

Appendix

SPOUSAL SUPPORT ADVISORY GUIDELINES CASE SUMMARIES: ONTARIO SSAG DECISIONS

[Note: this is a complete list of all Ontario SSSAG cases from January 2005 to Sept. 4, 2007. For updates see the SSAG website at:

<http://www.law.utoronto.ca/faculty/rogerson/ssag.html>]

A. Appeal Cases

no cases

B. The *Without Child Support* Formula

Seguin v. Seguin, [2007] O.J. No. 2962 (Ont. S.C.J.) (Hennessy J.)

28 year traditional marriage; 3 grown children, separation 2004

Husband retires in 2004, mainly pension income, \$4,392.59 per month

Wife some part-time employment during marriage, but health problems and unemployed since 2003

Property division: pension to be divided at source, w to get 50% of pension income on monthly basis

Spousal support; order for \$1922/mo until pension division,; after pension split at source, \$1922 to made up from pension split plus top-up; middle of SSAG range, leaves wife with 46.5% of income

Briere v. Saint-Pierre, 2007 CarswellOnt 4763, [2007] O.J. No. 2926 (R. Smith J.)

Together 24 years, common-law same-sex couple

Applicant school principal, earns \$100,000

Respondent supply teacher earns \$22,000, could work full-time to earn \$32,000

Respondent had left previous employment, to run two restaurants owned by them, failed

Joint condominium to be sold

Range stated with mandatory pension contribution deduction for applicant of \$8,256,

RRSP deduction of \$5,000 for respondent, incomes \$100,000 and \$24,000: \$2,265-\$3,020

Interim spousal support of \$2,000/mo., if \$32,000 to respondent and pension deducted

[Range if \$100,000/\$32,000, no pension deductions: \$2,040-\$2,720]

[Range if \$100,000/\$32,000, pensions deducted: \$1,942-\$2,589]

Leblanc v. Leblanc, 2007 CarswellOnt 4270 (Rogin J.)

Married 26 years, 3 children adults, one 35-year-old disabled adult, with wife

1996 order: \$300/mo. child support, \$1,600 indexed (now \$2,163/mo.) spousal support

Husband applies to vary, then earning \$108,000, now retired at 62, child support continue at \$300

Pension \$50,000, unequalized portion \$27,256

Wife works part-time at Sears still, \$12,000, CPP \$4,560, \$16,560 total

Husband argues Boston, range \$340-\$453/mo. on unequalized pension, SSAG rejected by judge

Spousal support varied to \$1,000/mo.

[Range on full husband pension: \$1,045-\$1,393]

Simpson v. Grignon, 2007 CarswellOnt 3095, [2007] O.J. No. 1915 (S.C.J.)(J. Mackinnon J.)

Married 4 ½ years, no children, separated December 2005

Husband computer engineer, earns \$78,202

Wife 45, mental health problems, depression and anxiety, deterioration in 2005

Wife was receiving ODSP at marriage, can't work

Wife in matrimonial home, to be sold and equal division, net proceeds \$34,000 each

Since separation, husband paid \$2,228/mo. mortgage/taxes/utilities, plus \$500/mo.

Range \$489-\$652 too low, even with restructuring, but duration range okay

Non-compensatory basis for support

Husband to pay \$2,228 plus \$600 for 3 months, wife then to vacate house

Spousal support increased to \$1,200/mo. until house sold

Husband to pay \$2,228 for house (half to be reimbursed from wife's proceeds on sale)

Spousal support then to be paid at \$1,700/mo. to December 2009 (4 years total)

[No reference to disability exception, interim circumstances exception]

Rezel v. Rezel, [2007] O.J. No. 1460 (S.C.J.)(Harvison Young J.)

Married 5 years, second marriage, wife 61, husband early 60's

Both computer analysts, earning \$100,000 at separation in 1998

Wife loses job in 2004, seeks spousal support

Husband uses Guidelines to argue that duration ended, delay

Short marriage, no merger of economic lives, wife not serious about return to work

No entitlement

Jones v. Wilson, [2007] O.J. No. 896, 2007 ONCJ 93 (Thibideau J.)

Together 6 ½ years, wife 55

Cohabited more than 3 years in marital relationship, despite husband's arguments

Husband earns \$50,000 as long-haul truck driver

Wife earns \$15,000 as cleaner, teenage son

Guidelines ranges provided for different periods of cohabitation

Range: \$306-\$408 for 3 to 6 years, spousal support ordered \$350/mo. for 3 years

Lewis v. Lewis, [2007] O.J. No. 742 (S.C.J.)(Aitken J.)

Married 29 years, husband 50, wife 47, 3 children 30, 29 and 22

Net family property calculated and split

Wife worked part-time and full-time at nursing home, now full-time clerk/receptionist

Wife earns \$35,188, new partner

Husband worked at AECL as fireman, wrongfully dismissed, settlement, \$60,600 (2 yrs. salary)

Husband operates fencing business, earns \$32,000/yr., i.e. \$92,600 to Dec. 2006

Range: \$1,811-\$2,415

Equal partnership, long marriage, equal incomes

Wife only requested \$2,000/mo., less than equalization

Interim spousal support: \$2,000/mo. to Dec. 2006

Nothing from Jan. 2007 when husband's income just from fencing, revisit at trial

Serra v. Serra, [2007] O.J. No. 446 (S.C.J.)(Herman J.)

Together 26 years (married 24), husband 62, wife 56 (50 separation)

1 child of wife's 1st marriage, plus 1 of this marriage, both adults

Wife worked early years, then home since 1983, no income

Interim support \$12,500/mo., December 2002 on

Husband owns marine and textile businesses, decline since separation

Net family property \$10 million, equal division means \$3.3 million payment plus condo

Husband salary imputed at \$250,000

Wife limited skills, but self-sufficiency includes generating income from assets

Her income imputed at \$43,000/yr.

Spousal support \$10,000/mo., until transfer of husband's condo interest, then \$7,500/mo.

Indefinite, but no support while husband pays equalization instalments Sept/07 to Sept/11

(Guidelines range estimated: \$7,812-\$10,416, wife no income; \$6,469-\$8,625 if \$43,000)

Colquhoun v. Colquhoun, [2007] O.J. No. 9, 2007 CarswellOnt 18 (Whalen J.)

Married 20 years, husband 54, wife 49 (41 separation), no children

Husband's job ended 2004, running common law wife's Molly Maid business and rentals

Income imputed of \$50,000

Wife personal care worker and rentals, imputed income \$20,800

Interim support \$1,000/mo., 2 years paid

Guidelines range: \$730-\$973, indefinite
Final order \$1,000/mo., leaves husband 52.6% net income, wife 47.4%

Lopez v. Tarnocai, [2006] O.J. No. 5318 (S.C.J.)(Herman J.)
Together 5 years, both from Mexico
Wife medical doctor, but visitor, working as exotic dancer, \$14,400/yr.
Husband geologists, earning \$100,000 (\$208,751 in 2005)
Interim spousal support of \$1,000/mo. ordered
Considered Guidelines, NDIs, different results
(Guidelines range \$537-\$716/mo., 2.5-5 years, restructured \$1,084-\$1,432, 1-2.5 years)

Friend v. Paul, [2006] O.J. No. 5315 (S.C.J.)(Herman J.)
Married 17 years, 4 children, one now at university
1994 order for \$1,500/mo. interim interim child and spousal support, never varied
Last child finishing university in April 2007
Husband earns \$64,604, wife earns \$41,000
Child support, budget, \$244 rent plus \$250 expenses, total \$496/mo.
Wife seeks \$500/mo. spousal support, 13 years since separation, still entitled
Spousal support of \$300/mo. to April 2007, over 50% NDI
After April 2007, \$500/mo. (Guidelines range: \$502-\$669)

Soper v. Soper, 2006 CarswellOnt 7496 (Matheson J.)
Together 24 years (married 20), 1 adult child 23
Husband at Inco, earns \$83,862, wife day care worker \$15,205
Interim support \$1,000/mo. (Sept. 2003), \$1,500/mo. (June 2006)
Guidelines considered, support \$1,800/mo., indefinite
[Range \$2,060-\$2,746, but if only 20 years used, \$1,716-\$2,288]

Fournier v. Burton, [2006] O.J. No. 4084, 2006 CarswellOnt 6201 (S.C.J.)(Smith J.)
Married 20 years, wife 44 (39 separation), 2001 consent order: \$1,200/mo., indefinite
Husband applies to vary to terminate or time limit
Wife took courses for Grade 12, community college, but ill with cancer/depression
Change in circumstances, not making \$20,000 5 years later, unlike expected
Husband's income unchanged, \$53,100 (estimated as not stated)
Guidelines range: \$1,488 - \$1,770, higher than order
Order continued, review in 4 years

Lehtomaa v. Lehtomaa, [2006] O.J. No. 4130 (S.C.J.)(Shaw J.)
Married 40 years, husband 73, wife 65 (63 separation)
Guidelines range: \$442 - \$590, wife seeks income equalization, \$500 spousal support
Equal lifestyles, not incomes, use means and needs
Husband significant medical issues: loss of arm, hip replacement, cancer, cataracts
Uses scooter, his needs greater
Husband's income \$2,828/mo. (OAS, CPP, pension, workers comp)
Wife's income \$1,648 (OAS, CPP, pension)
Interim spousal support: \$100/mo. to equalize [disability exception?]

Kerr v. Magnan, [2006] O.J. No. 4127 (S.C.J.)(Platana J.)
Married 39 years, wife retired (June/06), husband already retired
No spousal support in 2004 divorce
Guidelines not of assistance where low incomes, needs and means used
Husband's "net": \$2,450/mo., wife's "net": \$1,329/mo.
[Grossed up \$38,500 vs. \$19,000, range \$409-\$812]
Interim spousal support \$300/mo.

[*Hance v. Carbone*, 2006 CarswellOnt 7063 (Ont.S.C.J.) (Staysbyn J.)

listed under *with child support* formula; should actually have been *without child support* formula

Foley v. Girard, [2006] O.J. No. 2496 (Ont.S.C.J.)(Aitken J.)

Gay couple, together 20 years, both 50, no children

Applicant earns \$51,899, respondent \$106,280

Interdependent, applicant supported respondent's Ph.D. studies

Guidelines range: \$1,351-\$1,801

Interim support of \$1,500/mo., analysis of expenses, esp. shelter

Leger v. Schultz, [2006] O.J. No. 1313, 2006 ONCJ 103 (C.J.)(Wolder J.)

ISO enforcement case, 18-year-old German order made in 1987

17-year marriage, reference to 17 year maximum duration under Guidelines

Against public policy to enforce in Canada

Stewart v. Tudorachi, [2006] O.J. No. 898 (S.C.J.)(Platana J.)

Together 22 years, no children, wife 50 (47 at separation), husband 48

No unjust enrichment, house in both names, sold and proceeds divided equally

Wife not worked since 1996, fibromyalgia, separated 2003, now student

Grade 12 equivalency, finished in 2008, then intention to do 3-year program

Husband married, 2 step-children, wife earns \$47,000 as teacher

Husband earns \$75,209, interim support \$2,400/mo.

Guidelines range \$2,004-\$2,673, husband offers \$1,800

Order for \$2,250, review in 2008

Girouard v. Girouard, [2006] O.J. No. 762, 2006 CarswellOnt 1089 (Sedgwick J.)

Married 38 years, wife 57, husband 62, 2 adult children

Wife on CPP Disability, \$6,960/yr., many medical problems, seeks \$1,000/mo.

Husband retired from Armed Forces, \$26,846, lives with new partner in her house

Recently resigned as rural mail carrier (\$18,711/yr.)

\$625 ordered, indefinite (range \$621-\$828)

Bourget v. Bourget, [2006] O.J. No. 419 (S.C.J.)(Smith J.)

Married 27 years, wife 51 (49 at separation), husband 52, no children

Husband earns \$32,500 as janitor

Wife receives \$8,124 on CPP Disability

Range \$775-\$1,007, wife seeks \$1,000, but lower incomes involved

Interim support of \$600 ordered, based upon Mackinnon paper, 40% NDI to wife

Barrick v. Barrick, [2006] O.J. No. 219 (S.C.J.)(Mazza J.)

Married 33 years, children ?, income issues

Husband receiving WSIB grossed up to \$40,000

No imputing income for failure to appeal unfavourable decision

No income imputed from alleged marijuana grow-op

Wife makes \$14,300 from CPP disability, part-time work, investment income

Range stated by husband's lawyer as \$555 to \$740, rejected as too low

Spousal support of \$1,000 per mo. ordered, to equalize incomes

(Range actually \$803 to \$1,070, indefinite)

Simpson v. Simpson, 2005 CarswellOnt 7025, [2005] O.J. No. 5119 (S.C.J.)(Cusinato J.)

Married 26 years, 2 children adults, wife 48 (46 separation), husband 50

Interim spousal support \$1,500/mo.

Wife earns \$18,050 driving school bus, etc.

Husband truck driver, income imputed, could work more, earn \$60,000

Adopts ChequeMate mid-point, \$1,531/mo., indefinite

(Range \$1,311 to \$1,748 indefinite)

Galambos-Towers v. Towers, 2005 CarswellOnt 6953 (S.C.J.)(Lofchik J.)

Together 16 years (married 12)

Wife receives \$46,190 from CPP and disability pension, cancer after separation

Husband earns \$38,554 plus \$20,500 imputed return on assets, for \$59,054
Top end of range stated as \$182, orders \$200 indefinite (range \$138 to \$171)

Collin v. Collin, 2005 CarswellOnt 7754 (S.C.J.)(Fragomeni J.)

Married 29 years, 2 adult children

1998 separation, spousal support \$2,600, then \$1,800 in 1999, then suspended
2002 order for \$1,000/mo., terminating review order for 24 months

Wife earns \$32,850 at WeightWatchers and dog sitting

Husband earns \$50,000, disabled wife receives \$6,000/year

Wife states range as \$594 to \$792 indefinite (range seems to be \$536 to \$714)

Spousal support continued, at \$500/mo. indefinite

Reitsma v. Reitsma-Leadsom, [2005] O.J. No. 5577 (S.C.J.)(Mazza J.)

Together 7 years, married 4, no children

1998 separation, interim order for \$1,200, then 2001 order for \$840/mo.

Husband brain injured, receives CPP and WSIB (not-taxable), gross income \$39,084

Wife also brain injury (1982), other health problems, unemployable, no income

Application by husband to terminate, by wife to increase, spousal support

Support continued, not reduced from \$840/mo.

Ordinarily would terminate after 7 years, following *Bracklow*

But not here as wife totally disabled and incident of violence by husband

Advisory Guidelines not sufficient reason to vary downwards

(Range would be \$342 to \$456, for 3.5 to 7 years)

McNamara v. Infantino, [2005] O.J. No. 5148 (S.C.J.)(Henderson J.)

Application to vary, 2004 order \$1,800 spousal support, no details of marriage

Husband's income reduced from \$80,000 to \$43,710 upon retirement

Wife no income, applications to CPP and LTD plan for disability

Guidelines considered to reduce support to \$1,275/mo.

Poirier v. Poirier, [2005] O.J. No. 4471 (Ont.S.C.J.)(Charbonneau J.)

Married 34 years, 2 children

Husband earns \$420,000 from businesses, wife \$10,800 in interest income

Husband's income fixed at "ceiling" of \$250,000, wife imputed income of \$50,000

Support of \$7,000/mo., indefinite (40 per cent of gross income difference)

Cunningham v. Montgomery-Cunningham, [2005] O.J. No. 4297 (Ont.S.C.J.)(Fragomeni J.)

Married 22 years, 1 child 20 and independent

Wife says husband's 2004 income \$347,000, income at least \$139,000

Wife's income \$101,800, says husband, at least \$92,200

Order of \$1,500 interim, "guided by" Guidelines

[Range estimated as \$1,292 to \$1,733]

Hesketh v. Hesketh, [2005] O.J. No. 4053 (Ont.S.C.J.)(Heeney J.)

Married 17 years, wife 54 (49 at separation)

Entitled on compensatory (many moves and lost job) and non-compensatory grounds

Wife earns \$13,000, working 35 hours per week

Husband earned \$85,667 in 2004

Interim voluntary support of \$1,500

Range \$1,544 to \$2,059, indefinite (rule of 65)

Husband's new partner makes \$56,000, reason to go higher than range

Order for \$2,200, indefinite, plus \$424/mo. for 10 years for equalization payment

Rossi v. Rossi, [2005] O.J. No. 4136 (Ont.S.C.J.)(Flynn J.)

Married plus cohabited 23 months, husband and wife both 48

Voluntary support of \$5,400 total over 4 months, then \$2,000 interim for 15 mos.

Wife disabled, CPP plus business \$16,000

Husband earns \$71,000 plus

Maximum guidelines range \$224 for 23 months, or \$5,152, vs. \$35,400 paid

Husband paid enough, support terminated

Adams v. Adams, [2005] O.J. No. 4117 (Ont.S.C.J.)(Platana J.)

Together/married for 10 years

Husband workers compensation \$28,295 tax-free

Wife accident benefits and business \$11,830 tax-free

Wife seeks \$299 mid-point of range \$256-\$341

[Range \$295-\$393 if incomes properly grossed up]

Guidelines rejected and lower amount of \$75/mo. ordered

Zedi v. Ristic, [2005] O.J. No. 3827, 2005 ONCJ 250 (Ont.C.J.)(Spence J.)

Married 9 years, no children, wife 59 and husband 46 at separation, wife now 63

Husband earns \$32,500 as machinist, but “self-employed”, so taxed on \$10,000

Wife makes \$10,000-\$13,000 at deli

Guidelines range stated as \$208-\$278, “too low”, \$500/mo. ordered, indefinite

(If husband’s income grossed up for tax position, range would be \$367-\$489)

Woodall v. Woodall, [2005] O.J. No. 3826, 2005 ONCJ 253 (Ont.C.J.)(McSorley J.)

Married 11 ½ years, wife 42 and husband 33 at separation

Wife disabled, husband paid \$1,200 every 2 weeks under 2002 separation agreement

Now \$1,264 with COLA plus drug coverage

Husband earned \$89,500 in 2002, then \$115,000 in 2004

Changed to less stressful job paying \$90,700, application to vary to reduce

Husband paying unconsolidated debts, new common-law wife not working

Guideline ranges (\$1,565-\$2,086) no application because of agreement

No variation clause, no *Miglin*, no change in circumstances

Maitland v. Maitland, [2005] O.J. No. 2252 (Ont.S.C.J.)(Pardu J.)

Married 29 years, 4 adult children, wife 45 at separation

Wife has health problems, can’t work, no income

Husband works as truck driver, \$28,439

Interim support \$1,344, husband also pays \$135/mo. for wife’s health insurance

Range \$889-\$1185 (or \$754-\$1050 deducting health ins.)

Exception for payor income \$20-\$30,000 noted, concerns re ability to pay

Support of \$700 ordered

Romaniuk v. Romaniuk, [2005] O.J. No. 1818 (Ont.S.C.J.)(Maranger J.)

Together 9 years (married 3), wife 38 at separation, husband \$72,400

Wife in school til June 2006, husband went bankrupt, left with with debt

\$2,000 ordered til June 2006, then \$400 til debt paid in full

Guidelines “considered”, but no details (range would have been \$815-\$1,086)

(ii) The With Child Support Formula

Ahern v. Ahern, [2007] O.J. No. 3439 (Ont. S.C.J.) (Blisshen J.)

Married 20 years; separation 2005; 3 children with wife, one university, two high school

Wife bus driver, \$40,000

Husband inadequate income disclosure, income imputed as \$96,000

No support paid since separation

Child support: \$1762/mo (table amount for 3 children)

Spousal support: \$270/mo, low end of SSAG range, leaves wife with 57.9% NDI

Retroactive child and spousal support to date of separation

Manning v. Bain, [2007] O.J. No. 2816 (Belch J.)

Cohabited 11 years, separated Nov. 2002, 3 children, with wife

Husband self-employed, radiator/cooling business, income on tax return plus retained earnings

Income fixed at \$74,201 in 2004, \$63,227 in 2005, no 2006 return yet

Wife works at Sears call centre now, home during relationship, earns \$19,313

Child support \$1,236 for income \$63,227

Wife claims \$400/mo. spousal support, in SSAG range (using \$71,071 for husband’s income)

Order for \$400/mo., leaves wife with 62.6% NDI
[Range if \$63,227: 0-\$96/mo.; range if \$71,071: 0-\$415]

Celotti v. Celotti, [2007] O.J. No. 2538 (Olah J.)

Married 12 years, 3 children 9, 7 and 5, with wife, husband very involved
Interim child and spousal support, tax-neutral, \$6,000/mo.
Husband in family construction company, earns \$221,000
Child support \$3,639/mo., s. 7 expenses for hockey/dance \$1,000/mo., paid by husband
Spousal support: wife home, no income, child of a subsequent relationship
Wife some obligation towards self-sufficiency, delayed by 4th child
Wife seeks "income equalization", rejected, in part using SSAG
Parties agree to only look at NDI, court rejects
Court estimates SSAG range, low to mid: \$3,014-\$3,534 (61.8-63.8% NDI)
Order for \$1,950/mo. , review in 13 months

Martin v. Blanchard, [2007] O.J. No. 2713 (Taylor J.)

Married 22 years, husband 46, wife 44, 3 children 22, 20 and 15, youngest with wife
2005 "kitchen-table" agreement: \$20,000 equalization payment and \$5/mo. spousal support
Husband earns \$56,000
Wife laid off from part-time bus driver job, now in community college until 2008/2009,
Wife also works as part-time limo driver, earns \$11,232
Miglin: no substantial compliance, also no legal advice and other "concerns"
Child support \$519/mo.
Wife entitled to spousal support, seeks mid-point of SSAG range \$723/mo.
Order for \$723/mo., review earlier of 1 year after program completed or 6 mos. after full-time employment

Georgiou v. Georgiou, [2007] O.J. No. 2201 (Ont.S.C.J.)(Pierce J.)

Married 13 years, child 16 with husband, wife 49
2003 order: \$2000/mo. spousal support, child support \$62/mo, not paid by wife
Husband then earned \$86,000, wife \$8,000
Husband now earns \$102,960, wife earns \$12,480 at grocery store (24 hours/week)
Husband applies to terminate or reduce spousal support
Range \$1205-\$1607 for 6.5 to 13 years
Order for \$1500/mo., review in 18 mos. , wife should work more hours

Damian v. Damian, 2007 CarswellOnt 3169 (Ont.S.C.J.)(Pazaratz J.)

Costs decision after trial, issues of custody, spousal support, property division
Medium term relationship, husband teacher, earns \$82,050, self-represented,
Wife unemployed, one child 9, completely successful on all issues, reasonable offers to settle
Husband rigid and narrow-minded approach to litigation
Spousal support ordered of \$1400, with review in 3 years
Wife offered time-limited support, \$1300 for 3 years
Wife's offer should have been particularly attractive, as Guidelines range \$1682-\$2112
Substantial indemnity costs awarded of \$10,646

Elieff v. Elieff, [2007] O.J. No. 1802 (S.C.J.)(Perkins J.)

Spousal support and costs, wife and 4 children, husband's income \$150,000
Child support \$3,064/mo., plus \$200 for orthodontics
Case adjourned for Guidelines and NDI calculations
High end of Guidelines range chosen, \$2,654/mo., leaves 63.7% NDI to wife

Stoyshin v. Stoyshin, 2007 CarswellOnt 2825 (S.C.J.)(Cusinato J.)

Interim support, 2 children, wife doing B.Ed., graduating June 2007
Husband works in family business with 3 others, income issues
Husband's income \$83,417, including benefits, but not family gifts, rent-free house
Child support \$1,481/mo., including some s. 7 contribution

Spousal support \$1,350, based on Guidelines

Clement v. Clement, 2007 CarswellOnt 2225 (S.C.J.)(Gordon J.)

Husband applies to set aside minutes of settlement from day-long settlement conference

Husband earns \$65,000, child support \$601

Guidelines range used, \$1,318-\$1,638, parties used mid-point, review in 4 years

Both parties represented, no unfairness in settlement, upheld

Yeates v. Yeates, 2007 CarswellOnt 2107 (S.C.J.)(Greer J.)

Married 15 years, husband and wife 48, 3 children 17, 14 and 11, with wife

Child 17 has cerebral palsy/epilepsy and child 14 autism

Wife home with little respite, access issues

Husband accountant with CRA, earns \$108,872

Child support \$1,964

Section 7 expenses: wife gets \$16,500/yr. subsidies for special needs, list “unattainable”; husband to pay \$1,300/mo. for expenses

Interim spousal support \$2,500/mo., wife seeks permanent spousal support of \$3,500, can’t work

Husband argues Guidelines, *Andrews*, maximum 60/40 NDI split

Order for \$2,500 indefinite, well above Guidelines range (estimated \$848-\$1,233)

(Special needs exception?)

Fell v. Fell, [2007] O.J. No. 1011, 2007 CarswellOnt 1604 (S.C.J.)(Linhares de Sousa J.)

Married 12 years, 3 children 12, 9 and 4

Shared custody, equal time, interim for 18 mos., continued

Wife part-time nurse, \$43-44,000, secondary earner in marriage

Would earn \$70-80,000 if full-time

Husband pilot in Armed Forces, earns \$95-96,000

Child support set-off: \$1,762 - \$816 = \$946/mo.

Interim spousal support \$400/mo.

Wife can keep working part-time until youngest in full-time school, given history

Mid-point of Guidelines range leaves consistent standard of living, \$450/mo.

(Guidelines range estimated: \$99-\$784, mid-point \$444)

Review when full-time school, wife’s income expected to be \$70,000 then

Ansara v. Ansara, [2007] O.J. No. 783 (S.C.J.)(Del Frate J.)

Married 17 years, 1 child 8, with wife

Husband lawyer and director, community legal clinic, \$106,000

Wife deputy town clerk, earns \$49,143

Child support \$924 interim

Guidelines range: \$642-\$1,435, \$1,000/mo. interim spousal support ordered

Martin v. Martin, [2007] O.J. No. 467 (S.C.J.)(Linhares de Sousa J.)

Married 9 years, children 13 and 8

Property divided 75/25 to wife, husband’s debts to wife reduces payment to zero

Husband alcohol and cocaine problems, now working for Dell, \$36,000

Child support \$518, 27% of s. 7 expenses (\$165/mo.)

Husband seeks spousal support, wife earns \$90,000

Husband claims \$300-\$400/mo for 3 years, based on Guidelines

Entitlement, lump sum of \$15,000 for disadvantage from marriage breakdown

(Guidelines range estimated, custodial payor: \$414-\$552, 4.5 to 9 years)

(Lump sum awarded, after tax adjustment, at low end of global range)

Vynnk v. Baisa, [2007] O.J. No. 274 (S.C.J.)(Klowak J.)

Married 10 years, husband 39, wife 33, 1 child aged 3 with wife

Husband critical care nurse, paid through own company, earns \$87,000

Child support \$774

Wife earns \$39,000
Compensatory basis: wife waitressed, two jobs, to put husband through school,
Delayed her own education, now likely to return to school
Periodic spousal support \$2,000/mo. for 5 years, 61% NDI
Increased for education, not adequately addressed by Guidelines
Plus lump sum support \$75,000 [all within global range at Guidelines maximum]

Skirten v. Lengyel, [2007] O.J. No. 679 (S.C.J.)(Platana J.)
Unmarried couple, together 5 years, 1 child 3, with wife
Husband labourer, earns \$24,960, wife earns \$16,682
Child support \$224/mo.
Guidelines range: zero to zero
Husband not appearing, owns house and motorcycle, wife seeks \$112/mo.
Court looks at household standard of living comparison
“Notwithstanding Guidelines”, husband should pay something, \$50/mo.

Davies v. Davies, [2007] O.J. No. 388 (S.C.J.)(Herman J.)
Married 11 years, 2 children 9 and 6, with wife
Husband Environment Canada scientist, earns \$66,388
Wife earns \$32,000
Child support \$992/mo. plus child care
Wife home 7 years, til last in school (2004)
Mid-point of Guidelines range is zero, leaves wife with 56% NDI (range: zero to \$247)
No interim spousal support

Johal v. Johal, [2006] O.J. No. 5264 (S.C.J.)(Hambly J.)
Married 12 years, 3 children 10, 9 and 5, interim interim custody with wife
2005 incomes used: husband police officer earns \$81,071, cohabiting, new home
Wife labourer, earns \$33,015
Interim child support \$1,528/mo., plus \$280 s. 7 expenses contribution
Spousal support: Guidelines range zero to \$333 says husband
Interim spousal support \$100/mo., leaves wife with 60%+ NDI

Humphrey v. Humphrey, 2006 CarswellOnt 8251 (S.C.J.)(G.P. Smith J.)
Married 17 years, 3 children 20, 18 and 18, husband 48, wife 47 (45 separation)
All with wife, oldest employed part-time, part-time university
Husband in family business, income issues, \$60,000
Wife homemaker, small home-based business, no interim sale of home
Child support \$902 (2 only), Guidelines range: \$1,083-\$1,361
Interim spousal support ordered \$1,300/mo.

Smylie v. Smylie, [2006] O.J. No. 4716 (Ont.S.C.J.)(Shaw J.)
Together 27 years (married 22), 3 children 20, 17, 8, with wife, both 46 years old
Husband lumber yard manager in Timmins, earns \$34,762
Child support \$517 (2), s. 7 child care expenses \$46/mo. by husband
Property: wife keeps home, pays equalization of \$40,326 to husband
Wife 2 part-time jobs, nurses registry and KFC, earns \$16,296
Wife home until 2004 separation, traditional marriage
Husband cohabiting, new partner makes \$40,000
Range: 0 - \$89, spousal support of \$200/mo., 60% NDI to wife

Ghahrai v. Mohammed, [2006] O.J. No. 4651 (Ont.S.C.J.)(Fragomeni J.)
Married 9 years
2004 settlement: \$1,000/mo. for 18 mos., 26 mos. paid interim, plus \$6,000 lump sum
Wife applies to vary and seeks interim, support stopped April 2006, s. 17(10) applies
Wife wants to complete B.Sc. Nursing, 4 more years, \$14,000 OSAP loan

Husband earns \$80,000, has 2 (?) children, \$700/mo. day care
Husband says Guidelines range \$692-\$922, 4 ½ to 9 years, paid \$50,000 (\$692x6 yrs.)
Application dismissed

Verbey v. Verutis, [2006] O.J. No. 4267 (S.C.J.)(Turnbull J.)
Married 18 years, 2 children 13 and 8
Custody issues, interim equal shared custody
Husband engineer, earns \$109,000
Wife primary school teacher, disability, no benefits, no income
Child support not stated (estimated as \$1,514/mo.)
Guidelines range: \$1,880-\$2,483
Interim spousal support \$1,800/mo.

Hance v. Carbone, 2006 CarswellOnt 7063 (Ont.S.C.J.) (Stayshyn J.)
Married 17 ½ years, husband 46, wife 43 (36 separation)
4 children: 24, 22, 22, 20, traditional marriage
1999 separation agreement: total support of \$1,083, \$611 child, \$472 spousal
Spousal support for 6 years only
Wife working part-time at Walmart, \$13,500, husband earns \$38,500
Guidelines range stated to be \$367-\$582, *with child support* formula
Spousal support of \$472/mo. ordered, 15 years
But no child support, no proof children of marriage
[Without child support formula range: \$547-\$729]

Nemi v. Maier, [2006] O.J. No. 2676 (S.C.J.)(Timms J.)
Cohabited 12 years, 2 children with mother
Husband earns \$235,000, child support \$2,998, no s. 7 expenses
Wife seeks \$100,000 lump sum spousal support, husband's interest in home (based on support of \$5,500/mo for 12 years discounted.)
Wife earns \$60,000 in contract job
Guidelines range: \$3,039-\$4,339,
Appropriate level of periodic support would be \$4,000/mo.; converts to lump sum of \$100,000 (no calculations provided)

Neilson-Sewell v. Neilson-Sewell, [2006] O.J. No. 2580 (Ont.S.C.J.)(Smith J.)
Together 23 years (married 21), 2 children with father in Vienna
Wife at last minute decided to stay in Ottawa house, had left job, unemployed
Income imputed to wife of \$14,000 (but no child support paid)
Husband working for UN, income tax-free, increased for living costs, boarding school
Wife claims his income \$158,241, so Guidelines range \$5,409-\$7,212
Boarding school excluded, income is \$143,652 Cdn.
Guidelines not apply, as support not deductible for husband
Spousal support: mortgage of \$1,606 plus \$1,200, total \$2,806
(custodial payor range: \$5,100-\$6,800, indefinite)
(if pay for living costs excluded from income, range \$3,395-\$4,527)

Borger v. Jan, [2006] O.J. No. 2075 (Ont. S.C.J.) (A.L. Harvison Young J.)
Interim order
Married 9 or 10 years (date of separation in dispute); 2 children with wife
Wife has exclusive possession of matrimonial home
Husband income set at \$1,296,430/yr (average of past 3 yrs)
Order for interim child support under guidelines of \$15,291/mo
Wife submits advisory guideline range is \$10,000 - \$20,000/ mo (no details on calculation) and seeks lower end of range at \$10,000/mo; no discussion of "ceiling" of \$350,000.
Order for interim spousal support of \$9,000/mo
[range if husband's income at ceiling of \$350,000: \$7,667 - \$9,219/mo]

McCarthy v. McCarthy, [2006] O.J. No. 2308 (Ont. S.C.J.) (D.S. Crane J.)

Married 12 years; 2 children

Husband's income between \$54,000 and \$55,000/yr; child support \$750/mo

Wife earning \$27,000/yr (in home daycare), some health issues

Seeking \$300/mo spousal (giving her 58.2% NDI)

No spousal support awarded; reference to consistency with Spousal Support Guidelines [range zero to zero]

With no spousal support wife stated to be at 54.8% NDI and husband 45.2% NDI [DivorceMate actually shows wife at 57% with no spousal]

Brisebois v. Brisebois, [2006] O.J. No. 906 (Ont. S.C.J.) (S. Rogin J.)

Divorced 2002; one child now 11; 2002 spousal support order of \$500/mo based on imputed income of \$30,000 to wife and husband's income of \$56,000/yr

Variation application; husband's income increased to \$83,187/yr; wife now earning \$24,351/yr

Child support increased to \$660/mo

Spousal support increased to \$750/mo; court declines to increase support as per "Check Mate" and Divorcemate calculations provided by counsel (no details given); concern's wife's income understated

[Ranges: using husband's 2002 income (\$56,000) and \$30,000 (imputed) for wife: zero to \$334;

using husband's 2006 income (\$83,187) and \$30,000 (imputed) for wife: \$740 - \$1,337

using actual 2006 incomes for both (husband \$83,187, wife \$24,351): \$916 - \$1540]

Philip v. Philip, 2006 CarswellOnt 1591 (Ont. S.C.J.) (Henderson J.)

Together 10 years (married 8); wife 2 children from previous marriage (only 1 remaining child of marriage) and 1 child of their own

Husband's income \$58,000/yr; child support for 2 children \$799/mo, but deducts \$200 CPP benefits older child receives as a result of death of her father

Wife's income \$20,200/yr (\$15,100 employment and \$5,100 CPP survivor benefits)

Spousal support of \$650/mo; court "considered" many factors, including Advisory Guidelines and Check Mate calculations

[range assuming child support of \$599: \$227 - \$646]

Crewe v. Crewe, 2006 CarswellOnt 772 (Ont.S.C.J.)(Sills J.)

Interim order, 1 child (3) with mother

Husband earns \$67,185, child support \$554/mo.

Wife student loans and bursaries, issue re inclusion in income

Wife seeks \$1,564/mo. based on Guidelines

(Range estimated \$1,220-\$1,564, if her income \$2,000/yr.)

Interim spousal support of \$1,000/mo.

Dunning v. Dunning, [2006] O.J. No. 1927 (S.C.J.) (T.M. Wood J.)

Together 6 years (married 5), 2 children (ages 3 and 1) with wife

Application to vary 2005 consent order for child and spousal support

Father employed in U.S., income in \$Can set at \$160,893 resulting in child support of \$2,118

Mother registered nurse, moved back from U.S. after separation; presently earning \$20,000 from 2 part-time jobs

Uses SSAG range of \$2,568 to \$3,411 spousal support (giving wife 53.7% to 58.2% NDI); duration indefinite but ceases when youngest child turns 18

Spousal support set at lower end of range (\$2,568) because wife's income will increase as children get older and should be allowed to do so within reason without support being affected.

Review after 5 years at instance of either party

Palmer v. Arena, [2006] O.J. No. 1811 (S.C.J.)(Gauthier J.)

Together 8 years (married 3 plus), child 5 with wife, husband 47, wife 48

Husband bipolar disorder, CPP disability, \$11,520, no child support (table \$111)

Wife earns \$75,000, child care \$200-\$250/mo.

Interim spousal support of \$750 paid for past 2 years

Custodial payor range rejected as "insufficient", support ordered at \$1,000 for 3 years

[Range estimated \$473 to \$630, for 4 to 8 years, order within global range by restructuring]

Yetman v. Yetman, [2006] O.J. No. 926, 2006 CarswellOnt 1374 (S.C.J.) (Henderson J.)
Variation of interim order, 3 children, now only 2 dependent, incomes increased
Husband now earns \$89,388, wife earns \$21,300
Child support \$1,128 plus \$2,000/yr. for s. 7 education expenses
Advisory Guidelines considered, for order of \$1,400/mo.
(Range estimated: \$1,061-\$1,645)

McGahey v. McGahey, [2006] O.J. No. 738, 2006 CarswellOnt 1081 (S.C.J.) (MacKenzie J.)
One child, 7, with wife, child support \$648
Husband \$81,000, wife \$25,000 imputed, range \$1,078-\$1,684
Interim spousal support \$1,200

Verscheure v. Verscheure, 2006 CarswellOnt 832 (S.C.J.) (Marshman J.)
Together 11 years (10 married), 2 children
Wife little employment effort in 5 years, no income
Husband earns \$240,060
Child support \$2,698 til Sept./05, then children with husband
Spousal support paid for 5 years already
Custodial payor range \$2,469-\$3,292
Interim order \$3,750 for 6 months, \$3,000 for 6 mos., then \$2,500 til trial

Cornish v. Bacic, [2006] O.J. No. 397 (S.C.J.) (Pepall J.)
Married 10 years, 2 children 10 and 7 with husband
Husband earns \$95,626
Wife no income, previously earned \$22,620, that amount imputed
Range \$660-\$880, "too low", orders interim support of \$1,000/mo.
(But wife not paying child support, table amount on imputed income would have been \$318)
(Custodial payor range if wife's income taken as zero: \$874-\$1,165)

Pollock v. Pollock, [2006] O.J. No. 504 (S.C.J.) (Shaw J.)
Married 22 years, wife 43, husband 49
3 children, one with wife (age 14), 2 with husband (21/18)
Husband receives \$50,700 workers' compensation and CPP Disability
CPP payments to children too, husband paying debts
Wife no income, in mortgage-free family home
Counsel agree Advisory Guidelines "not of assistance"
Spousal support \$850/mo. (Range: \$776-\$966)

Ignacy v. Ignacy, [2005] O.J. No. 5264 (S.C.J.) (Gordon J.)
Interim interim decision, 2 teenagers
Husband earns \$127,286, wife \$66,640
Guidelines used, spousal support of \$1,000 ordered
No child support stated, but table \$1,524/mo.
(Range \$214 to \$1,177)

Moggy v. Spry, [2005] O.J. No. 4939 (S.C.J.) (Del Frate J.)
Together 6 years (married 3), 1 child 8 months, with wife
Husband earns \$70,000, child support \$572, plus \$75/week child care
Wife 25 years old, student, only income Ontario Student Assistance Program (\$9,800?)
Range stated as \$975-\$1500, \$1,200 ordered on interim basis

Socan v. Socan, [2005] O.J. No. 3992 (Ont.S.C.J.) (Blisshen J.)
Together 16 years (married 13), 2 children 19 and 13, oldest not "child of marriage"
Child with wife, wife 45 at trial (39 at separation)
Wife cashier at Walmart, health problems, earns \$20,401
Husband Canada Post, health problems, earns \$44,904
Child support \$387 (1), husband paid all matrimonial debts
Range \$111 - \$293, request for \$200 by wife
\$150 ordered, due to husband's payment of debts, expenses, equalization payment

Fancett v. Deprato, [2005] O.J. No. 3860 (Ont.S.C.J.)(MacKenzie J.)
 Together 4 ½ years, 1 child 6 with wife, wife 36 at separation
 Husband now disabled, off job, but no evidence, 2004 income \$65,318
 Child support \$545, plus \$332 for s. 7 expenses
 Wife clerical job \$12,486, now cohabiting, seeks spousal for past 18 months
 Unable to use Guidelines because of changing incomes (?), \$600/mo. ordered
 Child and spousal support used to offset husband's equity in home

Dench v. Dench, [2005] O.J. No. 2646 (Ont.S.C.J.)(Heeney J.)
 Married 16 years, 4 children, 1 still dependent, with wife, wife 47 at separation
 Husband owns car dealership, makes \$150,000
 Child support \$1,108
 Wife's income \$51,000 (\$36,000 on investments, plus \$15,000 imputed minimum wage)
 Range \$1,597-\$2,680, spousal support of \$2,000 ordered
 Roughly equal standards of living, wife's lower housing costs

Bielanski v. Bielanski, [2005] O.J. No. 2171 (Ont.S.C.J.)(Gauthier J.)
 Married 14 years, 2 children, 16 and 14, with mother
 Interim order: child support \$1,049; spousal support \$850
 Husband's income \$90,900 at Inco, wife \$34,500 in retail
 Order for child support \$1,146 and spousal support \$1,000
 Range \$611-\$1,237

Kerr v. Kerr, [2005] O.J. No. 1966 (Ont.S.C.J.)(Blishen J.)
 Married 16 years, 5 children with mother, husband \$95,014, wife no income
 Child support \$2,085, plus some s. 7 expenses
 Formula range stated as \$794-\$1,189, temporary spousal support of \$1,000 ordered.

Zelko v. Zelko, [2005] O.J. No. 653 (Ont.S.C.J.)(Cusinato J.)
 Married 15 years, 2 children 14 and 12, wife 36 at separation
 2001 order: \$1,031 child support, \$1,500 spousal support
 2 children now with father
 Wife makes \$14,000, i.e. child support of \$211
 Wife still to receive \$1,500 spousal, indefinite
 Discussion of guidelines, but unable to do calculations without software
 (Hybrid formula: \$894-\$1,193 for 7.5 to 15 years)

Araya v. Gaete, [2005] O.J. No. 704 (Ont.S.C.J.)(Young J.)
 Married 23-plus years, 3 children, 1 left with wife
 Husband makes \$50,000, wife laid off, \$10,000 imputed
 No child support, shared custody agreement
 Guidelines cited in discussion on entitlement
 \$800 interim spousal support ordered
 (Range by Divorcemate: \$1,150-\$1,533 indefinite)

McPhee v. McPhee, 2005 CarswellOnt 683 (Ont.S.C.J.)(Gordon J.)
 Application to vary, husband's income reduced, wife's increased
 Child support adjusted, but spousal left unchanged at \$1,500 per mo.
 Support still within range computed using guidelines (no details given)