The Spousal Support Advisory Guidelines Three Years Later

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As we write this update, three years after the release of the Draft Proposal, we are putting the finishing touches to the revisions to the Advisory Guidelines. We expect the final version to be released by the end of March 2008.

One of the purposes of this relatively brief update is to let you know what to expect in the final version, and in particular to draw your attention to one significant new revision—the addition of a *minimum duration* to the *with child support* formula.


A. What to Expect in the Final Version

The changes that you will see in the final version of the Advisory Guidelines when it is officially released in March will by and large be no surprise. Much of the basic structure of the Guidelines remains the same. The document has been rewritten and re-organized to clarify meaning, to incorporate the three years of on-the-ground experience with the Guidelines, and to focus attention on issues that are often ignored, such as entitlement, application, using the ranges, restructuring and exceptions.

With respect to significant revisions, we have flagged the majority of these in our on-going updates:

- *definition of income*: social assistance to be excluded for spousal support purposes; Universal Child Care Benefit (UCCB) to be included
- *without child support formula*: maximum end of range to be capped at 50 per cent of net (rather than gross) income
- *with child support formula, adult children*: a special, hybrid formula added for adult children who are receiving child support under s.3(2)(b) of the Child Support Guidelines
• *with child support formula, shared custody*: shared custody formula adjusted to always include a 50/50 split of net family income

• *exceptions*: several new exceptions added:
  • reapportionment of property in B.C.
  • basic needs/hardship exception: inability to meet basic need in shorter marriages under the *without child support formula* where the recipient is low income
  • special needs of child (*with child support* formula)
  • inadequate spousal support under *with child support* formula due to priority given to child support under s. 15.3 of the *Divorce Act*
  • non-taxable payor income

• *“indefinite” support*: change of terminology to “indefinite (duration not specified)”

However, there is also one additional revision that emerged from our consultations that has not been as well-publicized and that we want to draw to your attention to—the addition of a *minimum duration* to the *with child support* formula.

**B. Minimum Duration under the *With Child Support* Formula**

All orders under the *with child support* formula are indefinite in form, which in the final version will mean “indefinite (duration not specified)”. In cases involving dependent children, there are often review terms attached to such orders or agreements and, of course, they are subject to variation. In the Draft Proposal, we set out a *maximum duration* or “outside time limit”, to maintain consistency with the *without child support* formula and to provide some structure for the process of review and variation. The *maximum duration* was the longer of either one year of support for each year of marriage or until the youngest or last child completed high school.

Absent any minimum duration, however, the maximum duration was not treated as an outside time limit, but instead as a default time limit, as a period for which a recipient was entitled to receive spousal support. The problem was especially acute in shorter marriages with very young children. This outcome was never our intention and, throughout our feedback sessions, we canvassed lawyers, mediators and judges about how these shorter marriage cases worked out in practice. Lawyers in particular wanted some kind of minimum duration, to create a range that would create room for meaningful negotiation around duration. Over the past three years, we did develop a strong sense of what a minimum duration for this formula could be.

As with maximum duration, there are two tests for minimum duration under the *with child support* formula. We have renamed these tests, to clarify their rationale and operation: the *length-of-marriage test* and the *age-of-children test*. Under these tests, the *minimum duration* is the longer of either one-half year of support for each year of marriage or until the date one year after the youngest child starts attending school full-time.
The school date for the *age-of-children* test will vary from province to province and even from school district to school district, based upon the availability of junior kindergarten, the age rules governing school registration and the program the child takes. Added to that is a one-year grace period, which allows the recipient spouse to make whatever preparations necessary to return to employment.

In practice, the *age-of-children* test will provide a minimum duration for shorter marriages and very young children, while the *length-of-marriage* test will typically apply to marriages of ten years or more or cases where children are already in school or close to starting full-time school.

It should be kept in mind that this will be a minimum duration for support and it says nothing about the proper *amount* of spousal support for this period. Further, the initial order will still be indefinite (duration not specified). Any time limit will only appear after a review or variation hearing, especially in cases involving young children. Finally, under the *with child support* formula, the rationale for support is compensatory and this should push most cases towards the longer end of the durational range, and away from the minimum duration.

Changes will be made to the software to incorporate the revisions in the final version by the date of release.

**C. Case Law Highlights**


1. **Fisher v. Fisher: The Ontario Court of Appeal Endorses the Guidelines**

*Fisher*, released in early January of 2008, is the first decision of the Ontario Court of Appeal to address the Advisory Guidelines. Following the “seminal” B.C.C.A. decision in *Yemchuk*, Justice Lang, with Justices Doherty and Goudge concurring, endorsed the Advisory Guidelines as a “useful tool” and applied them to the facts of the case to reach a result consistent with the *without child support formula* after restructuring was explicitly taken into account. Following in the footsteps of other appellate and trial courts, the

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\(^1\) For a regional breakdown, of the 63 trial decisions, 25 were from Ontario, 22 from B.C., 6 from Alberta, 4 from Newfoundland & Labrador, 3 from Saskatchewan, and one each from New Brunswick, Nova Scotia, and Manitoba.

\(^2\) A third appellate level decision, that of the New Brunswick Court of Appeal in *D.L.M. v. J.A.M.*, [2008] N.B.J. No. 9, 2008 NBCA 2 (Larlee J.A., Turnbull and Robertson JJ.A. concurring), simply involved a brief reference to the Guidelines. After imputing a higher income to the husband, the Court of Appeal remitted the remaining support issues (including entitlement) to the trial judge, directing that the Advisory Guidelines be used to determine any amount and duration of spousal support if entitlement was found.
Ontario Court of Appeal accepted the Guidelines as a “cross-check” or “starting point” that “will help in the long run to bring consistency and predictability to spousal support awards, encourage settlement, and allow parties to anticipate their support responsibilities at the time of separation” [para 100]. The Court expressed its optimism “that with experience, the Guidelines will become accepted as a reliable tool for the resolution of many cases” [para 101].

Fisher, like the B.C.C.A. decision in Yemchuk, offers a careful and thoughtful analysis of the legal status of the Advisory Guidelines. Understanding the Guidelines to be a “reflection of current law” rather than a “radically new approach,” Justice Lang analogized them to a “distillation of current case law” and compared their use in the courtroom to “counsel’s submissions about an appropriate range of support based on applicable jurisprudence” [para 98]. Cognizant of concerns, such as those expressed by the Quebec Court of Appeal, that the Guidelines might be used inappropriately as a rigid mathematical formula that precludes consideration of the parties’ individual circumstances, Justice Lang attached some important caveats to the Court’s endorsement of the Guidelines. She emphasized that the Guidelines do not replace an individualized analysis, but rather supplement it, and that the Guidelines must be applied in their entirety with attention to issues such as entitlement, ceilings and floors, restructuring, and exceptions:

[98] … Importantly, in all cases, the reasonableness of an award produced by the Guidelines must be balanced in light of the circumstances of the individual case, including the particular financial history of the parties during the marriage and their likely future circumstances.

[99] Accordingly, the Guidelines cannot be used as a software tool or a formula that calculates a specific amount of support for a set period of time. They must be considered in context and applied in their entirety, including the specific consideration of any applicable variables and, where necessary, restructuring.

While Fisher does not mandate the use of the Advisory Guidelines by courts or lawyers, it does recognize that the Guidelines are increasingly becoming part of the everyday fabric of spousal support decision-making. The Court indicates that the Guidelines “will assist in informing an appellate standard of review” and certainly suggests that where the parties have raised the Advisory Guidelines, trial judges should address them:

[103] In my view, when counsel fully addresses the Guidelines in argument, and a trial judge decides to award a quantum of support outside the suggested range, appellate review will be assisted by the inclusion of reasons explaining why the Guidelines do not provide an appropriate result. This is no different than a trial court distinguishing a significant authority relied upon by a party.

The Fisher case itself, involving a fairly lengthy marriage without children in which both parties worked, raised many significant spousal support issues that were intertwined with the use of the Advisory Guidelines, including the differences between compensatory and non-compensatory support claims, the use of time limits and review orders, the impact of second families, the treatment of post-separation income increases, retroactive spousal support, and the standard of appellate review.
Fisher involved a 19 year marriage without children. The husband completed his B.A. and B. Ed. during the early years of the marriage, with the wife’s financial assistance. For much of the marriage the husband was employed as a teacher, with his earnings peaking at $65,000. A few years before the separation in 2004, he obtained new employment with the teacher’s federation and his income started to increase, with the increases continuing post-separation. His 2003 income was $81,800; in 2004 it was $125,000 and by the date of trial in 2006 it was $140,000. The husband had re-partnered with a woman who had two young children; his new partner was trained as a physiotherapist but stayed home to care for the children. She received child support of $700 per month from the children’s biological father.

The wife had worked during marriage, sometimes on a full-time basis and sometimes on a part-time basis, and had also taken university courses. Her average annual income during the marriage was approximately $30,000, but in the 2 years before separation she had been earning $41,000 a year. The wife became severely depressed after the separation; she was unable to work and claimed disability benefits. In 2004 she was awarded interim spousal support of $2,000 per month. The wife eventually went back to full-time employment and was earning $30,000 per year at the time of the trial.

The trial judge placed significant weight on the husband’s second family obligations and on the wife’s prospects for increased income and a new relationship, and ordered step-down spousal support with a terminating review order: $2,600 per month for the remainder of 2006, stepping down to $1,800 per month for 2007, and $1,050 per month for 2008, with either party able to request review after January 1, 2009. The trial judge refused to make the final order retroactive to the date when interim support had commenced. Although both parties raised the Advisory Guidelines, there was no reference to them in the trial judgement.

The Court of Appeal allowed the wife’s appeal, finding that the trial judge’s factual errors relating to the wife’s employment and potential new relationship constituted grounds for appellate intervention. The Court of Appeal then went on to determine support anew, replacing the trial judge’s order with a step-down time-limited order: $3,000 per month beginning October 2004, stepping-down on April 1 2008 to $1,500 and terminating in September 2011, for a total of seven years of support after separation. While the Court of Appeal, like the trial judge, found that indefinite support was not appropriate, the actual amount of support they awarded was significantly higher.

Justice Lang’s reasons, in which she engaged in a “traditional” spousal support analysis to reach a determination of the appropriate outcome before turning to the Guidelines to test the reasonableness of that outcome, include several significant rulings that we can do no more than flag, while noting that these rulings have important implications for the application of the Guidelines:

- The reasons draw an important distinction between compensatory and non-compensatory support claims. In Fisher, the wife’s support claim was found to be primarily non-compensatory in nature, justifying a transitional award, even in the context of a relatively lengthy marriage, which would allow the wife to gradually
adjust her standard of living from the marital standard to one based upon her own income.

- Consistent with both the Advisory Guidelines and spousal support practice in other parts of the country, the Court of Appeal recognized an expanded role for time-limited orders, particularly in a non-compensatory case like this.

- In finding the trial judge to have been in error in ordering a review rather than simply terminating the spousal support, the Court of Appeal reinforced the message the Supreme Court of Canada delivered in *Leskun*—i.e. that review orders should be the exception rather than the norm and that they are appropriate when “a specified uncertainty about a party’s circumstances at the time of the trial will become certain within an identifiable time period” [para 70].

- On the second family issue, the Court endorsed a contextual, fact-specific approach, finding on the facts that the trial judge had erred in relying upon the husband’s obligations to his second family to reduce support, given that these obligations were obligations to step-children voluntarily undertaken, that his new partner was capable of working and contributing to the support of the second family unit; and that there was no evidence that his obligations to his first family would impoverish his second family.

- In determining the incomes of the parties in the context of the husband’s increased income after separation, the Court averaged the incomes earned in the three years prior to separation and in the year of separation, resulting in an income of $89,825 for the husband and $35,500 for the wife. By implication, the wife was found to have only a limited entitlement to share in the post-separation increase, consistent with the finding that her support claim was primarily non-compensatory in nature.

- With respect to the commencement date for its order, the Court ruled that its order was to be retroactive to October, 2004, the date interim support had commenced, noting that this was consistent with the Advisory Guidelines which include interim support in calculating duration of awards.

In the final portion of her decision Justice Lang applied the Advisory Guidelines to test both her award and that of the trial judge, with a particular focus on the use of restructuring, a part of the Guidelines that is frequently ignored in practice. On the incomes as found, the *without child support* formula suggested a range of $1,290 to $1,720 per month for a duration of 9.5 to 19 years. Justice Lang noted that the Court’s award was outside the range for both amount (being higher) and duration (being lower). However she then went on to consider restructuring. Here the global range generated by the formula, when both amount and duration are taken into account, was $147,088 to $392,236. The Court of Appeal’s award, with a global value of $189,000, was found to fall squarely within that range (at the lower end), while the trial judge’s order, with a global value of $94,200 was found to be significantly below the Guideline range. Here we see the Advisory Guidelines being used to inform appellate review.

In *Fisher* the Ontario Court of Appeal emphasized the need to use the Guidelines carefully and with attention to their specific limitations and qualifications. In this respect the British Columbia Court of Appeal decision in *Beninger v. Beninger* provides a nice counterpart. A common misunderstanding, and one repeated in *Fisher*, albeit in a passing reference, is that the Advisory Guidelines have no application on variation. In *Beninger*, where the issue was directly raised on the facts, the British Columbia Court of Appeal provided a careful analysis of the application of the Guidelines on a variation application. Dispelling the common misunderstanding that the Advisory Guidelines have no application on variation, *Beninger* offers a more accurate reading of the Advisory Guidelines. The decision recognizes that the Advisory Guidelines *may* be applicable on variation, but not in all cases, and that their use in the variation context must be approached with some degree of caution and an awareness of their possible limitations.

The case involved a long (25 year) traditional marriage with four children in which the husband, who had been a successful tax lawyer, ran into financial difficulties and ended up declaring bankruptcy shortly after the separation in 2000. He was unemployed for a period of time after the separation, then eventually began to work as a consultant.

A 2003 order had anticipated the husband returning to an income of $312,000 per year and set spousal support at $6,500 per month, in addition to child support for the one child who remained with the wife. A subsequent 2004 order, based upon an income of $120,000, ordered the husband to pay $2,000 per month spousal support.

In 2006, the husband returned to work as a tax lawyer on a contract basis with a gross annual income of $364,500. He applied for a variation of child and spousal support. The wife had tried to retrain and find employment but suffered from health problems and was essentially unemployed. After deducting business expenses, the trial judge set the husband’s income at $318,900 and ordered spousal support of $4000 per month.

In a decision written by Justice Prowse with Chief Justice Finch and Justice Huddart concurring, the Court of Appeal allowed the wife’s appeal and, guided by the Advisory Guidelines, increased spousal support to $9,000 per month. One of the main issues addressed by the Court of Appeal, apart from the determination of the parties’ incomes, was the application of the Guidelines in the context of a variation application under s. 17 of the *Divorce Act*.

Drawing from the Draft Proposal, Justice Prowse noted [at para 52] that the Guidelines are to be used with caution on variation applications because they were not designed to address some of the more complex issues that can arise on variation, including the impact of remarriage, second families and retirement. She noted as well, that entitlement issues may also have arisen since the initial order. However, in an important ruling, Justice Prowse also recognized, correctly, that these complications do not preclude the use of the Guidelines as a tool in a variation application to assist in the determination of amount and
duration; but they do require that any such use be undertaken with care and with sensitivity to the specific factual context:

The decision whether to use the SSAG as a guide on variation applications will have to be made cautiously and on a fact specific basis. [para 55]

On the particular facts of the case, Justice Prowse found that it was appropriate to use the Advisory Guidelines as a guide to determining the appropriate amount and duration of support. No issues of entitlement arose. Given the parties’ long traditional marriage and the adverse economic circumstances Mrs. Beninger continued to experience as a result of the marriage breakdown, she was found to have a strong continuing entitlement to substantial support on both compensatory and non-compensatory grounds. As for Mr. Beninger’s increased income post-separation, which was the basis for the variation application, there was no issue of Mrs. Beninger’s entitlement to share in it. Mr. Beninger’s increased income was found to be directly related first to the career he had embarked on as a result of the education he had obtained, in part, during the marriage and second to the skills developed in his years of working during the marriage which were facilitated by Mrs. Beninger’s efforts as a full-time homemaker. While Justice Prowse does not explicitly state this, it was also clearly relevant that at the time of the 2003 order the husband had gone bankrupt and was on disability but was now employed as a working lawyer again. The case could be seen as involving not so much a post-separation increase as a re-stabilization of the husband’s pre-separation income.

The Guidelines range under the with child support formula, based upon a finding that the husband’s income was $330,000 and a refusal to impute income to the wife, was found to be $8,500 to $10,000 for an indefinite duration. The $9,000 a month awarded by the Court of Appeal comes close to equalizing the net disposable incomes of the parties after taking into account child support.

3. Trial Judgements

While the two Court of Appeal decisions in Fisher and Beninger clearly stand out in their significance, we would also like to draw your attention to three recent trial level decisions.

In Hykle v. Hykle, [2007] M.J. No. 360, 2007 MBQB 243, Yard J. applied the Guidelines to determine the amount and duration of spousal support in a complex case, the first Manitoba decision to provide a detailed examination of the Advisory Guidelines.

In M.(K.A.) v. M.(P.K.), 2008 CarswellBC 135, 2008 BCSC 93 (B.C.S.C.), Justice Barrow relied upon the Advisory Guidelines in determining that a separation agreement failed the Miglin stage 1 test. Of even more interest was the creative way in which he dealt the impact of the wife’s re-partnering in determining the appropriate amount of support. Drawing on the concept of “merger over time” he ordered that spousal support be reduced by 10% for every year of continued cohabitation.
Carson v. Carson, [2007] O.J. No. 3741 (S.C.J.), a case involving a very short marriage with a young child, shows Justice Aitken engaging in a very careful analysis to justify her decision to set spousal support at the low end of the range.
Appendix I

SPOUSAL SUPPORT ADVISORY GUIDELINES
CASE SUMMARIES
[Sept. 13, 2007 – Feb. 4, 2008]

(This update covers new cases decided since our last update, Carol Rogerson and Rollie Thompson, "The Advisory Guidelines 31 Months Later", Sept. 12, 2007 which can be found on the SSAG website at http://www.law.utoronto.ca/faculty/rogerson/ssag.html)

A. Appeal Cases

Married 6 years, 2 children 9 and 5, with wife
Husband working as superintendent for parents’ rental property company, salary $42,684
Wife primary caregiver, also worked in company, now 2 jobs, call centre/retail, $19,000/yr.
Trial judge ordered child support, no further spousal support
Issues: gift vs. loan re home from husband’s parents, imputing income to husband
Gift, not loan, wife entitled to half of net proceeds from home
Couple income split during marriage, total close to $70,000, amount imputed in interim
No explanation by husband for drop in income after separation
Income imputed at $70,000, support issues remitted to trial judge
Trial judge to consider entitlement and, if entitlement, application of Guidelines
[Child support, $983/mo., Guidelines range (no s. 7 expenses): $149-$668/mo.]

19 year marriage, separation 2004, no children
Husband completes B.A. and B. Ed. during marriage; then teacher earning $65,0000; 1999 new job with teacher’s federation; income increases in last 3 years of marriage and continues to increase after separation: 2003, $81,800; 2004, $120,000; 2005, $132,000; 2006, $140,000
Husband new partner with two young children, staying home, receiving $700 per month child support
Wife worked during marriage, sometimes full-time, sometimes part-time; also took university courses; average earnings $30,000; income $41,000 for 2 years before separation unusually high
Wife depressed after separation; unemployed and on disability benefits; back to full-time employment, earning $30,000
October 2004, interim support $2000/mo
either party able to request review in 2009; no retroactive support; no reference to SSAG even though parties argued
Wife’s appeal allowed
Trial judge made errors in finding of fact relating to wife’s employment and potential new relationship
Wife’s claim for support primarily non-compensatory
Husband’s obligations to second family not to be relied upon to reduce support; new partner capable of working;
No basis for review order; no specified uncertainty
Support to be made retroactive to Oct. 2004; consistent with SSAG which include interim support in calculating duration of awards
Time-limited order appropriate; seven years of transitional support
Incomes determined by averaging incomes earned in 3 years prior to separation and in the year of separation; result: husband $89,825 and wife $35,500
Trial judge’s order replaced by order of spousal support for $3000 per month (for 3.5 years) beginning October 2004; step-down April 1 2008 to $1,500 (for 3.5 years); terminating Sept 1, 2011 (7 years total)

SSAG a “useful tool” or “litmus test” in determining reasonableness of award; when counsel address SSAG; trial judges should provide reasons if award amount outside range

Range: $1,290 to $1,720 ($15,483 to $20,644 annually), 9.5 to 19 years

Court’s award outside range for both amount (higher) and duration (lower), but allowed by restructuring because with global range [global range: $147,088 to $392,236; trial judge’s global award $94,200, outside range; Court of Appeal’s global award $189,000, within global range, at low end]


25 year marriage, 4 children, separation 2000; two dependent children, one with each parent

Wife obtains M.Sc. in economics in early years of marriage and but homemaker after birth of first child

Husband lawyer; obtains master of laws in early years of marriage; unsuccessful business ventures at end of marriage; bankruptcy 2001; unemployed due to depression; then consulting business

2003 order: assuming income of $312,000, child support for 1 child $2,111/mo; spousal support $6,500

2004 order: based on income of $120,000, child support for one child of $888/mo; spousal support $2,000;

subsequent variation requiring contribution to university expenses

Husband returns to work as tax lawyer on contract basis in 2006; income $364,500; remarried; new spouse earning $75,000; seeks variation of child and spousal support

Wife health issues, no income

Chambers judge finds husband’s income to be $318,900 (after deduction of business expenses of $45,000);

orders spousal support of $4000 per month

Wife appeals, arguing husband’s income much higher

Court of Appeal sets husband’s income at $330,650; not appropriate to impute income to wife

Child support raised to $2,711.07

Use of SSAG on variation: appropriate on these facts, wife has on-going entitlement to substantial support both on compensatory and non-compensatory basis; appropriate to base spousal support on husband’s increased income because career linked to education acquired during marriage and years of work during marriage while wife cared for children

Range under with child support formula if husbands’ income $330,000: $8,500 - $10,000, leaving wife with 48.9% of NDI

Spousal support ordered: $9000/mo, indefinite

### B. The Without Child Support Formula


Married 38 years, husband 68, wife 60, 3 adult children

Wife mostly home, worked on and off, now on long-term disability and CPP, $20,000/yr.

Husband carpenter, injuries, income of $57,000 from WCB and pensions

Both need some home care and assistance

Property division included Carpenters pension

Guidelines range, after pension division: $1,053-$1,404, $1,229/mo. mid-point

Spousal support of $1,250/mo., indefinite


20 year marriage; 2 children now adults; separation 2001

Husband carpenter at paper mill; 2006 income $77,049 (incl. overtime)

Wife worked, mainly part-time, during marriage; became legally blind after separation; now CPP disability, $10,600

Wife in U.S. after separation until 2003, husband left with children; since return living in matrimonial home with children; no child or spousal support but husband making mortgage payments
Husband significant debt pre and post-separation: $49,900 consolidated loan (payments of approx. $1000/mo) and $18,400 credit card debt; husband argues post-separation debt due to expenses incurred for support of family after wife left for U.S. and continued mortgage payments
Husband new partner with three children, income $10,000; plus $500/mo child support
Husband’s income set at $72,000 (no overtime) and further $5000 reduction to reflect costs of transportation to work (so $67,000)
Range: $1412-$1833
Re debt: evidence of debt source unsatisfactory; $36,000 found to be matrimonial debt at time of separation; $12,000 wife’s share; taken into account in property division; wife gets no reapporitionment and no share of husband’s RRSP or company shares.
Re post-separation debt: some due to husband living beyond his means
Support payment of $1500 per month difficult given husband’s current budget; needs to use share of house proceeds to pay down debt

26 year marriage; 3 children now adult; separation 2006
Wife homemaker, disability (MS in 1989)
Separation agreement dividing property; unequal division of property, wife gets parties RRSP’s worth approx. $100,000 from which to draw income and providing for spousal support of $150 bi-weekly until husband’s retirement, then re-negotiate
Husband’s income unclear; had been earning between $90,000 - $100,000 but had been suspended by union; now studying and earning $18/hr
Wife unhappy with spousal support; argues would have gotten more under Advisory Guidelines; applies to set aside agreement on various grounds
Agreement fair; no basis for setting aside agreement or spousal support provision

Married 5 years, plus 2.5 cohab (7.5 total) separate 2004
Move from Alberta to B.C. during relationship for husband’s job
Wife works during relationship
Interim spousal support, 2004: $1000/mo
Husband’s income $95,000; wife’s income $27,000
Range: $637-$850, 3.75 to 7.5 years
Spousal support of $650 per month for further 6 months (3 years, 9 months total)

Not married, 26 year cohabitation, no children, both 67
Husband longshoreman, wife secretary;
Wife has stroke in 1991, disabled and unemployed; separate in 2006 when wife moves to care facility
Husband retired 2002, income $70,520; wife’s income (disability pension) $28,787
Range: $1304-$1739
Wife seeks more than high end of range to enable her to pay for private bed while on wait list for subsidized bed
Spousal support of $1739 ordered, high end of range, plus $315,000 for share of property by way of resulting trust

24 year traditional marriage, 2 children, separate 2002
Husband fisherman in own business; income at least $50,000 (could be $60,000);
Wife health issues, very limited ability to earn income, income either zero or $4,500
Spousal support $2000/mo
SSAG used as litmus test for reasonableness of award:
- if h $50,000 and w 0, range $1,500 - $2,000
- if h $50,000 and w $4500, range $1365- $1820
- if h $60,000 and w 0, range $1800-2400
- if h $60,000 and w $4500, range $1665-$2220

Very long marriage (32 or 35 years depending on date of separation chosen)
Husband’s income $17,800, wife zero
Range: $550-$750, court orders $600 per month

4 year cohabitation, both parties 32
Both working at beginning of relationship but then wife starts university and now half way through degree
Husband’s income $120,000; wife’s income $21,892 (student loans and part-time earnings)
Interim support under Family Law Act: $500 per month from Nov. 2007 until earlier of May 2009 or trial (19 months)
Court uses husband’s ssag calculations [not specified] and chooses low end of range
[Estimated range: $491-$654, duration 2 to 4 years]

Unmarried cohabition 6.5 years; both prior relationships; no children
Wife lived and worked abroad for extended periods during relationship
Husband retired, income $50,000 (pension and investments); wife income imputed at $18,000
Spousal support $300/mo for 4 years; low end of range for duration appropriate because parties were establishing themselves in separate lives before separation
[Range if 6 years: $240-$320, 3 to 6 years; if 7 years, $280-$373, 3.5 to 7 years]

Parties married in 1971, first separated in 1992, frequent contact 1997-2000, final separation 2000 (total 29 years); 3 children
Wife homemaker; husband’s earning capacity and wealth increased dramatically over course of marriage; assets of over $12 million; recent earnings of over $1 million
Husband paid wife $2000/mo beginning 1992; $3000/mo in 2000 and $6000/mo in 2005
Equal division of property ordered: wife receives equalization payment of $6 million
Wife agrees no claim for retroactive or on-going spousal support if equal division of property
Court applies SSAG hypothetically (ceiling ignored) to determine amount of spousal support that should have been paid 1999-2005 if wife entitled to 40% of husband’s gross income; amounts ranged from $28,000 to $86,800 per month; amounts found to be excessive but used to show that $6000 per month spousal support being paid as of 2005 inordinately low

29 year marriage; 3 children now adults; separation 2006
Husband 59; worked in steel industry; income $95,000 in 2005; falls into serious depression after separation and unemployed
Wife 54, homemaker; worked in day-care; 2006 income $18,526; alleges health problems and unable to keep working
Wife claims spousal support of between $2,600 and $3,500 per month in accordance with guidelines, based on income of $85,000 imputed to husband because of under-employment and zero income for her; seeking lump sum equivalent to husband’s interest in matrimonial home
Property division: each left with $205,000 in assets; wife owes husband equalization payment of $207,000 if she retains home
Lump sum spousal support of $120,000 ordered; plus $17,500 for retroactive support, based on assumption husband able to earn $65,000 and wife earning $18,000; wife needs $10,000 more per year for 12 years.
[Estimated range if h $65,000 and w $18,500: $1453-$1938; low end of range for 12 years, no discounting, lump sum $209,232]

9 year traditional marriage plus 5 yrs. prior cohab (24 years), separate 2005
Wife one child prior relationship; one child of marriage; both adults
Husband’s income $62,000

Wife’s income $37,500 (interest on inheritance and equalization payment plus imputed employment income)
Spousal support of $800/mo; consistent with SSAG range
[Estimated range: $735-$980]

Long traditional marriage [length not specified], 2 children
Divorce 2003: husband’s income $71,749, wife’s income $32,175; child support $945 per month plus education expenses under s. 7, plus $400 per month spousal support
Child support ends December 2006; wife seeks increased spousal support
Husband’s income now $79,363; wife’s income $49,230
Spousal support of $1000/per month ordered; strong compensatory claim
SSAG ranges presented and referred to as helpful guide but not specified
[Estimated range if marriage 20 years, $753-$1004; if 25 years range $942-$1256]

3 year marriage, no children
Husband Canadian citizen, wife Ethiopian; marry in Ethiopia in 2003; wife arrives in Canada in 2005; separation 2006;
Under immigration sponsorship agreement husband obligated to support wife for 3 years, until Dec. 2008
Husband’s income $52,329; 4 children from prior marriage; paying child support, amount not specified
Wife on social assistance and studying English; part-time employment income of $480/mo ($5760/yr) imputed
Interim spousal support under Family Law Act; wife seeks $1500/mo
Court orders $900/mo, payable until Dec. 2008 [giving wife $1,200 per month with part-time work]; above high end of SSAG range; justified by husband’s sponsorship agreement
[Range if no deduction for prior child support obligation: $175-$233, duration 1.5 -3 years]

42 year traditional marriage with 6 children, separation 2004
Husband retired
Agree to split husband’s pension [each $416 per month]; not included in equalization
Husband’s income after pension division $26,220; wife’s income after pension division $13,512
Range $397-$530
Wife asks for $1000 per month [including pension] to equalize incomes under SSAG
Court orders $400 per month; equalization not appropriate; husband had assumed debt; wife had additional income from inheritance, husband’s employment pension and RIF already divided in equalization(?); wife will have income from equalization payment

C. The With Child Support Formula

Pegler v. Avio, 2008 CarswellBC 169, 2008 BCSC 128 (Dickson J.)
Together 14 years, not married, child 10, with wife, husband 65, wife 51
Wife has multiple sclerosis, receives CPP disability $6,000/yr.
Wife economics degree, worked previously, unlike to work now
Husband economics professor, earned $124,467 in 2006
Husband went half-time in 2007, own health issues, investment income too
Husband will retire within one year, income $77,244 in 2007
Interim order Feb. 2007: child support $716, spousal support $2,087/mo. (maximum level)
Unjust enrichment: husband to pay $840,000 to wife, for house and pension
Child and spousal support amounts to continue until retirement
Duration: disability exception, no time limit (max. 13 more years otherwise), binding on estate
[Estimated range if wife $6,000: $1,287-$1,797, but $2,087 maximum if wife no income]
Wu v. Dipopolo, 2008 CarswellBC 164, 2008 BCSC 112 (Gray J.)
Together 12 years, married 5, 2 children 5 and 2, husband 35, wife 39
Family assets divided, debts allocated, 55 % of net assets to wife
Husband operates rental, clothing, other businesses, income issues, cash transactions
Wife says $150,000, husband says $83,000, court finds $100,000
Wife student, travel and airline industry diploma, no income
Child support $1,444/mo., plus husband pays all child care, $850/mo.
No lump sum spousal support
Guidelines range stated as $1,672-$2,241/mo. [appears no s. 7 expenses considered]
Some reapportionment, but zero income, need, intends roughly equivalent standards of living
Spousal support of $2,000/mo., review in Sept. 2010 or full-time employment of wife
[Estimated range if s. 7 payments all by husband: $1,270-$1,610/mo., if shared $1,444-$1,899]

Grinyer v. Grinyer, 2008 CarswellOnt 366 (Gray J.)
Married 22 years, plus another year of cohabitation (?), husband 46, wife 45
2 children: 26 on own; 19 in college, lived with wife until Apr. 2007, now with husband
Wife home, now works 3 days/wk. with Hearing Society, earns $22,000/yr.,
Husband operates grocery business, big issues of income, disclosure and lifestyle
His income found to be $108,000, cohabiting with partner (earns $30,000)
Retro child support to wife at $938/mo., but wife now to pay $188/mo.
Interim spousal order Apr. 2006 for $3,500/mo., $1,000/mo. paid in 2007 ($1,700/mo. in 2005)
Income of $45,000/yr. imputed to wife, as of Jan. 2009
Spousal support at $3,500/mo., retro to Feb. 2005, then $2,500/mo. for 2009
Fisher applied, to find duration of 7 years total, another 4 years to go, so $1,000/mo. for last 3 years
[Estimated custodial payor range, 23 years: $1,984-$2,645/mo at $22,000; $1,440-$1,921 at $45,000]
[Estimated without child support range, 23 years: $2,473-$3,297/mo.]

Married 17 years, 1 child 9, husband 43, wife 44
Husband earns $50,612, heavy equipment mechanic, cohabiting, her 3 children
Custody shared 2 ½ years, not principal residence to wife, child support $467/mo.
Wife cohabiting since July 2007, home 2 years in marriage, worked evenings, now in college
No spousal support paid to date, need/disadvantage, but no SSAG calculations by counsel
Spousal support $500/mo., indefinite, variable, wife should make self-sufficiency goal over 5 years
[Estimated range: $1,002-$1,244/mo., but recipient cohabiting]

M.(K.A.) v. M.(P.K.), 2008 CarswellBC 135, 2008 BCSC 93 (Barrow J.)
Married 21 years, 2 children 17 and 14, with wife, wife 42
2005 separation agreement: child support $1,173/mo., $1,000/yr. s. 7 expenses
   no spousal support, husband’s income $95,000
Husband in pharmaceutical sales, 2006 income $109,050, cohabiting
Wife home during marriage, cohabiting since separation, now earns $41,900/yr. (2007)
Child support $1,559/mo.
Miglin analysis: negotiated okay, but no substantial compliance on stage 1
Wife argues range $1,650-$2,221/mo., but repartnering
Wife still entitled, compensatory, income of $38,000 imputed to wife starting Jan. 2005
Husband’s income $100,000, range then $671-$1,300/mo.
Amount chosen at low end, as not needs-based, ending in 10 years
But repartnering, merger over time with new partner, reduce spousal support by 10% per year
Spousal support $750/mo. (2005), $600 (2006), $525 (2007), $450 (2008), etc.,

Together 24 years, married 20, 3 children 21, 18 and 17
Oldest in university, each parent pays $600/mo, 18 on own, 217 home with wife
Interim spousal support, Sept. 2005: $12,500/mo., husband’s income $300,000
Dec. 2005 consent order: $6,500/mo., review in 3 years

Wife works part-time for Weight Watchers, earns $3,000/yr., seeks support under SSAG
Interim spousal support at $6,500/mo., until trial of issues of entitlement, etc.
[Estimated range at $300,000 if child support for one, plus $600/mo. each: $7,606-$8,941/mo.]
[Estimated range if child support for two, plus $600/mo. each: $6,650-$7,854/mo.]

Married 18 years, 2 older children gone, 3 younger in shared custody, husband 58, wife 43
Husband earns $260,000/yr. in bakery business
2005 trial decision: spousal support $3,500/mo. plus child support
Spousal support increased to $5,000/mo. on 2006 appeal, application of SSAG
Application to vary by husband, based on wife’s cohabitation and marriage
Income imputed to wife: $50,000 from invested assets, plus $36,000 employment
Child support: set-off, $4,384 - $1,643 = $2,741/mo.
Wife found to have commenced cohabitation May 2006, new husband earns $658,000/yr.
Spousal support terminated retroactive to May 2006

Together 2 years, married 1, 1 child 21 mos., husband 31, wife 27, separated Oct. 2006
Husband adopted wife’s 8 year old child, but no relationship and no support now by agreement
Husband teacher earns $60,410, student wife’s income $17,880 (student loans)
Child support $564, plus 77% of day care costs
Consent order March 2007 for $435/mo. spousal support, after sale of home
Wife received 61% of home proceeds, paid off debts
Wife seeks support for 2-3 years to finish studies, husband says no more
Range $341-$819, spousal support of $435/mo. ordered to Dec. 2008 (18 mos. total)

Married 17 years, 2 children 15 and 13, equal shared custody
Wife employed NRC $34,230, husband electrician, own co., income issues, $82,560
Interim child support: $1,191 - $508 = $683, plus $250, for $933/mo.
Interim spousal support: range if simple set-off $141-$829/mo., $600/mo. ordered

Married 22 years, 2 children 21 and 19 in university, UVic and Carleton
Wife teacher, earns $50,400, no imputing for full-time or summer months
Husband broker RBC Dominion, will earn $153,140 in 2007 (earned more in 2005 and 2006)
Big s. 7 university expenses paid by husband: $42,201/yr.
First determine NDI split at first stage, then sort out spousal support, s. 7 cost-sharing at second stage
NDI 58% to husband, 42% to wife, adjourned

Together just over 1 year, married 1 year, 1 child 11 mos., husband 32, wife 37
Wife’s interim move from Kelowna to Vancouver allowed, with child
Wife on maternity leave, marketing job in Vancouver, earning $29,500 half-time
Husband earns $89,000, Interior Health Unit, child support $815/ mo.
Interim spousal support, at half-time income, range $900 - $1,500/mo.
Short marriage, prospect of full-time employment, $800/mo., wife to notify of income changes

Married 20 years, 2 children 14 and 16, with wife in Edmonton
Husband in Parry Sound, doctor, 3-yr. average income $389,700
Wife home with children, now in law school, no income
No binding interim agreement, husband paid $12,000/mo. April 206 to June 2007
Child support $4,772/mo., plus $500/mo. for s. 7 summer camps
Wife seeks $10,126/mo. spousal, husband offers $8,000/mo.

Interim spousal support $8,800/mo., due to costs of access, recent income increase
[Estimated range $8,196-$9,838/mo.; if $350,000, $7,205-$8,794/mo.]

Together 18 years, 16 married, husband 48, wife 43 (38 at separation)
2 children 18 and 12, younger with father, older away at school in Winnipeg
Interim 2004 order, split custody: child support $661, spousal $1,750/mo., husband earned $83,000
Wife home during marriage, thyroid problems and fibromyalgia, no income
Husband hardrock miner, back problems, now shuttle bus driver at mine, earns $73,215
Wife entitled, husband paid support for 5 years, wife seeks $2,100/mo, indefinite
Mid to upper range, custodial payor: $1,562-$1,785/mo.
Spousal support of $1,750/mo. ordered, review in 2 years, concerns re health, employment effort
Husband much more debt, also borrowed for older daughter’s hairdressing education

Together 2 ½ years, 1 child 2, shared custody, wife 37
Wife earns $25,000, 28 hours/wk. in human resources
Husband computer systems analyst, earns $80,000
Child support $506/mo., plus 50% of gross day care costs, i.e. $188/mo.
Spousal support limited duration, not impute income now, $700/mo. for 2 years, similar living standards
[Estimated range $676-$1,268, $1,225/mo. for 50/50 split of NDI]

Together 2 years, husband 34, wife 35, child 1, and wife’s 6-year-old child of previous marriage
Wife brain tumour and seizures since April 2006, earned $100,000, now unable to work
Wife on long-term disability, $34,416/yr. non-taxable, $13,824 CPP
Husband human relations manager, earns $79,900, cohabiting (partner earns $50,000)
Child support $707/mo., at $78,400
Interim spousal support, $750/mo. for 7 months, husband argues SSAG
Order for $500/mo., 2 more years
[Estimated range 0 - $162/mo. if wife’s disability grossed-up; 0-$438/mo. if not]

Married 16 years, 1 child 15, with wife, husband 47, wife 56
Child support $701/mo., husband to pay $2,500/yr. for private school, activities
Husband earns $74,432, wife earns $36,167
Spousal support indefinite, husband paid $450/mo. voluntarily since 2005
Wife earns $32,000, new job in Aug. 2007, earning $42,000
Mid to upper end of SSAG range, $750/mo. for 2007, $600/mo. for 2008
[Estimated range at $32,000: $403-$925; at $42,000: $39-$584]

Married 14 years, 2 children, wife 45
2007 consent interim order, husband says income $96,000, spousal support $400/mo.
Husband’s actual 2007 income $175,000, as broker, changed employers in 2006
Husband’s incomes: 2004 $67,000; 2005 $53,000; 2006 $162,700
At $175,000, child support $2,282/mo. plus $159/mo. net day care
2008 income estimated as $157,500, child support $2,079 plus $153/mo.
Spousal support: wife claims $2,000/mo., earns $49,230/yr.
Range stated at $175,000: $1,833-$2,900/mo. [seems to assume no s. 7 expenses]
Spousal support $1,500/mo. in 2007 and 2008
[Range, considering s. 7 expenses, at $175,000: $1,765-$2,811; at $157,500: $1,389-$2,327]

Married 23 years, separated 2000, 7 children, traditional marriage, wife 52
2 children with wife, 25 mentally-challenged, 12 physical disabilities

2002 order: child support $1,800, spousal $700/mo., husband earned $81,000
2006 order: child support $988 plus s. 7, spousal $1,750/mo., husband $110,000
Review in June 2007, Guidelines applied on review
Wife part-time teaching assistant, earns $20,000/yr., could earn $30-$35,000
25-year-old receives $800/mo. disability and $500/mo. employment
Husband police officer, income with overtime $102,000, remarried, new wife has child 15
Matrimonial home reapportioned 2/3 to wife, $54,000 extra
Child support $922/mo. for one
Ranges for wife’s income $20,000: $1,627-$2,258; $30,000: $1,254-$1,913; $35,000: $1,057-$1,735/mo.
Order for $1,300/mo., until review in Feb. 2008, time for wife to seek further employment
[If range calculated as 2 children, ranges about $200/mo. lower]

Together 5 years, married 4, separated 2001, wife 37
3 children of previous relationships: 17 on own, 15 group home, 13 with new partner’s parents
1 child 12, with husband since 2005
Wife seeks child support for 3 and spousal support
Husband not in place of parent, 6 year delay, wife living with another man since 2004
Spousal support both compensatory and non-compensatory, wife home during relationship
Wife on social assistance (not income), also some waitressing $4,991 (2005)
Husband earned $29,991 (2005)
Lump sum for past, without child support formula used, no child support by wife
Range $1,875 - $2,500/yr., mid-point $2,187/yr. for 3.75 years, $8,203 lump sum
[Custodial payor range: $127-$169/mo. for 2.5-5 years, global $3,810-$10,140 ($8,213 net)]

Together 12 years, married 10, separated 1995, 2 children 19 and 17, older with husband since 2005
Child support $343/mo. since 2005, equalization payment by wife to husband $77,590
Wife lawyer, not worked since 1997, outstanding wrongful dismissal action, claims disability,
no medical evidence, no support sought until 2005, interim dismissed then
Wife seeks $1,500/mo. support retro to 2001
Husband aeronautical engineer, earns $105,723
No compensatory basis, non-compensatory only, wife former primary earner in marriage
Wife says income $56,000, but non-disclosure and no credibility, income imputed $72,203 (low)
Child support: $921 - $662 = $259, plus wife to pay share of university expenses
No entitlement, wife no need, could earn more, Guidelines show zero range
Spousal claim dismissed, subject to review [variation?] if change

Married 22 years, 2 children 19 and 17, wife 50
Child 19 at university, husband paying $23,000/yr, no child support order
Husband earns $345,597, mining executive, child support $2,701/mo. for 1 child
Interim spousal support: wife seeks $8,125/mo., husband offers $3,000/mo.
Wife home with children, artist, husband’s income for spousal $281,480 (stock options excluded)
No income imputed to wife, out of work force 20 years, but high-risk careet
Interim order $5,000/mo., mid-point of low-to-medium SSAG range

Married 8 years, 2 children
2003 order: child support $1,031 and spousal $1,500/mo., indexed, review in 3 years, husband $80,000
2007 review: child and spousal support now $2,818/mo.
Wife working at call centre in 2003 ($15,000/yr.), now started as court reporter, $30,000
Husband paid spousal support for 7 years, not much longer, review in 1 year (Nov. 2008)
Original amount on high side vs. SSAG, Guidelines used $750/mo, mid-range
[Estimated range, at $30,000 for wife: $163-$846/mo.]

Nykiforuk v. Richmond, 2007 CarswellSask 675, 2007 SKQB 453 (Ryan-Froslie J.)
Together 17 years, married 12, 2 children 17 and 7 with wife
Wife home, U.S. art and design certificate, $2,400/yr. rent only income
Husband musician, corporation, income issues, $65,000
Interim child support $910/mo., s. 7 expenses not proved, left to trial
Interim spousal support: no income imputed to wife, range $801-$1,090/mo.
Husband voluntarily paid (including $1,061/mo. mortgage) $4,000/mo. 2005,
$3,000/mo. 2006-07, $2,000/mo. since Aug. 2007
Interim order for spousal support of $1,100/mo.

Interim decision, 2 children 14 and 11, husband 43, wife 44
Husband earns $74,000 as environmental officer, wife day care worker $42,000
Exclusive possession of home to wife until sale
Children primarily with wife, week-about shared custody to commence March 2008
Child support $1,085/mo. to March, then $1,476/mo. ($79,000 for husband)
Wife seeks spousal support $1,000/mo., parties provided SSAG calculations
Order for $400/mo. until wife moves
[Estimated range: sole custody 0-$372, shared custody 0-$517 (if $79,000)]

Together 12 years, 2 children 13 and 10, with wife
Judicial dispute resolution, parties agree to binding decision on rest
Home sold, proceeds divided, $212,000 each
Wife actress, earning $12,000, imputed income of $24,000
Husband $90,000, child support not stated, table $1,290/mo.
Guidelines considered
Spousal support $700/mo., retro to April 2005, continue 2 more years (4 ½ years total)
[Estimated range: $526-$1,276]

Mid-length marriage, 2 children 15 and 7, with wife
Husband mechanic, now earns $26,000 in new common-law partner’s business
Partner a substantial income
Income of $50,000 imputed to husband, given past employment, former business
Wife continuing care assistant, just started employment, earns $24,000/yr.
Child support $715/mo.
Property divided equally, plus $7,000 for husband’s former business
Entitlement to spousal support, but Guidelines range suggests no amount of support
But husband’s cohabitation, lower shelter costs, $200/mo. ordered
[Guidelines range 0 to 0 at $50,000, 0-$268 at $60,000]

Newton v. Newton, 2007 CarswellOnt 7349 (S.C.J.) (Steinberg J.)
Married 16 years, 4 children, now just one aged 17
Husband earns $56,719, wife earns $19,875
Child support $526/mo., spousal support $623/mo.
Guidelines range: $192-$623, upper end to recognize s. 15.3 Divorce Act

Together 20 years, married 18, 2 children 21 and 17, husband 44, wife 55
Wife not working, stay-at-home mother, cares for granddaughter
Husband millwright, earns $56,195, but previously earned $71,000
Oct. 2005 interim consent order: child support $711, spousal $1,900/mo.
Mar. 2006 consent order: child support $575 (1), spousal $1,500/mo., review in 3 years, husband $71,000
Application to vary by husband, after change in jobs, new job no overtime, dismissed
Husband knew of change in jobs at time of order, chose to work less, now cohabiting
Amount ordered in 2006 still within Guidelines range, even with lower income

Married 9 years, husband 35, wife 32, 2 children 13 and 9, with wife
2002 separation agreement: child support $750/mo. plus $1,000/yr. clothing, spousal $750/mo., 3 years
Husband’s income all dividends from corporation, $81,475
Child support $1,177/mo. plus $333/yr. section 7 expenses
Wife owns retail clothing stores, negligible income, $15,000 imputed
Wife unemployed in 2002, agreement assumed community college, her change of plans
Mediated agreement, no independent legal advice to wife
Agreement set aside, parties to submit Guidelines calculations
[Estimated range: $1,349-$2,065/mo.]

Together 12 years, married 7, husband 38, 2 children 9 and 2, week-about shared custody
Wife works in family business, bankrupt, earns $23,800 (including car, cellphone)
Child support: set-off agreed, $1,020 - $274/mo. by husband for child care
Dec. 2005 interim order: child support $793/mo., spousal $250/mo.
1995 cohabitation agreement/marriage contract: wife waived spousal support
*Miglin* analysis: fairly negotiated, compliance then, but 1st child not planned, financial problems of wife
Range based on rotated child benefits: $364-$901, standard of living analysis, mid-range
Spousal support of $620/mo., review 6 months after youngest starts Grade 1

**Man v. Phamisith,** 2007 CarswellOnt 7117 (S.C.J.) (Blishen J.)
Married 5 years, 2 children 6 and 3, husband no answer, uncontested trial
Husband earns $48,945, child support $737/mo.
Wife unemployed in 2006, now at Scotiabank earning $17,900
Guidelines range $100-$336/mo.
Order for $200/mo., 7 mos. from Aug. 2006 to Feb. 2007 when unemployed
Child and spousal arrears, mortgage payments by wife all paid out of husband’s share of house proceeds

Married 15 years, 2 children 18 and 16, split custody, husband 58, wife 46
Husband lawyer on disability since 35, cease at 65
Wife not work outside home, now cohabiting, income of $24,000 imputed
Husband’s income $81,120 tax-free, $100,632 taxable, grossed-up $243,742
Child support: $2,033 - $220 = $1,813/mo.
Husband’s debt problems reflect poor money management
Wife entitled, more non-compensatory, range $3,800-$4,800
Exceptional circumstances: husband older, young children, wife cohabiting, her actual expenses low
Spousal support $2,000/mo. (from which husband can deduct certain debt payments), no time limit

Married 21 years, husband 52, wife 50, 3 children 20, 17 and 15, with husband
Property divided equally, including husband’s professional corporation
Husband doctor, income issues, earns $502,984 including net income from corp.
Wife trained as nurse, home, now personal support worker, $15,000/yr. plus $25,000/yr. investments
Husband says $2,700/mo. for 2 years, interim support $4,000/mo. since Oct. 2005
Range $7,952-$10,603/mo., order for $6,500/mo., indefinite
[Estimated range at $350,000: $5,037-$6,717/mo.]

Together 5 ½ years, married 5, 1 child 5, husband custody of 2 children of previous marriage
Wife’s allegations of sexual abuse against husband, not verified
Custody to wife, unsupervised access to husband
Husband earns $59,566
Wife graphic designer, 2001 earned $53,013, web business, losses, on social assistance
Child support $554/mo., plus $240/mo. for counselling fees
Spousal support: husband should have paid for 6 mos. after July 2006 separation
Husband to pay $1,200/mo., from Dec. 2007 to May 2008
Amount higher than SSAG, low end of “customary range”, due to his 2 children
[Estimated range $1,010-$1,264; if notional deduction for husband’s 2 children, $591-$775]

Interim support, 2 children 18 and 14 with wife
Husband amusement park operator, corporation, income issues, $120,000 imputed
Wife earns $29,280 at Home Depot, rounded to $30,000
Child support $1,696/mo. for 2, another older child living with wife, working part-time
Guidelines range $1,611-$2,260, but exception
Abnormally high costs of maintaining home, plus $2,200/mo. mortgage
Interim spousal support $3,000/mo., plus husband continues to pay mortgage until sale or trial

Married 16 years, 2003 separation, wife 40
4 children: 14 and 16 with wife, 2 older children with husband
Husband manager and sales, income $150,000, lost his job, gambling addiction and debts
Wife home, now living with partner and child
Child support $1,136/mo.
2003 separation agreement: spousal support postponed, while husband paying debts
Duration for spousal support of 3 years, no marketable skills, training required
Amount $1,500/mo.
Range if husband $124,815: $1,626-$2,015; if $109,248, $1,383-$1,733

Together 23 years, married 10, 2 children 22 and 17, younger with wife, husband 56, wife 58
Interim: child support $2,080/mo. and spousal $4,000/mo.
No reapportionment, equal division, payment by wife of $321,984, she keeps house
Wife copy editor, home 5 years, full-time work, 3 days/week since 2003
Wife earns $56,000, health issues, 4 days imputed, $75,000/yr.
Husband lawyer, income issues, $275,000 determined
Child support $2,277, spousal support $5,000/mo., reviewable after Nov. 2008, husband’s income
[Estimated range: $3,980-$5,679]

Together 15 years, married 14, husband 45, wife 43, 2 children 15 and 12, with wife
Separated 2000, 2002 order: child support $1,192/mo., spousal $808/mo., husband earned $97,000
2004 split custody, varied: child support $488/mo., husband earning $100,00, wife $31,000
Husband remarried, salary and retained earnings $130-$140,000
Wife earns $30,251 full-time with London Life
Child support $944/mo.
Husband seeks to terminate/reduce spousal support, wife to continue
Spousal support requested less than Guidelines range, duration 7.5 to 15 years
Order for $808/mo. for 2 years, $400/mo. for 2 years, end Sept. 2011, i.e. 11.5 years total
[Estimated range for $140,000: $1,819-$2,511]

Married 21 years, husband 50, wife 46
3 children, 17 (special needs) with husband, 15 and 14 with wife
Interim order 2007: child support $4,964/mo., spousal $8,036/mo., access of wife to accounts until then
Property divided: $1.6 million each
Husband senior vice-president, Wood Gundy, earns $670,965/yr.
Wife imputed income $20,000 part-time employment and $48,000 investment income, $68,000/yr.
Child support: $8,972 - $595 = $8,377/mo., no s. 7 expenses
Spousal support: wife not worked outside home, real estate licence, seeks $10,000/mo.
Guidelines not applicable, above ceiling
Wife overspending, increasing debt, $5,000/mo., time limit premature, review in 2 ½ years
[Estimated range at $670,965: $10,512-$12,808; at $350,000: $4,290-$5,673]

Married 11 years, 3 children 13, 11 and 9, with wife
Wife at home in Fort McMurray, moved to Edmonton, interim support
Husband earns $175,000 as power engineer and rent from home
Child support $3,161/mo., $300/mo. to s. 7 expenses, husband large access expenses
Wife home 8 years, employed full-time at $60,000 since 2003
Range stated as $1,485-$2,411/mo. [estimated as $1,073-$1,994 after s. 7 expenses]
No interim spousal support, “may” be disadvantage, left to trial

Married 21 years, both spouses 50 (45 at separation), 1 child 22 with wife
Daughter student, finishes university 2008, works part-time, $3,500/yr.
Nov. 2002 to May 2005: husband paid $3,000/mo. combined support, net
June 2005 divorce: child support $500/mo., spousal $3,500/mo.
Husband then on disability, $113,645/yr., wife $10,146 income, review in 15 months
Husband applies to reduce and time limit support, wife applies to maintain
Traditional marriage, wife some efforts to work part-time, retail sales, $14,000/yr.
Wife sufficient effort towards self-sufficiency, still entitled
Husband pilot, again on disability, $131,241/yr.
Child support $500 continued
Guidelines range $3,145-$3,911, parties used mid-point in 2005 settlement
Spousal support of $3,500/mo. to continue, indefinite for now
Judge remains seized, as child finishing school and husband returning to work

Together 11 years, married 9, 1 child 5, with wife
Wife administrative clerk, earns $35,628/yr., home 3 years
Husband police officer, earns $83,680/yr., cohabiting with another officer
Also $18,000/yr. tax-free DVA disability payment, grossed up to $22,500, total income $106,180
Child support $956/mo.
Guidelines apply to interim support, range $1,114-$1,800
Low end of range will cover budget shortfall of wife, $1,100/mo.

Together 3 ½ years, married 2, 1 child 3, with wife, substantial time with husband
Husband earns $79,561 as plumber, child support $716/mo.
Wife home full-time 1 year, part-time after, owned florist business since 2000
Never made any money, wife could earn $18,400 as employee, limited options in small town
Interim consent order Mar. 2007: $700/mo. spousal support
Guidelines range $812-$1,115, $900/mo. ordered
4 factors for lower end: short cohabitation, wife living with parents, budget balanced,
full child support paid despite substantial time by husband

Interim, children 10 and 5, shared custody, home sold Oct. 2007
Husband’s SSAG range $1,888-$2,992, if his income $165,000, hers $45,000
Wife says his income $222,000, range $4,500-$5,500/mo.
Husband’s income determined as $204,000, no precise ChequeMate calculations
Table amount for husband $2,618/mo.
Wife in college, no income, “rough equality” intended
Interim child support $2,000/mo., spousal support $4,000/mo.

Married 20 years, 3 children 20 (university), 17 and 15 with wife
Wife bus driver for OCTranspo, $40,000, home 1987-95
Husband did not appear or disclose, income imputed as $96,000 based on bank statements
Child support $1,762/mo.
Spousal support $270/mo., at low end of Guidelines range, wife and children with 57.9% NDI
Unequal division of property, husband reckless, all equity in home to wife

Together 21 years, married 17, husband 46, wife 44, 4 children 18, 17, 15 and 10
Interim decision, husband provided generous support voluntarily for 3 years, 5 mos. to trial
Issues of income, debt, disclosure, family trust
Wife home, primary caregiver to children
Husband businesses, income goes offshore, not tax, says $900,000/yr., grossed-up to $1.6 million
Child support $30,000/mo.
Spousal support, above ceiling, range $30-$35,000/mo., order for $50,000/mo., ability to pay

Together 15 years, married 12, children 8 and 17
Wife on disability, back and fibromyalgia, since before marriage, $14,862/yr.
2005 interim order: child support $1,075, spousal $1,750/mo., husband earned $88,722
Custody varied from principal residence to wife, to shared custody
Husband earns $93,209
Child support $1,062/mo. by set-off
Guidelines range for spousal support $771-$1,275
Order for $850/mo., for roughly equal monthly cash flow, review in 2 years

Married 10 years, 2 children 9 and 7, equal shared custody
Husband broker, income issues, non-disclosure, 3-year average $180,367
Wife flight attendant, part-time, earns $30,394
Interim child support $2,344 - $448 = $1,896
Wife submits SSAG calculations based on husband’s 2006 income of $253,988
Calculations “not helpful” as different income finding
Interim spousal support $1,200/mo.
[Estimated range, at $180,367: $2,610-$3,570]