeal and advanced important principles of equality in the application of family law.

West Coast LEAF Profiles

Nitya Iyer, President



Nitya Iyer is a lawyer with Heenan Blaikie. Previously, she taught at the University of Toronto's Law Faculty, and was an associate professor at the University of British Columbia. Nitya focuses her practice in the area of constitutional law, human rights and pay equity. She has appeared before the British Columbia Court of Appeal and the Supreme Court of Canada. From 1997 to 2000, she was a full-time member of the British Columbia Human Rights Tribunal, and has consulted on numerous equality cases, including pay equity appointments with the governments of BC and the Northwest Territories.

Karey Brooks, Board member

Karey Brooks currently works at Janes Freedman Kyle Law Corp, a boutique practice in aboriginal law and civil litigation. She is responsible for resolving legal disputes and representing clients in lawsuits. She has a Bachelor's of Arts degree in English and Women's Studies and a Law degree, both from the University of British Columbia. Being passionate about feminism and protecting the equality of women, she began volunteering at West Coast LEAF as a summer student in 1999.



Alison Brewin, Executive Director



Called to the Bar in 1992, Alison Brewin received a degree in Law from the University of Victoria. Before coming to West Coast LEAF in 2000, Alison worked in non-profit management, women's services, community development and freelance education. She is author of numerous articles and reports including Legal Aid Denied: Women and the Cuts to Legal Services in BC. She currently serves West Coast LEAF as Executive Director, guiding the organizations work to advance women's equality rights in BC.

Kasari Govender, Legal Director

Before joining West Coast LEAF, Kasari practiced constitutional, equality and Aboriginal law. She earned her degree in law from the University of Victoria, and is currently working on a Master's Degree in International Human Rights Law with the University of Oxford. Kasari has worked on children's rights, equality for Aboriginal women and prisoners' rights cases and brings her passion for human rights to the management of West Coast LEAF's law reform and litigation projects.



SCC: make full disclosure in separation agreements

By Robert Todd | Publication Date: Monday, 02 March 2009

<>The Supreme Court of Canada gave family law practitioners a stern reminder last week of just how important it is to ensure clients offer full and honest disclosure when putting together separation agreements.

“It reaffirms that, for family law cases, courts want everybody to come in with wide open eyes,” says family law practitioner Grant Gold, of McCague Peacock Borlack McInnis & Lloyd LLP.

“Yes, you can make a decision that might give you less than you might otherwise get, if that’s what you choose to do, but you have to know the facts coming in.”

The court’s 7-0 ruling in *Rick v. Brandsema* orders Berend Brandsema to pay his former wife Nancy Rick \$649,680 because their separation agreement was “unconscionable.” The pair married in 1973 and separated in 2000, and had five children together.

During the marriage, they acquired a dairy farm, real property, vehicles, and RRSPs, noted the court. Rick was originally set to receive a \$750,000 equalization payment through the separation agreement.

But the court found that Brandsema failed to make full and honest disclosure, knew the contract negotiations were based on flawed financial data, and was aware of his wife’s fragile mental state during the talks.

The decision overturns an Alberta Court of Appeal decision, which ruled that professional assistance Rick received during the negotiations compensated for her mental instability.

Heenan Blaikie LLP lawyer Nitya Iyer, who worked the case pro bono for the intervener Women’s Legal Education and Action Fund, says the decision is groundbreaking in terms of the development of common law principles.

Iyer says it “takes into account the specific vulnerabilities that exist between separated spouses. We’ve had the principle of unconscionability for some time, but it’s a pretty minimal idea. The notion that it has more weight and takes on a particular content in the context of family law contract negotiations, I think is an interesting and new development.”

Gold notes that, unlike many other Canadian jurisdictions, Ontario’s family law legislation specifically talks about financial disclosure. The Family Law Act says that a court can set aside a domestic contract if a party fails to disclose significant assets or debts or other liabilities existing when the contract was made, notes Gold.

Moreover, says Gold, the decision signals the court’s intention of protecting vulnerable parties. “It’s the Supreme Court of Canada saying, ‘We’re not going to let people take advantage of, in this case, a wife in a vulnerable position,’” says Gold.

The decision also asserts the fact that family law contracts are dealt with differently than commercial contracts, he says. The SCC’s rejection of the Alberta Court of Appeal’s stance in ruling that the wife’s vulnerabilities were not compensated for by advisers demonstrates that, says Gold.

Press Release

West Coast LEAF presenting open letter to Attorney General Cuts in legal aid in BC will have a devastating impact on women

Vancouver, Feb 24 - Today, Kasari Govender, Legal Director of the West Coast Legal Education and Action Fund (West Coast LEAF), will meet with Attorney General Wally Oppal to present the first 1000 signatures supporting an open letter protesting cuts to legal aid in B.C. Pivot Legal Society and West Coast LEAF began collecting signatures to illuminate the concern about the recent continuation of cuts to legal aid in B.C. that will have a devastating impact on women, particularly those living in poverty, women of colour, Aboriginal women, and other marginalized women.

"Women must have fair and equal access to the justice system," says Govender. "It is time to restore services and to develop a comprehensive strategy for building a legal aid system which ensures that women have equal access to the justice system in British Columbia."

The most recent erosion of legal services in B.C. includes:

- The closing of the family law clinic
- Stricter screening processes and eligibility requirements for clients
- Cuts to the tariffs for family, immigration and criminal law
- Reductions in services for people who cannot access legal representation through the Legal Services Society (LSS), including cuts to the staffing of the LawLINE, and
- Reductions in staff lawyers

LSS staff lawyers currently take cases that private lawyers simply cannot take on and most often these are cases that involve complicating factors, such as, insecure immigration status, litigation harassment by an ex partner, a history of domestic violence and/or mental illness.

While Govender will present the first 1000 signatures today, West Coast LEAF has an eventual goal of 5000 supporting signatures. The letter to the Attorney General and petition are available here: <http://www.thepetitionsite.com/1/access-to-justice>