

THE SPOUSAL SUPPORT ADVISORY GUIDELINES IN THE COURTS OF NOVA SCOTIA 2005-2007

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Appendix: Nova Scotia Spousal Support Decisions, 2005- May 2007

In 2005, after the release of the *Spousal Support Advisory Guidelines: A Draft Proposal*, I prepared a paper reviewing all the Nova Scotia spousal support decisions from January 2002 to August 2005: “Do the Spousal Support Advisory Guidelines Formulas Reflect the Nova Scotia Case Law?” The paper was widely circulated and included in CLE materials for the Nova Scotia Barristers’ Society and the Canadian Bar Association (Nova Scotia), Family Law Section. The paper was a response to some lawyers and judges who claimed that the Advisory Guidelines did not “reflect” Nova Scotia spousal support law.

Some 75 cases were summarised and reviewed in that paper, 24 cases without child support and 51 with child support. The Guidelines’ *with child support* formula captured 59 per cent of the decided cases involving both child and spousal support in 2002-2005. The cases that did not fall within the ranges were not “exceptions” and many outcomes were difficult to explain. The hybrid “custodial payor” formula proved to be a particularly good fit for the small subset of these cases, with 67 per cent falling within this formula’s ranges. The *without child support* formula did not fit the decided cases as well, a pattern we have found in other provinces too. Of these 24 cases, 11 fell within the ranges, or 46 per cent of the cases. Almost all of the “high” or “low” cases, however, proved to be “exceptions” under the Advisory Guidelines. Most of the *without child support* cases involved marriages of considerable length: 10 years or more for 20 of the 24, 20 years or more for 10 of these cases.

This new review of the case law, covering 2005 to 2007, the period since the Spousal Support Advisory Guidelines were released, has a slightly-different focus. To what extent have the Advisory Guidelines been used and applied by the Nova Scotia courts? What patterns have emerged over the past two years?

1. What Kinds of Cases?

Attached in the Appendix you will find the citations and summaries for the cases from 2005 to 2007. I selected those cases where spousal support was addressed, considering issues of amount and duration, in enough detail to obtain the necessary background information. That meant some brief decisions, mostly variations, were left out, as well as a few *Miglin*-type decisions.

Over the past 27 months, there have been 49 spousal support decisions reported. Three are appellate decisions, *Pettigrew*, *Dillon* and *Lu v. Sun*. The rest are trial decisions. There were 17 decisions in 2005, 19 in 2006 and 14 so far in 2007. I have

subdivided the trial decisions in two ways. First, I have sorted the decisions by the applicable formula under the Advisory Guidelines: either the *without child support* formula or the *with child support* formula. Then, in each of these two categories, I have further subdivided the cases: into those decisions that applied the Advisory Guidelines and those that did not. Some of the cases that did not apply the Guidelines did refer to them, sometimes kindly, sometimes not. And many of the non-Guidelines decisions fall comfortably within the Guidelines ranges.

Here's the box-score of cases: of 23 *without child support* cases, 12 applied the Guidelines, 11 did not; of 26 *with child support* cases, 13 applied the Guidelines, 13 did not. Of the 24 cases total that did not apply the Guidelines, 5 made reference to the Guidelines. A number of cases that did not apply the Guidelines were "no entitlement" cases: 9 of the 11 *without child support* cases and 2 of the 13 *with child support* cases.

2. The Without Child Support Decisions

In most provincial reviews of spousal support cases, the *without child support* formula does not "fit" the decided cases as well as the *with child support* formula. Most of these contested cases involve unusual facts, or "exceptions". Some cases at first appear to be outside the ranges for amounts, but upon closer analysis we can find "restructuring" at work, usually a shorter duration and higher amounts.

(a) Decisions Not Applying the Guidelines

The Advisory Guidelines were applied in 12 of the 23 cases in this category. Of the 11 that did not apply the Guidelines, however, 9 of them involved threshold "entitlement" issues. The Advisory Guidelines only deal with the amount and duration of spousal support, once entitlement has been established.

Of these "entitlement" cases, three were doomed claims by husbands (*Edwards, Stutz, Gannon*). Another two involved nearly equal incomes (*Ferla, Pelrine*) and one case found the wife had chosen not to work (*J.R. v. C.R.*). One applied the *Boston* limits to "double-dipping" by way of spousal support (*Dolomont*), while another granted occupation rent rather than spousal support (*Carmichael*). Finally, one case involved a hopeless *Miglin* challenge to an agreement (*Stening-Riding v. Riding*).

Of the two non-entitlement cases, *Auclair* was below the range, but involved exceptions for both self-sufficiency and repartnering by the recipient. Most interesting is the *Coady* decision. Justice Williams specifically stated that the Guidelines were "of limited utility here" in addressing nine years of retroactive spousal support from 1998 to 2006. But a review of the actual support awards reveals that 6 of the 9 years fell squarely within the Guidelines ranges, two years were below (one just below) and the ongoing award was just above the range. Little explanation was provided for any of the specific amounts ordered, so it is difficult to discern why the Guidelines were not useful.

(b) Decisions Applying the Guidelines

Of the 12 cases that *did* apply the Advisory Guidelines, 9 cases fell within the ranges and 3 fell below the ranges, but only because of “exceptions”. The nine cases within the ranges were clustered in the lower part of the range (*Shurson, Pentz, A.A.C. v. M.A.B., Bishop, Pettigrew*) or in the middle (*Adams v. French, C.E.H. v. D.W.S., Rushton, H.E.H. v. S.L.H.*). The three cases below the ranges all reflect “exceptions”: interim circumstances and income uncertainties (*Horne*); cohabitation by the recipient (*Coolen*); and debt payments (*Denton*). Both *Horne* and *Denton* are not much below the low end of the range.

Some of the cases within the ranges were thought by the courts to be below the ranges: *C.E.H. v. D.W.S., Rushton*; and *Pettigrew*. In *C.E.H.*, Chief Judge Comeau thought that the Guidelines would produce a lower amount than the consent order subject to review, but the agreement amount seems to be smack dab in the middle of the range. In this case and *Rushton*, there is no discussion of the formula’s use, so it is impossible to tell what numbers were used and where the errors arose.

In *Pettigrew*, Justice Stewart’s meticulous trial decision made the error clear. This was a 29-year marriage, putting the wife at the maximum range of 37.5 to 50 per cent of the gross income difference under the *without child support* formula, a maximum range which remains fixed for all marriages of 25 years or more. In *Pettigrew*, this would be a range of \$2,808 to \$3,744 per month. At trial, the court erroneously increased the low end of the range based upon 29 years of marriage, i.e. the range became 43.5 (29 times 1.5 per cent) to 50 per cent, or in dollar terms \$3,257 to \$3,744 per month. The order of \$2,900 per month was thus seen, at trial and on appeal, as below the range, even though the amount was actually well within the formula range.

3. The With Child Support Decisions

Only half (13) of these cases in 2005-2007 applied the Advisory Guidelines. Again, I will look at the non-Guidelines cases first, and then those that applied the Guidelines.

(a) Decisions Not Applying the Guidelines

Consistent with my earlier findings in cases which do not apply the Guidelines, the cases with child and spousal support do not reveal any pattern at all why cases fall within, above or below the Guidelines ranges. In many of these cases, there is little in the way of reasons to suggest any rationale for the amounts determined. Consistent with my pre-Guidelines review for 2002-2005, despite not using the Advisory Guidelines, 60 per cent of these cases fell within the formula range: *Callahan, Ezurike, T.H. v W.H., Dillon, Lu v. Sun, Coxworthy, Jovcic*. These cases spread throughout the range: zero (*Ezurike*,

Jovcic), lower (*T.H. v. W.H.*, *Dillon*), middle (*Callahan*, *Coxworthy*) and high (*Lu v. Sun*).

There are four cases that fall below the range and one above. (I leave out the one exceptional case that does not fit any category: *C.P. v. W.R.*) Let me start with the four below the range. The decision of Justice Campbell in *Vanderlinden* deserves a more detailed analysis, set out below. Here it is enough to note that its amount is well below the low end of the range. *Rankin* provides little explanation for the amount of spousal support. The use of lump sum support in *J.B.P. v. L.J.S.* is so surprising in a case involving children and “transient finances”, and the global amount so low, that there must be other “exceptional” facts to justify the result. At least in *Brown v. Brown*, Justice Coady makes clear that he thinks the wife “must work more” than her minimal part-time work at her church, which goes some distance to explaining the low amount of support ordered. But even if we assume that she worked 30 hours per week at minimum wage, Ms. Brown’s spousal support of \$750 per month fell just below the Guidelines range.

The one “high” case was also a decision of Justice Coady’s, the split/shared custody case of *Kong v. Kong*. There were three children, two full-time with the father and the youngest in a shared custody arrangement. The 42-year-old wife had been home during the 8-year marriage, and then after separation in 1994, and still had no income. The court increased support to \$1,500 per month, but time limited it, to a further 24 months. The husband would then have paid support for 13-14 years total and, by the end date, the youngest child would be 16 years of age. *Kong* might be seen as a case of “restructuring”, of increasing spousal support for a brief period to encourage some kind of retraining, given the judge’s remarks about the wife’s failure to pursue self-sufficiency, if there had been any plan from the wife. Otherwise, it just looks like a large round number for support.

One of the helpful aspects of the Guidelines is their ability to illuminate the outcomes, and sometimes the reasons, in these cases where judges arrive at results by other means. I might note here that three of these cases actually do make reference to the Guidelines, but don’t use them: *Vanderlinden*, *J.B.P. v. L.J.S.*, *Lu v. Sun*.

(b) Decisions Applying the Guidelines

One of the noticeable effects of the Advisory Guidelines is the structure they give to spousal support analysis. Of these 13 cases, 7 fall within the range, 4 below and 2 above. What distinguishes this scatter of outcomes from the non-Guidelines category above is that the Guidelines decisions usually explain why the outcome is “high” or “low”.

Seven of the 13 cases fall within the ranges, either at the lower end (*Horvath*, *J.E.M. v. L.G.M.*, *Kays*, *McIntyre*, *Skipton*) or in the middle (*Galbraith*, *Puddifant*).

Of the four “low” cases, all but one offer some explanation. In the early case of *Pelletier*, the spousal support was both low and short, for reasons that are not clear, as the court said the result was “generally in accord” with the Guidelines. In *Anderson*, the wife

requested slightly less than the low end of the Guidelines range. In both *D.P.O. v. P.E.O.* and *Boucher*, there were self-sufficiency reasons for the lower orders, given the history of lack of employment efforts in these cases. We could think of these as “exceptions”, or it would be better to think of these lower orders as reflecting an imputation of income to the recipient wife and hence consistent with the Guidelines range.

The two “high” cases also contain clear rationales. The *Wittich* facts are about as weird as they come, as the wife lived with both her “husbands” for six years and she only left husband no. 1 when husband no. 2 promised to take care of her if she left husband no. 1. It’s a long and interesting story, and any summary is inadequate, but Justice Beryl MacDonald found the wife’s “significant dependency” to justify the higher order. The other “high” case is a more conventional situation, that of low incomes and great need in the short run, more of an interim circumstances exception: *H.P. v. D.P.*

4. Two Court of Appeal Decisions: *Lu v. Sun*, *Pettigrew*

The Court of Appeal has not yet been required to address the Advisory Guidelines frontally. That said, their decision in *Pettigrew* found the trial judge’s use of the Guidelines in that case not to be an error, contrary to the appellant husband’s contention. It is thus not wrong for a judge to use the Advisory Guidelines, provided that the court does so as part of a full spousal support analysis, as the trial judge did in *Pettigrew*.

The Guidelines were first mentioned in passing in the early 2005 case of *Lu v. Sun*, where the husband tried to argue them at the appeal level and not very clearly (see para. 60). The result in *Lu v. Sun* is largely consistent with the Guidelines both in amount and duration, if we use the new post-secondary version of the *with child support* formula. At trial, Lynch J. ordered \$1,000 per month spousal support, in addition to child support for the one university-age child, a decision upheld on appeal. The husband had not paid any spousal support since their separation in 1993 and the Court of Appeal denied any amount of retroactive spousal support, reversing the trial judge on this point. In these circumstances, the husband’s argument that he should no longer have to pay spousal support was, to put it mildly, weakened, especially as the wife had struggled in the intervening years with little skills, little child support and full responsibility for the child. The amount of spousal support is just a bit higher than the post-secondary formula range, from \$699 to \$932 per month. For the Court of Appeal, Hamilton J.A. observed that the trial decision was before the release of the Advisory Guidelines and “it is not clear from the limited material with respect to these guidelines provided by the father that the spousal support awarded by the judge falls outside the parameters” of the Guidelines (para. 60).

In *Pettigrew*, Justice Stewart had considered the *without child support* formula ranges as “a useful method of cross checking against proposals by the parties and against the court’s own assessment made from the existing case law” (para. 27 of the trial decision). As explained above, the low end of the maximum range was mistakenly stated to be \$3,257 per month, when it was really \$2,808 per month. Stewart J. ordered spousal

support of \$2,900 per month in this long marriage. On appeal, the husband argued that amount was too high and the trial judge had erred by applying the Advisory Guidelines. Those arguments were rejected, as the trial judge had used them as a “cross check” and in any event, “the amount she ordered was less than the amount indicated by the guidelines” (paras. 16-17 of the appeal decision). In fact, the amount ordered fell within the range, at the lower end.

5. Vanderlinden: A Case Study, With Judicial Criticisms

The Nova Scotia cases make clear that some judges like the Spousal Support Advisory Guidelines, and some don't. Other judges (and lawyers too) like the Guidelines, but only when the results match their own views of a particular case. Obviously we do not yet see the same consistent judicial use of the Guidelines in Nova Scotia that we see in other jurisdictions, like British Columbia or New Brunswick or Newfoundland.

Most recently, in *Vanderlinden*, Justice Douglas Campbell was quite critical of the Advisory Guidelines, in the course of setting aside some property provisions and varying spousal support provisions in a separation agreement. I will take some time with this decision, because it provides a nice little case study for the *with child support* formula, how the Guidelines can be used and misused.

Vanderlinden raised issues under both s. 29 of the *Matrimonial Property Act* and *Miglin*, as the husband attacked the 2005 separation agreement. The Vanderlindens started living together in 1998, married in 2000, had a child in 2001, and separated in July 2005. The wife wanted to go to CompuCollege starting in September 2005, with tuition of \$15,850. She obtained legal advice, including advice about the Advisory Guidelines. She then negotiated directly with her husband and, once they reached agreement, they attended with a mediator, a lawyer who drafted the separation agreement. The agreement is seriously criticised by Justice Campbell as being “unduly harsh” on the husband under s. 29 MPA and not in “substantial compliance” with the *Divorce Act* spousal support provisions. I will take some time on this agreement and the decision, because it reveals a number of common misunderstandings about the Advisory Guidelines.

The agreement was framed by the wife's understanding of what she might get under the Advisory Guidelines and what she was prepared to accept. The Advisory Guidelines are “not law”, says Campbell J., and thus “compliance with the Advisory Guidelines does not satisfy the test for substantial compliance with the terms of the *Divorce Act*” (para. 33). We'll get to the details in a moment, but let's look at what the Advisory Guidelines would tell Ms. Vanderlinden in 2005. She was emerging from a 7-year relationship. Her husband earned \$54,400 in the Armed Forces. She had no income and wished to retrain. She had custody of a 4-year-old child. Her husband would pay the table amount of \$450 per month in child support under the “old” tables. Given her child care responsibilities and history, the wife would be entitled to spousal support on a compensatory basis. The *with child support* formula would apply under the Advisory

Guidelines. That formula is not tied to the length of the marriage for its amount, but looks to the husband's typical ability to pay after giving statutory priority to the payment of child support. The formula takes into account the wife's receipt of the Child Tax Benefit and the Nova Scotia Child Benefit, as well as the GST credit, which would be her only sources of income. I can estimate the 2005 spousal support range as \$1,049 to \$1,313 per month, with a mid-point of \$1,176 per month.

What about duration? Under the existing case law, notably the Court of Appeal decision in *MacIsaac v. MacIsaac* (1996), 21 R.F.L. (4th) 358 (N.S.C.A.) at para. 60, a time limit on spousal support is the exception rather than the rule, especially where there is an ongoing responsibility for a child. The initial order, at least, would be indefinite, likely subject to a review. On the facts of *Vanderlinden*, that review would likely be scheduled for some time at the end of the CompuCollege program, in mid-2007 or thereafter. At that review, depending upon the wife's employment success and employment income, there would likely have been some continuing amount of spousal support thereafter, anywhere from continuing the full amount to a top-up amount. When that spousal support might end would be uncertain, based upon the wife's child care responsibilities, the wife's earnings and judicial attitudes towards compensatory support in shorter marriages, a highly-uncertain area of the law.

Now let's look at the agreement the wife negotiated with her husband, who was experiencing an "overwhelming sense of guilt" in leaving the marriage for another woman. The wife started from the mid-point of the spousal support range, at \$1,100 per month, for a duration of slightly over 5 years. I am not clear how she obtained that number, unless she decided that the maximum must be one year of support for each year of marriage. Under the *with child support* formula, that maximum (which would have been 7 years including the cohabitation) would not apply, because of the presence of the child of the marriage. The starting point would be an indefinite order, subject to variation or review, as discussed above. In any event, the wife calculated the global amount of spousal support as \$71,400, i.e. \$1,100 per month for 5 years and a bit. Because she was returning to school, she wanted her husband to assume responsibility for her "share" of the outstanding matrimonial debts, totalling \$60,000. To keep things simple, the wife had accumulated the following student loans: \$16,000 from university in Cape Breton before the relationship, \$16,000 from university in New Brunswick while they lived together, and now \$16,000 in tuition for CompuCollege after separation. The wife was prepared to reduce her spousal support in return for the husband's assumption of the debts. She agreed to accept spousal support of \$600 per month for 3 years, or just \$21,600 globally. She deducted that amount, plus an amount of \$36,000 for her share of the "matrimonial debts", leaving a balance of \$13,800, which the husband agreed to pay off in instalments of \$115 per month over ten years starting in September 2008 after the initial spousal support had been paid.

Justice Campbell grants the full relief sought by the husband. First, the wife must resume responsibility for her Cape Breton and New Brunswick student loans. Second, the husband is no longer required to pay the \$13,800 balance by way of the \$115 monthly payments. Third, the husband continues to pay a consolidation loan, which includes the

CompuCollege tuition. Fourth, the husband's spousal support obligation remains limited as in the agreement to \$600 per month for three years ending in August 2008.

There are obviously some tricky questions in this agreement. The bulk of the debts consisted of the wife's student loans, which she treated as "matrimonial debts" subject to equal sharing. As Justice Campbell points out, there is no definition of "matrimonial debt" in the *Matrimonial Property Act* and pre-marital student loan debts might be treated as "matrimonial debts", but he would have ordered an unequal sharing under section 13 to leave the wife with these debts (para. 54). The post-separation CompuCollege debt would have been treated by him as a "non-matrimonial debt" and, if anything, it would be seen as lump sum spousal support (para. 53). Further, in the wife's computations, she set off the after-tax value of these debts against pre-tax spousal support numbers, another problem (para. 48). In the result, the debt provisions of the agreement would have been "unduly harsh", except they must be read together with the spousal support arrangements and the question of "substantial compliance" under *Miglin*.

Whatever the wisdom of the result in *Vanderlinden*, there are a number of statements about the Advisory Guidelines that deserve comment.

First, Campbell J. states that the Advisory Guidelines are "not law", not like the Child Support Guidelines (para. 33). That's correct, but he then skips a step and goes too far in saying that "compliance with the Advisory Guidelines does not satisfy the test for substantial compliance with the terms of the Divorce Act" (para. 33). As numerous decisions across Canada have stated, the Advisory Guidelines are not law, but "are intended to reflect the current law, rather than to change it" and "to build upon the law as it exists", to quote *Yemchuk v. Yemchuk*, [2005] B.C.J. No. 1748, 2005 BCCA 406 (B.C.C.A.) at para. 64 per Prowse J.A. The reported Nova Scotia case law from 2002-2005 and 2005-2007 demonstrates clearly that the bulk of the cases do fall within the Guidelines ranges. As informal, advisory guidelines that attempt to encapsulate the existing case law, the Guidelines can provide very strong evidence of "substantial compliance" in *Miglin* cases. Courts across Canada have in fact used the Advisory Guidelines for this purpose: *R.S.M. v. M.S.M.*, [2006] B.C.J. No. 1756, 2006 BCCA 362; *W.(C.L.) v. R.(S.U.)*, 2007 CarswellBC 666, 2007 BCSC 453; *Vanderlans v. Vanderlans*, 2007 CarswellNfld 119, 2007 NLUFC 8; *Rapley v. Rapley*, [2006] B.C.J. No. 3213, 2006 BCSC 1854; *Barter v. Barter*, [2006] N.J. No. 237, 2006 NLUFC 39; *Chepil v. Chepil*, [2006] B.C.J. No. 15, 2006 BCSC 15.

Second, Justice Campbell criticises the Advisory Guidelines "formula" at length (paras. 34-40), especially its alleged reliance upon length of marriage. But there are two *different* formulas under the Guidelines and only the *without child support* formula uses length of marriage as a factor in determining amounts. The applicable formula in *Vanderlinden* was the *with child support* formula and these formula amounts are *not* based upon length of marriage: see chapter 6 in *Spousal Support Advisory Guidelines: A Draft Proposal*. The *with child support* formula is driven by "need" and "ability to pay", the very factors that are important to Justice Campbell (para. 41). After the deduction of each parent's contributions to the children, consistent with the statutory priority to child

support, the *with child support* formula divides up the remaining net disposable income of the spouses. Thus, the amount of \$1,100 per month would have left the recipient wife with 43 per cent of the after-tax, after-children individual net disposable income and the payor with 57 per cent. If it were not for the debt issues, that amount of spousal support could have been afforded by the husband.

Third, Justice Campbell does criticise the use of length of marriage as a factor in the determination of spousal support, under the *without child support* formula or otherwise. But length of marriage is not the only factor under that formula, as it also takes into account the gross income difference between the spouses, a point that receives little consideration in the decision. In paragraph 38, Campbell J. gives a number of examples to make his points, examples worth considering. A short first marriage at a young age may mean the recipient requires high support to retrain, he says. Yes, and “restructuring” means that the Guidelines range can be used to generate higher support for a shorter period to do so. A short second marriage late in life may require more support than a longer marriage where the parties are debt-free, “thereby lowering the recipient’s needs”. The late second marriage would likely lead to a high-end-of-range amount and, possibly, the “rule of 65” for indefinite support. A recipient living in a mortgage-free home after a longer marriage might push the amount to the low end of the spousal support range. It is doubtful, however, that the current law of *Moge* and *Bracklow* could be used to justify a larger amount for a short second marriage than a long marriage, assuming a large payor income and no recipient income in both cases.

Lastly, Justice Campbell suggests that the Guidelines would produce “identical” support for marriages with the same income differential and the same length of marriage, even if “one couple enjoys very high incomes and the other couple has low incomes” (para. 38). Let’s look at that example. Assume two couples, each married 20 years, with the children grown up and gone away, and each with a \$30,000 income differential. In the case of the “Highs”, he earns \$100,000 and she earns \$70,000. Compare the “Lows”: he earns \$40,000 and she earns \$10,000. In each case the *without child support* formula would generate a range of 30 to 40 per cent of the gross income differential, i.e. \$9,000 to \$12,000 per year (\$750 to \$1,000 per month). After the payment of spousal support at the high end of the range, that would leave the “Highs” with \$88,000 and \$82,000 versus the “Lows” with \$28,000 and \$22,000. After a 20-year marriage, it is not clear that either result looks unfair in itself. But I would point out that there would be a serious threshold question of entitlement for the “Highs”, depending upon the spouses’ career and marital histories. It would not be accurate, however, to say that the Guidelines “would suggest identical spousal support”.

Fifth is a recognition by Justice Campbell (at para. 45) that the Vanderlindens would likely qualify for the explicit “debt payment” exception under the Advisory Guidelines: see *Draft Proposal*, pages 61-62. But it is not correct to say that the Guidelines “specifically exclude such insolvent couples” and would have “no application in their case”. Debt payments can constitute an exception, which justifies going above or below the formula ranges, depending upon which spouse is paying the debts. Since the husband in *Vanderlinden* was supposed to pay for all the debts, his spousal support would

have been reduced below the *with child support* formula range, to reflect the additional monthly payments he was making on her behalf.

Fifth, Justice Campbell makes little reference to the duration of spousal support, a critical dimension to the outcome. He focuses exclusively upon amount. In the result, however, the court upholds three years of spousal support at \$600 per month, plus a lump sum of \$15,850 for the CompuCollege tuition and perhaps \$250 per month for the interest on the outstanding student loans for a period of two years. After a seven-year relationship and with a 6-year-old child in her care, the wife receives spousal support for 3 years plus (depending upon how you conceive of the other elements of the scheme).

One last point in this complex case. There is relatively little mention in the decision of the mother's past and ongoing child care responsibilities, both objectives that must be considered under s. 15.6(2)(a) and (b) of the *Divorce Act*, objectives which are reflected explicitly in the *with child support* formula. The child is mentioned in the second paragraph of the decision and not much thereafter. The standard of living of the child and wife is not discussed in the reasons. The decision looks mostly at the husband's position under the agreement and after the court's order. After the court's order, the wife and child are left with an income barely above the poverty line, while the husband is left at nearly twice the poverty line, even after taking into account his consolidation loan payments. Even after payment of the consolidation loan, child support and spousal support, the husband is still left with more than 50 per cent of the couple's net disposable income. The wife was optimistic about her employment after her training, but there were no assurances of her employment. If she were to obtain a job paying \$20,000 per year, she could ordinarily have expected to receive some amount of top-up support (the Guidelines range would be \$249-\$702) for some period of time, but that will not happen under the court's order.

I have spent a fair bit of time on the *Vanderlinden* case, partly to clarify and restate the operation of the Advisory Guidelines in general and partly to show how the Guidelines can assist in the analysis of spousal support issues when combined with child support and debt issues. One of the great benefits of the Advisory Guidelines, I would suggest, is that they provide an objective benchmark against which to test our intuitions and "a useful tool" to consider along with other methods of analysis.

Canadian Bar Association, Nova Scotia
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Nova Scotia Spousal Support Decisions, 2005- May 2007

A Appellate Decisions

Pettigrew v. Pettigrew, [2006] N.S.J. No. 321, 2006 NSCA (Hamilton J.A.), affirming [2005] N.S.J. No. 616, 2005 NSSC 219 (Stewart J.)

Married 29 years, separated 2003, 2 children now grown

Husband retired from military in 1994; worked in Saudi Arabia and now Australia; income \$110,000

Wife worked at odd jobs during marriage; not employed since 1995; employment after separation;

Income \$20,141 (including her half of husband's divided military pension)

Trial judge ordered spousal support of \$2,900/mo. after considering relevant factors and SSAG

(Range: \$2,808-\$3,744, mis-stated to be \$3,257-\$3,744 by trial judge)

Husband argues award too high and trial judge erred in using the SSAG rather than assessing the evidence herself and applying the law

Appeal dismissed; trial judge thoroughly assessed the evidence and the applicable law;

referred to Guidelines only as a "cross-check and amount ordered less than amount indicated by the Guidelines

Dillon v. Dillon, [2005] N.S.J. No. 548, 2005 NSCA 166 (Bateman J.A.)

Together 16 years (married 11), 1 child 17, now shared custody

Husband \$60,500 as mariner

Wife \$15,000 as waitress, really \$16,712

Trial judge made income errors, support adjusted on appeal

Child support \$499-\$127=\$371

Spousal support \$400/mo., no reference to Guidelines

(Range estimated: \$483-\$918, but if wife \$16,712, \$405-\$852)

Lu v. Sun, [2005] N.S.J. No. 314, 2005 NSCA 112 (Hamilton J.A.)

Married 9 years, 1 child 20 with wife, away at university 8 months

Retroactive child and spousal support, husband's income increased, but little support

Husband earns \$98,800 at U.S. university, new wife earns \$40,000US, 2 children

Wife earns \$18765 as part-time language instructor

Trial decision going forward: child support \$766 table when home, half table \$383 at school

Husband to pay 76% of s. 7 expenses, total \$12,366

Spousal support \$1,000/mo., upheld, no support paid 1992-2004

Husband refers to Advisory Guidelines, but not before trial judge

Not clear that spousal support awarded fell outside Guidelines parameters

(*Without child support* range estimated: \$900-\$1,201, 4.5 to 9 years)

(Post-secondary formula range estimated: \$699-\$932)

B The Without Child Support Formula

(i) Decisions Applying the Advisory Guidelines

Shurson v. Shurson, 2007 CarswellNS 142, 2007 NSSC 101 (Legere-Sers J.)

Married 28 years, 3 children, youngest (22) in university, father pays her \$925/mo.

Husband 53, wife 50 (47 at separation), husband armed forces

Spousal support of \$2,500/mo. paid 2004-2006

Guidelines support indefinite support, but subject to review when pension divided

Wife earns \$22,747 working 80% part-time, income imputed of \$25,000, even \$30,000

Husband earned \$160,000 in 2006 (\$140,000 other years), work and pension, repartnered
Spousal support of \$3,500/mo. ordered
(Range estimated: \$3,391-\$4,521 if \$160,000 and child support considered)

Adams v. French, 2007 CarswellNS 97 (S.C.)(Wilson J.)
Married 4 years (cohabited 4 ½), 2nd marriage, each adult children
Unequal division of matrimonial assets, husband keeps premarital RRSPs, 66% of house
Husband chartered accountant, earned \$68,600 in 2005
Wife in photography business, then real estate broker, earned \$23,900 in 2005
No compensatory support, as wife established career during marriage
Range: \$250-\$330/mo., 2 to 4 years (global range: \$6,000-\$17,820)
Lump sum spousal support of \$7,500 ordered

Horne v. Horne, [2007] N.S.J. No. 78, 2007 NSSC 61 (Legere-Sers J.)
Married 25 years, husband 48, wife 49, 2 adult children, traditional marriage
Husband CN Rail, earns \$78,800, but on disability for part of 2006
Wife part-time with Liquor Commission, part-time grocery store, \$22,000
Interim spousal support of \$1,500, Guidelines considered, “under” Guidelines
(Guidelines range estimated: \$1,775-\$2,366)

C.E.H. v. D.W.S., [2007] N.S.J. No. 7, 2007 NSFC 1 (Comeau C.J.F.C.)
Together 15 years (3 married), no children
Husband earns \$59,061 for municipality, wife employment insurance \$4,785
Both involved in losing property rental business, wife as manager
2004 consent order: \$1,200/mo. indefinite, review 2 years later
Agreement so Advisory Guidelines not used, \$1,200 continued
Guidelines would reduce amount (?) [but range \$1,018-\$1,357 estimated]

Pentz v. Cutcliffe, [2006] N.S.J. No. 544, 2006 NSFC 49 (J. Campbell J.)
Together 18 years, wife 58, husband 46, no children
Husband letter carrier, earns \$48,000
Wife earns \$8,000 as personal care worker
Wife seeks indefinite support, husband says maximum 6 years
Range: \$900-\$1,200, 9 to 18 years
Non-compensatory support, for 4 years at \$990/mo.

Rushton v. Rushton, [2006] N.S.J. No. 207, 2006 NSSC 149 (S.C.)(LeBlanc J.)
Married 37 years, 3 grown children, husband 60, wife 59 (56 at separation)
Husband owns service station, leasing it for \$30,000/yr.
Wife working part-time for daughter, earns \$12-\$12,500/yr.
Guidelines considered, spousal support of \$600/mo. ordered, “slightly less”
(But range \$562-\$750, indefinite)

A.A.C. v. M.A.B., [2006] N.S.J. No. 169, 2006 NSSC 136 (S.C.F.D.)(B. MacDonald J.)
Married 18 years, 2 children, last marrying July 2006, child support to end then, wife 48
Spousal support paid for one year, 1998-99, \$600/mo.
Wife agreed to no support in 1999, but reserved right to claim
Wife now earns \$40,500, husband earns \$53,500
No non-compensatory claim, so compensatory only
Range stated as \$304 to \$405, for 9 to 18 years, but wife claiming 9 years after separation
\$300/mo. ordered for one year

H.E.H. v. S.L.H., [2005] N.S.J. No. 472, 2005 NSFC 19 (F.C.)(Levy J.F.C.)
Married 32 years, 2 adult children, wife 51
Wife housecleaner part-time, earns \$5,400
Husband machine operator, earns \$30,636, new partner
Support fixed at \$840/mo., 40% of gross income difference

Based on husband's low income, his payment of medical/drugs for wife, new partner
(Range: \$789-\$1,051)

Bishop v. Bishop, [2005] N.S.J. No. 324, 2005 NSSC 220 (N.S.S.C.)(LeBlanc J.)
Together 13 years, 12 married, no children, wife 47 at separation
Wife health problems, irritable bowel syndrome, depression, etc., unable to work
Husband corporal in Armed Forces, earns \$57,300, cohabiting with partner and her 2 children
Range reported as \$1,188-\$1,584 (but actually \$931-\$1,241)
\$1,000 per month, for 10 years (11 in total), ordered

Coolen v. Coolen, [2005] N.S.J. No. 155, 2005 NSSC 78 (N.S.S.C.)(Warner J.)
Married 25 years, review of \$900 order made in 2003
Husband makes \$42,400, wife \$9,800 disability plus imputed employment
Both new partners, wife's deficit \$575 (sharing new home)
Range \$1,018-\$1,358, support reduced to \$750

Denton v. Denton, [2005] N.S.J. No. 245, 2005 NSSC 155 (N.S.S.C.)(Moir J.)
Together 23 years, 19 married, wife 55 at separation
Wife hairdresser, working part-time only \$8,000, imputed \$30,000 full-time
Husband works overtime, income fixed at \$60,000
Range \$863-\$1,150
Support reduced to \$750, as husband larger debt load and equalization payment

(ii) Decisions Not Applying the Advisory Guidelines

Edwards v. Edwards, [2007] N.S.J. No. 117, 2007 NSSC 84 (Gass J.)
No entitlement to spousal support, husband seeking support
Short second marriage, wife earns \$57,792, husband \$25,600
No sacrifices, no dependence, husband living off investments

Ferla v. Ferla, [2007] N.S.J. No. 41, 2007 NSSC 30 (Ferguson A.C.J.)
Married 31 years, 2 adult children, husband earns \$22,200, wife \$20,200
No ability to pay, \$1 per year, review after property divided

Stening-Riding v. Riding, [2006] N.S.J. No. 295, 2006 NSSC 221 (Dellapinna J.)
Married 30 years, 1 adult child, wife 59, husband 62
2003 agreement and order: spousal support of \$5,500 for 9 mos., then \$4,535 after
if husband's income reduced below \$200,000, then 20% for support
if his income below \$80,000, zero support
Wife's income then zero, husband's \$247,200
Wife then applies to vary, using Guidelines, husband's income risen to \$448,275
Wife argues amount under agreement significantly below Guidelines amount and hence unfair
Wife's income \$21,864 from investments, rental, Ph.D. but no employment
Miglin analysis, no significant departure from Divorce Act objectives,
Guidelines considered but not applied

Pelrine v. Pelrine, [2006] N.S.J. No. 465, 2006 NSSC 346 (Gass J.)
Long marriage, equal incomes, \$40,000, no need, no support

Stutz v. Stutz, [2006] N.S.J. No. 306, 2006 NSSC 228 (Campbell J.)
No spousal support to husband, as he underemployed

Coady v. Coady, [2006] N.S.J. No. 530, 2007 NSSC 394 (Williams J.)
Married 21 ½ years, husband 61, wife 57, 2 adult children, separated 1993
Husband mayor in 1993, earning \$92,000, part tax-free
Wife no income, depression, stayed in matrimonial home, delayed payment to husband

Spousal support \$3,500/mo. agreed in 1993, reduced in two stages to \$3,158 in 1997
Husband unilaterally reduced to \$1,083/mo. later in 1997
Interim without prejudice variations, to \$2,000/mo. in 2003, to \$1,000/mo. in 2005
Husband now receiving only pension, \$28,236, remarried, new wife \$27,600
Wife receives pension and rent, \$13,158/yr., daughter lives with her rent-free
Guidelines “of limited utility here”, retroactive spousal support
1998: \$1,900/mo. (estimated range: \$1,586-\$2,114)
1999: \$1,900 (range: \$1,662-\$2,216)
2000: \$1,900 (range: \$1,701-\$2,268)
2001: \$2,000 (range: \$1,886-\$2,515)
2002: \$2,000 (range: \$1,833-\$2,444)
2003: \$1,900 (range: \$2,021-\$2,695)
2004: \$1,600 (range: \$2,135-\$2,847)
2005: \$1,200 (range: \$989-\$1,305)
2006: \$650 (range: \$405-\$540), indefinite
Equalization payment from wife offset against retroactive support

Gannon v. Williams, [2006] N.S.J. No. 128, 2006 NSSC 46(Legere-Sers J.)
No spousal support to husband, no entitlement

Dolomont v. Dolomont, [2006] N.S.J. No. 51, 2006 NSSC 25 (Lynch J.)
\$1,300/mo. spousal support varied down to \$500, after husband’s retirement, *Boston* applied

J.R. v. C.R., [2005] N.S.J. No. 502, 2005 NSSC 336 (Lynch J.)
No spousal support, 7 years together, no disadvantage, wife chose not to work

Carmichael v. Carmichael, [2005] N.S.J. No. 465, 2005 NSSC 318 (Forgeron J.)
No spousal support, but occupation rent

Auclair v. Auclair, [2005] N.S.J. No. 458, 2005 NSSC 261 (Legere-Sers J.)
Married 18 years, divorced 1996, children older, wife 58, husband 53
Husband paying \$1,300 combined child and spousal support
Husband retired from Armed Forces, income reduced to \$32,208, remarried, new wife \$17,937
Wife receives \$4,094 pension, repartnered, new husband retired, income \$35,412
Spousal support reduced to \$300/mo., repartnering, wife’s failure to seek employment
(Range estimated: \$632-\$843)

C The With Child Support Formula

(i) Decisions Applying the Advisory Guidelines

Horvath v. Horvath, [2007] N.S.J. No. 90, 2007 NSSC 70 (Wilson J.)
Married 8 years, 2 children 11 and 8, with wife, husband 35, wife 40
Wife unemployed, limited income as casual teacher’s aide
Husband electrician earns \$53,540, in bankruptcy
Child support \$763
Spousal support entitlement, Guidelines range \$664-\$903/mo.
Support of \$650/mo., indefinite, as wife some ability to earn

J.E.M. v. L.G.M., [2007] N.S.J. No. 69, 2007 NSSC 52 (B. MacDonald J.)
Married 18 years, children 14 and 12 with wife
Husband works for federal government, earns \$56,694
Wife income from investments \$3,460/yr.
Child support \$796, plus all s. 7 expenses, equal division of property

Husband offers \$450 based on Guidelines (using higher income for wife)
Guidelines range: \$499-\$763, order for \$550/mo.

Kays v. Kays, [2007] N.S.J. No. 1, 2007 CarswellNS 2 (Legere Sers J.)
Together 2 years and 3 months, (married 15 mos.), 1 child 5, mother's 16-year-old
Husband retired from Armed Forces 2003, now engineering co., earns \$95,226
Dec. 2002 consent order: child support \$950, spousal \$1,150, plus \$1,500 house expenses
Corollary relief judgment 2005: child support \$680, spousal \$1,519
Wife 34 (31 separation), teacher in England, returning there
Wants to do 4 ½ year nursing degree, but no serious employment effort
Child support \$803/mo., husband also pays \$700/mo. for another child
Counsel criticized for no Guidelines calculations
Spousal support \$1,519/mo. for 5 mos., \$1,000 for 7 mos., then end, 5 yrs paid total
[Estimated range if wife no income: \$1,604-\$2,074; if \$20,000 imputed, \$795-\$1,394]

McIntyre v. McIntyre, [2006] N.S.J. No. 529, 2006 NSSC 380 (Warner J.)
Interim support, 3 children, 5, 3 and 1, oldest autistic
Husband earns \$75,500, wife earns \$30,000 as self-employed chiropractor
Child support \$1,371/mo.
S. 7 expenses: \$866/mo. child care, \$362/mo. special diet, husband pays \$450, wife \$189
Guidelines range: 0 to \$384; at zero, 44% INDI to wife, 62% cash flow
Wife's budget no deficit, only low income imputed, zero interim spousal support

H.P. v. D.P., [2006] N.S.J. No. 511, 2006 CarswellNS 560 (Levy Fam.Ct.J.)
Married over 15 years, 2 children 15 and 11, with wife
Husband earns \$24,459 at building supply store, wife \$14,712 in retail
Child support \$362/mo., tax advantages to spousal support over s. 7 expenses
Spousal support \$175/mo., even though Guidelines range: 0 to 0
Support for 18 months until divorce and sale of home

Galbraith v. Lavoie, [2006] N.S.J. No. 254, 2006 NSSC 202 (Ferguson A.C.J.S.C.F.D.)
Married 12 years, 2 children 14 and 11, with wife, husband 47, wife 41 (37 at separation)
2004 order: child support \$1,079, spousal support \$1,700/mo., wife then no income, home during marriage
Husband applies to vary or terminate, based on self-sufficiency issues
Husband still earning \$83,000, wife obtains job before trial earning \$26,000
Guidelines considered, no range stated (range estimated as \$485-\$1,146)
Spousal support varied to \$750/mo., 3 1/2 more years (7 1/2 years total)

D.P.O v. P.E.O, [2006] N.S.J. No. 205 (N.S.S.C.F.D.) (B.A. MacDonald J.)
Together 6 years (married 4); 1 child with wife; separation 2001
Interim order in 2003: child support \$417/mo; spousal \$1000/mo
Husband's income \$69,708/yr; child support \$605/mo
Wife health issues and unable to work
Range under guidelines \$1,377 - \$1754/mo indefinite and subject to review when child is 12; but spousal support of \$900/mo ordered subject to review when child turns 13
Order to leave husband with NDI of \$2,852/mo and wife with \$1857/mo; wife's needs based on budget found to be at least \$1830/mo; wife has obligation to become self-sufficient

Boucher v. Boucher, [2006] N.S.J. No. 129, 2006 NSSC 88 (S.C.F.D.)
(Legere-Sers J.)
Married 13 years, 4 children (24, 22, 20, 18), separated 1993, wife 53 now (43 then)
Husband doctor, earns \$294,735, remarried
Wife no income
Husband supported all four children, paying child and spousal totalling \$52,000/yr.
Advisory Guidelines suggest 13 year maximum duration, hybrid formula
(Range \$4,000 to \$5,330, but self-sufficiency issues)

Support for 3 more years: \$3,000/mo. 2006; \$2,500/mo. 2007; \$2,000/mo. 2008

Puddifant v. Puddifant, [2005] N.S.J. No. 558, 2005 NSSC 340 (S.C.F.D.)(Gass J.)

Married 12 years, 1 child 16 with husband, wife 42 (33 separation), husband 46

Wife mental illness, CPP disability and investments, \$14,918, no child support

Husband in Armed Forces, retired 2004, new partner nurse

Husband receives \$37,823, but \$4,667 his share of divided pension, so \$33,156

Husband applies to terminate \$600/mo. spousal support

Reduced to \$300/mo., disability exception considered, support for 3 more years (total 12)

(Range \$198 to \$264 under custodial payor, \$253 to \$337 if no pension deduction)

Wittich v. Wittich, [2005] N.S.J. No. 377, 2005 NSSC 265 (S.C.F.D.)(B. MacDonald J.)

Married 10 years, wife 54 (52 at separation), one child 16 with father

Romantic relationship for 6 years before marriage,

lived in same house while wife still married to first husband

But not count as cohabitation for pension division

Wife homemaker, pension income from divided pensions of \$6,540/yr.]

Husband earns \$80,762 from job and pensions, promised to take care of wife

Guidelines rejected, no time limits, "significant dependency", larger amount

Indefinite order, \$2,100 per month

[Custodial payor range: for 10 years, \$755-\$1,007, 5 to 10 years

for 16 years, \$1,208-\$1,611, indefinite as rule of 65 applies, disability exception?]

Skipton v. Skipton, [2005] N.S.J. No. 83, 2005 NSSC 43 (N.S.S.C.)(Warner J.)

Together 9 years (married 7), one child age 8, wife 32 at separation

Husband \$57,000 in military, wife \$5,700 employment insurance

Both formulas applied, with and without child support, as "check"

Formula calculated by arithmetic, low end of range reported as \$616. \$616 ordered.

(Range by Divorcemate: \$793-\$1,133)

Anderson v. Anderson, [2005] N.S.J. No. 176, 2005 NSSC 94 (N.S.S.C.)(Warner J.)

Together 12 years (married 11), custody in dispute, 2 children placed in husband's custody

Husband makes \$50,000, wife now cohabiting and no income

Wife seeks \$500 per month for 14 months as spousal support

Wife's request less than guidelines, so support ordered as requested.

(Hybrid formula: \$554-\$738, for 6-12 years)

Pelletier v. Pelletier, [2005] N.S.J. No. 273, 2005 NSSC 178 (Nathanson J.)

Together 21 years (married 19), 2 children 19 and 17, split custody

Husband in Armed Forces, earns \$56,000, new partner and her 4 children

Wife personal care attendant, earns \$22,200

Child support under s. 8, \$455-\$160=\$295, plus \$2,000/year s. 7 expenses for tuition

Spousal support \$300/mo., for 5 years unless earlier varied

Amount "generally in accord with" Advisory Guidelines, states court

(Range estimated: \$488-\$834, indefinite)

(ii) Decisions Not Applying the Advisory Guidelines

Callahan v. Callahan, [2007] N.S.J. No. 65, 2007 NSSC 46 (Coady J.)

Married 19 years, 2 children 20 and 15, younger with wife

Husband earns \$62,000 at Aliant, wife earns \$6,000, part-time, Legion

Child support \$540, equal division of assets

Interim spousal support \$700/mo. from June 2005 (\$500 before)

Wife entitled to spousal support, traditional marriage

Support \$1,000/mo., review in 4 years

(Range estimated: \$871-\$1,205)

Vanderlinden v. Vanderlinden, [2007] N.S.J. No. 107, 2007 NSSC 80 (Campbell J.)
Together 7 years (married 5), 1 child 6
Husband ex-military, pension, \$60,000
Wife student loan debt \$16,000, going to CompuCollege, tuition \$15,850
Wife no income
Child support \$523 (\$450 before)
As self-reps, negotiate agreement August 2005 using Guidelines:
Spousal support at \$1,100/mo. for 65 months, \$71,400
Wife accepted \$600/mo. for 3 years, husband assumed all debts
Then \$13,800 left to pay, at \$115/mo. afterwards
Miglin/property: not substantial compliance, unfair re debts
Husband relieved of wife's student loan payments and \$13,800 support
Continue \$600/mo. to August 2008, wife graduates April 2007
Criticisms of *without child support* formula, but this *with child support* formula
(Guidelines range estimated: *with child support* formula, \$1,153-\$1,460 after May 2006)
(Range before May 2006, child support \$450, spousal \$1,049-\$1,313, mid-point \$1,176)

C.P. v. W.R., [2007] N.S.J. No. 99, 2007 NSFC 6 (Levy J.)
Together 11 years, 3 children 12, 10 and 9, plus grandchild, with wife
Husband in Armed Forces, earns \$72,893, wife at home
Child support \$1,584 (4) if table amount
If child support, no interim spousal support, husband paying debts
Child support reduced to \$1, interim spousal ordered \$1,600/mo., for deductibility
(Range estimated: \$286-\$580 if table child support, but 0-\$108 if debts considered)
(Exceptions: no child support ordered, debts)

Ezurike v. Ezurike, [2007] N.S.J. No. 4, 2007 NSSC 5 (Dellapinna J.)
Married 18 years, 4 children, 3 with husband (19, 16, 14) and 1 with wife (19)
Wife earns \$49,748 as social worker, DCS, husband retired federal employee, \$34,485
Child support under s. 8: \$934-\$304=\$630 by wife
Husband seeks spousal support, none ordered, but wife to pay amount equal to gross pension
income lost to husband after pension division, to be determined
(Range estimated without pension division: zero to zero)

T.H. v. W.H., [2007] N.S.J. No. 27, 2007 NSSC 19 (B.MacDonald J.)
Married 18-plus years, wife 46, children 19 and 12, with wife
Husband sales manager, earns \$84,913, child support \$1,165
Wife casual secretary, earns \$6,156
Budgets considered, net income split, spousal support \$1,200/mo.
Wife to seek better employment, review in 1 year
(Range estimated: \$1,151-\$1,618)

Brown v. Brown, [2006] N.S.J. No. 492, 2006 NSSC 373 (Coady J.)
Married 28 years, 2 children 15 and 13 with wife
Husband earns \$88,204 as Jazz pilot, child support \$1,205, no s. 7 expenses
Interim spousal support \$1,200/mo.
Wife earns \$1,728/year, part-time with church
Spousal support \$750/mo., wife could earn more, needs exceed ability to pay
(Range estimated: \$1,212-\$1,651; if wife earned \$11,500, range \$822-\$1,401)

Kong v. Kong, [2006] N.S.J. No. 422, 2006 NSSC 3181 (Coady J.)
Married 8 years, 3 children 19, 18 and 14, 2 oldest with husband, youngest shared custody
1995 order: \$1,300/mo. combined support
Husband earns \$75,746, wife no income, now 42 (31 at separation)
Child support: husband pays \$653, wife zero
Husband applies to terminate spousal support

Disadvantage abated, not long marriage, relatively young, wife's failure to pursue self-sufficiency
Spousal support \$1,500/mo., for 24 more months (13 years total)
(Estimated range, split/shared custody: \$983-\$1,232)

J.B.P. v. L.J.S., [2006] N.S.J. No. 429, 2006 NSFC 429 (Comeau C.J.F.C.)
Together 10 years, 2 children 10 and 9, with wife
Husband self-employed trucker, Acadia band, income issues, imputed \$40,000
Wife no income, home, on stress leave from call centre
Child support \$579
"Not fair to use Guidelines", as transient finances
Lump sum spousal support, 6 years 2001-2007, total \$4,700
(Range estimated: \$416-\$612/mo.)
(If global amount, 6 years at \$400/mo, \$28,800, after-tax \$17,280 approx.)

Coxworthy v. Coxworthy, [2006] N.S.J. No. 294, 2006 NSSC 205 (Dellapinna J.)
Together 14 years (married 11), 1 child 14, shared custody, wife 49, husband 48
Husband earns \$55,000, wife on disability receives \$27,380
Child support: \$479-\$242=\$237
Spousal support of \$200/mo., to equalize net disposable incomes
(Range estimated: \$0-\$315)

Rankin v. Rankin, [2005] N.S.J. No. 359, 2005 NSSC 249 (McDougall J.)
Married 14 years, 2 children 16 and 12, with wife
Husband earns \$100,079, wife education student, no income
Child support \$1,295, spousal support \$1,400/mo. (interim \$1,000/mo.)
Also lump sum spousal support \$7,000 for student loan (retroactive support)
(Range estimated: \$1,720-\$2,319)

Jovicic v. Jovicic, [2005] N.S.J. No. 280, 2005 NSSC 183 (Dellapinna J.)
Husband's business income below minimum for Child Support Guidelines
No ability to pay child or spousal support, lump sum support only for wife's student loan debt
(Husband's income below Advisory Guidelines minimum)