

## Appendix

### SPOUSAL SUPPORT ADVISORY GUIDELINES, ONTARIO DECISIONS [July 10\* – Nov. 18, 2008]

For cases decided prior to July 10, 2008 see the previous update papers at  
<http://www.law.utoronto.ca/faculty/rogerson/ssag.html>

[\*\* most noteworthy cases]

#### A. Appeal Cases

- \*\**Jessop v. Wright*, [2008] O.J. No. 3849, 2008 ONCA 673 (Ont. C.A.) (Lang, Rouleau and Watt JJ.A.) (Sept. 29/08), varying 2008 CarswellOnt 6486 (S.C.J.) (McKinnon J.) (Feb. 21/08)  
15 year marriage, 2 children 18 and 15, with wife; date of separation not stated; before 2000  
Husband loses job after separation; nominal child and spousal support 2001-2005; finds new employment April 2005; wife then seeks child and spousal support  
Husband's income: \$135,000 (2005), \$145,500 (2006), \$131,425 (2007)  
Wife's income: \$28,938 (2005), \$35,707 (2006), \$37,870 (2007, income plus severance); lost job in 2007, unemployed at time of motion  
Motions judge: child support \$1772; spousal support \$2000/mo retroactive to May 2005  
Appeal court criticizes motions judge for failing to explain how he arrived at the amount of support or specifying incomes on which award based.  
No error to not apply Guidelines, as ranges not provided  
Error to award same amount for years when wife working and earning \$25,000 - \$37,000 and years when unemployed; amount of spousal support should vary depending on recipient's income  
Award reduced to \$1700 per month from May 2005 until Nov 2007 when wife's severance pay expired; amount said to fit one of Guidelines ranges provided by husband [SSAG range not provided, but calculated as \$1261- \$2030, midpoint \$1644, based on h \$131,425 and w \$35,000 as h argued; but using actual 2005 incomes range is \$1796-\$2575; actual 2006 incomes range is \$1654-\$2472, and actual 2007 incomes range is \$1261- \$2030]  
Award of \$2000 per month from Dec. 2007 upheld; amount sought by wife; noted to be at low end of Guidelines range or even below given wife's unemployment [SSAG range not provided, calculated as \$2293-\$3125 if h \$131,425 and w zero income]
- \*\**Vynnk v. Baisa*, [2008] O.J. No. 3747, 2008 ONCA 657 (Ont. C.A.) (Laksin, Simmons and Sharpe JJ.A.) (Sept. 19, 2008) affirming [2007] O.J. No. 274 (S.C.J.)(Klowak J.)  
Married 10 years, husband 39, wife 33, separation 2005, 1 child aged 3 at date of trial, with wife  
Husband critical care nurse, paid through own company, earns \$87,000  
Child support \$774  
Wife earns \$39,000  
Strong compensatory claim: wife sponsored husband from Ukraine, waitressed, two jobs, to put him through school,  
Delayed her own education, now likely to return to school  
Trial judge awarded periodic spousal support \$2,000/mo. for 5 years, 61% NDI  
Higher quantum than if no time-limit; notes Guidelines range \$491-\$1151 but for up to 17 years [restructuring by front-end loading to facilitate education, but not noted as such]

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\* Included are a few cases decided before July 10, 2008, which were not included in the last update, "The Spousal Support Advisory Guidelines Three and Half Years Later" (June 16, 2008, revised Aug. 1, 2008) which provides case summaries for the period Sept. 17, 2007- July 10, 2008.

In addition, lump sum support of \$75,000 to recognize strong compensatory elements and support wife's education

Trial judge of view that the Guidelines would only generate periodic award and thus would not adequately address all the element of the case [but actually all within global range at Guidelines maximum]

Combined periodic and lump sum award upheld on appeal in brief reasons deferring to trial judge's finding of wife's extraordinary efforts in facilitating husband's educational and career success.

Award generous, but no error.

No reference to Guidelines in appeal judgement.

### **B. The Without Child Support Formula**

*Wallace v. Prince-Cox*, 2008 CarswellOnt 6434 (Ont. S.C.J.) (Tulloch J.) (Oct. 31/08)

8 -9 year common law relationship

W has spotty work record; h loaned her \$22,000 during relationship, never repaid

H income \$76,000

H paid interim support of \$800/mo for 14 months plus \$4,500

W in new relationship and plans to move to Calgary; income uncertain; imputed at \$24,00

W seeks spousal support of \$1000/mo for 6 years

No further entitlement to spousal support

SSAG range \$520-\$693/mo for 4-8 years; midpoint \$606/mo for 6 years, or \$33,984 after tax.

H already paid \$36,900 through interim support and \$22,000. W adequately compensated for relatively short relationship that resulted in no economic disadvantage to her

\*\**Wells v. Wells*, [2008] O.J. No. 3961 (Ont. S.C.J.) (Richetti J.) (Oct. 9/08)

3 year relationship (married 1 plus 3 prior cohabitation; separation 2007)

W disabled; disability income of \$25,000 after gross up; child from prior relationship; child support from father excluded from her income; after separation sharing home purchased with ex-husband

H income \$70,000

W seeks \$1,200/mo interim spousal support, to give her 41% NDI; rejected; NDI approach not appropriate given short length of marriage

SSAG range: \$225-\$300/mo

Interim support of \$300/mo ordered; top end of range because of disability; by excluding child support received by wife from her income, range effectively increased; had this not been done, amount would have been increased by small amount beyond upper end of range to take account of disability

*Taylor v. Taylor*, [2008] O.J. No. 3900 (Ont. S.C.J.) (Richetti J.) (Oct. 7/08)

Immigration sponsorship; wife from India; married 2 years; cohabit only 10 months; separation 2006; h signs 3 year sponsorship until May 2008

Wife highly educated; employed now at \$14,000 but plans to seek certification of professional qualifications in Canada; h earns \$33,000 and supports parents

Wife seeks \$500 per month for 2 years (2006 to 2008) from separation to end of sponsorship agreement

Sponsorship agreement not a factor in decision because w did not seek social assistance

Court orders \$100/mo for 20 months for period from separation until Jan. 2008, or \$2000 lump sum plus pre-judgment interest.

Award said to be higher than SSAG, but reasonable given husband's actions in forcing execution of unconscionable separation agreement and leaving w stranded in India without return airfare post-separation [compensatory exception not referred to]

[SSAG range not stated, calculated as \$48-\$63 for 1-2 years, max. global value \$1515]

*Parker v. Parker*, 2008 CarswellOnt 6381 (Ont. S.C.J.) (Bishop J.) (Oct 6/08)

Variation of consent order

19 year relationship (17 marriage plus 2 cohabitation), separation 1999, wife 16 when married

2 children, now 20 and 18, one special needs, on social assistance but w also pays some expenses

Consent order in 2000 when h's income \$6,240: child support \$4/mo and spousal support \$1/mo; variation clause

H's income increases immediately after order; now \$95,800; w on social assistance (Ont. Disability), \$14,767; h did pay ws' car insurance of \$775/yr until July 2008  
 W seeks retroactive child and spousal and on-going spousal  
 Court uses SSAG to calculate arrears and on-going support [calculations not provided]  
 On-going spousal support of \$2,655 per month  
 Immaterial that Ont. Disability may recoup disability payments; primary responsibility for child and spousal support with h and not state

*Merko v. Merko*, 2008 CarswellOnt 6361, 2008 ONCJ 530 (Ont. C.J.) (Maresca J.) (Sept. 30/08)  
 Immigration sponsorship; wife from Ukraine; married two years, cohabit only 12 months, separation 2006  
 Each party no income and dependant on family and friends; both claim spousal support and make arguments using SSAG and imputed incomes  
 No entitlement to support; very short marriage; economic lives never intertwined

*Hurst v. Hurst*, [2008] O.J. No. 3800 (Ont. S.C.J.) (Ducharme J.) (Sept. 24/08)  
 36 year marriage; separation 2000; divorce 2003; 3 grown children  
 2003 consent order : \$2000 per month spousal support until Aug. 2007 (h's expected retirement date); after retirement first \$2,261.70 of pension income not to be considered as income for spousal support purposes as divided through equalization payment  
 H does not retire until Dec. 1, 2007; receives \$70,000 lump sum retirement transferred into RRSP  
 W applies for variation and determination of support after Aug 2007  
 Retirement incentive not to be included in h's 2007 income for spousal support purposes  
 H 2007 income \$124,000; w's income imputed at \$23,000 (CPP, rental income; imputed income from hairdressing)  
 Guidelines may be applicable if agreement provides for review or variation; guidelines taken into account to ensure that support ordered "falls within the appropriate parameters); \$3600 per month for 4 remaining months of 2007 [SSAG range not stated, calculated as \$3156-\$4143]  
 Ongoing support for 2008 \$1200/mo: based on h income \$51,790 (including only unequalized portion of pension) and w income \$18,767 [SSAG range not stated, calculated as \$1032-\$1301]

\*\**Gammon v. Gammon*, 2008 CarswellOnt 6349 (Ont. S.C.J.) (Nolan J.) ((Sept. 17/08)  
 15 year relationship; 7 years marriage, plus 8 prior cohabitation; no children; separation 2004  
 Separation agreement set aside; 2007 order for spousal support retroactive to separation (2004) based on parties' incomes (actual and imputed) and SSAG; \$1500 per month for 2007 based on w income (imputed) of \$25,956 and h's income (estimated) of \$90,000  
 H retires Dec. 1, 2007; gross monthly pension \$3700; in property division, 22.6% of pension equalized (based on 7 years of marriage); 77.4% available for support  
 H also receives retirement incentive of one-time payment of \$85,000, included in 2007 income but which could be sheltered all or in part in RRSP; also \$30,000 car voucher included in 2008 income  
 Application by H to vary support and set termination date  
 Neither severance package nor car voucher to be included in h's income (treated as post-separation income increase; w not entitled to share; basis of her support not compensatory; no significant contribution to h's career)  
 Support for 2007 recalculated using h's actual income (\$117,880) and mid range of Guidelines  
 Support for 2008 set at \$271/mo based on h income of \$34,365 (unequalized part of pension) and mid-range of Guidelines.  
 Termination date appropriate; SSAG range 7.5 to 15 years; had spousal support provisions of separation agreement had been negotiated in accordance with Divorce Act objectives, termination at low end of range would have been appropriate; in circumstances and given how long it took w to get the periodic support to which she was entitled, 10 year duration is appropriate; support to terminate in 2014.

\*\**Wright v. Wright*, [2008] O.J. No. 3118 (Ont. S.C.J.) (Langdon J.) (Aug. 11/08)  
 27 year marriage; separation 2003; 3 grown children  
 H has gravel business; w worked in business during marriage

Property division dealt with in separation agreement: h to pay w \$213,475 for shares of company by means of monthly payments of \$2,647 for 8 years  
 H's income from business \$105,000 (\$90,000 plus \$15,000 taxable benefits)  
 W had worked part-time as book-keeper after separation, now enrolled in on-line course; future income speculative; living with new partner and enjoying higher standard of living than during marriage; annual income of \$35,000 imputed  
 SSAG range calculated as \$1250 - \$1600  
 \$800 per month ordered; lower than SSAG to take account of h's monthly obligation to pay wife for her shares out of income generated by business

*Kretzschmar v. Séguin*, [2008] O.J. No. 2834 (Ont. S.C.J.) (Power J.) (July 17/08)  
 Variation application; agreement providing for variation upon change of circumstances  
 SSAG generally not applicable on variation (*Fisher*); but more specifically this agreement has specific formula giving wife 35% of husband's base income (result higher than under SSAG)

*Weatherhead v. Briant*, [2008] O.J. No. 3390 (Ont. S.C.J.) (Hennessy J.) (June 30/08)  
 10 year common law relationship; separation 2006; wife higher earner;  
 Husband applying for spousal support; started 3 year college program Sept. 2007  
 Wife's income from business \$30 - 35,000; husband zero for months in school  
 SSAG range stated as \$375-\$500 (if w income \$30,000) or \$483-\$583 (if w income \$35,000)  
 \$450 per month ordered from July 07 to April 08 (almost 3 yrs); low end of range because h capable of earning some income during summer

### **C. The With Child Support Formula**

*Dickinson v. Dickinson*, 2008 CarswellOnt 6788 (Ont. S.C.J.) (Gauthier J.) (Nov 17/08)  
 Variation  
 11 year marriage, separation 2005, 3 children 12, 10 and 8 with w  
 H support for prior child, \$300/mo  
 2007 interim order based on h income \$107,000 and w \$29,000: \$1,935 child support and \$850 spousal  
 H brings application to vary based on income decrease for 2008  
 H income found to be \$84,000; w income now \$35,488, material change  
 Child support for 3 children: reduced to \$1575  
 Interim spousal support; SSAG range stated as 0 -\$464; \$500/mo ordered  
 [If h prior child support obligation of \$300 taken into account and assumed to be non-deductible, SSAG range would be 0-\$171]

*Lalonde v. Lalonde*, 2008 CarswellOnt 6710 (Ont. S.C.J.) (Gordon J.) (Nov 12/08)  
 Variation  
 25 year marriage, 2 children, 1 adult, 1 university  
 2005 consent order based on h income \$100,000 and w income \$32,000: child support \$773 and spousal \$1,130; increases in incomes to constitute material change  
 Both incomes increase; w seeks retroactive and prospective increase in spousal and child support  
 H income \$139,304; w. income \$44,447  
 Child support: \$1,175.25 (no s. 7, post-secondary expenses covered by RESP and child's income)  
 Spousal support: SSAG range stated as \$1813 - \$2,723; \$1825/mo ordered; lower end of range chosen because h income based on significant overtime; he should be rewarded for his efforts  
 Retroactive spousal: h underpaid at least \$700/mo from what SSAG would suggest since 2005; total \$32,900, discounted for tax to \$17,750.

*Nikolaou v. Nikalaou*, 2008 CarswellOnt 6640 (Ont. S.C.J.) (Sheppard J.) (Nov 12/08)  
 Duration, time-limits  
 6 year marriage, separation 2005, 1 child now 9 with w  
 H income found to be \$50,000 and w \$16,560  
 Child support: \$462

Spousal support: \$460/mo, based on SSAG calculations provided by counsel; to terminate in 2011 (i.e. 6 years after separation) based on evidence that w has educational training that will allow her to be self-sufficient

[SSAG range not provided, calculated as \$171-\$496]

*Jiwaji v. Jiwaji*, 2008 CarswellOnt 6537 (Ont. S.C.J.) (Wood J.) (Nov 4/08)

Duration

7 year marriage, separation 2002, 2 children now 9 and 12 with w; 1 special needs

W from Kenya, no employment experience in Canada, plus health problems, now 50

2002 interim order based on h income \$43,000: child support \$609 and spousal \$800/mo

H's income \$62,100 (\$40,980 plus imputed benefits); w no effort to work, \$8000 imputed based on limited earning capacity

Child support: \$931

Spousal support: SSAG range \$450 - \$745, max 15 years [note duration based on Draft Proposal, revisions to durational range in final version of Guidelines not recognized]

Spousal support for further 4 years (10 years total): 2 years at \$597 per month (mid-range) and then 2 years at \$450, then review

Initial figure gives w 53.1% NDI, court acknowledges seems low, but 61.9% of actual dollars available

*Lickfold v. Robichaud*, 2008 CarswellOnt 6138 (Ont. S.C.J.) (Linhares de Sousa J.) (Oct 21/08)

Shared custody

5 year common law relationship; separation 2006, 1 child 6, shared custody (w not allowed to move child back to N.B.)

H income \$54,243; w \$18,000; h prior child, pays \$300/mo child support

Child support; h table amount \$500; w table amount \$156; h wants set-off; court finds w not able to pay any child support; h to pay \$500/mo; h to pay all s. 7 expenses

Spousal support: SSAG range presented as 0 - \$336; no spousal support ordered

*Renton v. Renton*, 2008 CarswellOnt 6150 (Ont. S.C.J.) (Arell J.) (Oct 21/08)

Custodial payor, duration

12 year marriage; separation 1997; 2 children, with father since 2000; older child in college since Sept. 2007

Informal support, then 2002 minutes of settlement and 2003 consent order: \$1000/mo spousal support

H remarried and 1 new child; w's income steadily increased

H applies to terminate spousal support

H income \$103,500 (2007) and \$93,300 (2008); W \$45,500 and \$46,500.

W now paying child support of \$688, plus share of s. 7 (college expenses)

SSAG range for duration 6 - 12 years; 9 years reasonable period in light of h's major responsibility for child support and wife's increased income; duration to commence in 2000

Spousal support reduced to \$750/mo as of Sept. 2007; then to \$500 per month as of Sept. 2008 to cease June 2009.

[SSAG calculations for amount under *custodial payor* formula not provided; calculated as \$585-\$780 based on 2007 incomes and no s. 7; \$468-\$624 based on 2008 incomes and no. s.7]

*DeVos v. Devos*, 2008 CarswellOnt 6145 (Ont. S.C.J.) (Turnbull J.) (Oct 20/08)

11 year marriage, plus 1-2 years prior cohabitation; separation 2005; 2 children 5 and 11

H income \$57,000

W only claims spousal support for 10 months, March – Dec. 2006; claims \$200 per month based on

CHEQUEmate calculations; \$2000 retroactive spousal support awarded

[SSAG calculations not provided; w's income unknown]

*Santos v. Santos*, [2008] O.J. No. 3899 (Ont. S.C.J.) (Sproat J.) (Oct 6/08)

Interim

20 year marriage; separation 2007; 3 children, 18 (in university, with h), 17 and 14 (with w in mat home)

Dispute about incomes; precise calculations not possible; \$100,000 imputed to h and \$25,000 to w

H to pay w child support of \$1404 (table for 2 children), plus 80/20 sharing of s. 7 expenses(private school, university tuition)

Spousal support: parties to submit SUPPORTmate and CHEQUEmate calculations based upon income levels set my court

*Sawula v. Sawula*, [2008] O.J. No. 3672 (Ont. S.C.J.) (Matheson J.) (Sept 10/08)

Interim

22 year marriage, separation 2007; 5 children, 3 oldest in university, funded by RESP; 2 remaining with w in mat home

H surgeon, was earning \$600,000; heart attack post-separation, now \$456,000

W income of approx. \$36,000

Interim child support for 2 children at home: \$5,542

Spousal support; w seeks spousal support in accordance with Guidelines; court orders \$7518 as requested by wife

[SSAG range not provided, calculated as \$6491 - \$8170 based on h income at \$350,000 ceiling and child support for 2 children.]

*Danby v. Danby*, [2008] O.J. No. 3659 (Ont. S.C.J.) (Gordon J.) (Sept 9/08)

Variation

25 year traditional marriage; separation 1994; 5 children; only 2 dependent in 1999 when settlement agreement; since June 2005 only 1 dependent

H, now 59, took early retirement in 2005, pension income \$49,000

W now three jobs, \$42,000, anticipates reduction, court sets at \$34,000

H seeks termination of spousal support and termination of child support for 1 child; w seeks increase of spousal support

H income imputed at \$63,000 (early retirement unreasonable; can earn extra income; use income in year before retirement)

Child support for 1 remaining child: \$900 plus s. 7 university in future

Spousal support: SSAG range 0 - \$438; court orders \$300 as requested by w, but found to be low as prior award did not meet spousal support objectives because priority to child support

*Clements v. Clements*, 2008 CarswellOnt 5692 (Ont. S.C.J.) (Heeny J.) (Sept 4/08)

Interim support

11 year relationship (8 marriage plus 3 cohabitation); separation 2006; 2 children with mother still in matrimonial home

H \$70,621; w \$29,443

Interim child support \$1036

Spousal support: SSAG range zero to \$573; no interim spousal support payable, h paying mortgage on mat home, \$1,100/mo; court also looks at budgets

\*\**Spikula v. Spikula*, [2008] O.J. No. 3931 (Ont. S.C.J.) (Shaw J.) (Aug 28/08)

16 ½ year relationship (13 marriage plus 4 cohabitation), separation 2007, 1 child 5 with mother;

Father relocates for work reasons to another city 200 km away after separation

Wife at home, then part-time employment; now \$28,544 (2 part-time jobs)

Child support \$719

Spousal support: parties agree on application of SSAG after determination of income; SSAG range \$738-\$1039

\$750 per month ordered; good discussion of why lower end of range chosen; h will have significant travel expenses to exercise access and significant child-care costs; w will get significant equalization payment which can generate income

\*\**Dabrowska v. Bragagnolo*, [2008] O.J. No. 3155, 2008 ONCJ 360 (Ont. C.J.) (Sherr J.) (Aug 11/08)

7 year common law relationship; separation 2006, one child age 5 with mother

W university education in Poland, waitress and factory worker before child; stayed home with child; on social assistance after separation; modest earnings of \$10,780, trying to improve position, no imputation of income

H paid \$1,400/mo interim support for 1 year after separation, then reduced to \$635, then \$270 (child support only); h trucker and hours significantly reduced at end of 2007 because of new regulations  
 H income set at \$35,000 for 2008 and \$40,000 from 2009, no 3 year averaging; no intentional under-employment, table amount of child support ordered  
 Spousal support 2008: SAGG range \$1 - \$229 calculated by court, support set at \$229, guideline result reasonable, leaves w with 51.3% NDI  
 Spousal support 2009: SSAG range \$99-\$356 calculated by court, support set at \$350, leaving w with 51.3% NDI  
 Duration: good review of revisions in SSAG final version setting durational range under *with child support* formula; notes SSAG provides that duration should not be set in initial order and that limits to apply on subsequent variation or review; notes that here durational range 3 -16 years; order indefinite, subject to variation; w's income likely to increase, affecting both amount and duration of spousal support

*Kemp v. Helfrich*, [2008] O.J. No. 3729 (Ont. S.C.J.) (Plantana J.) (Aug 1/08)

Interim support

13 year relationship (4 marriage plus 9 cohabitation); separation 2005; 2 children 6 and 13, temporary sole custody to w

H moves to Alberta after separation; high access costs

H income in dispute re amount of overtime and time off work to exercise access; 2007 income \$76,073; income for 2008 set at \$85,850

W income \$33,879 (said to be net, but seems to be used in calculations as gross)

Interim child support: \$1229 (1 child Alta. Table) plus s. 7 (daycare)

SSAG calculations provided based on h income of \$76,073 (0-\$538) and \$93,300 (\$390-\$1075) [s. 7 not taken into account in calculations] [SSAG range for income of \$85,850 not before court but calculated as \$251-\$916, not taking into account s. 7]

Spousal support of \$400 per month ordered, based on SSAG and review of financial statements

*Drago v. Catalfo*, 2008 CarswellOnt 5250 (Ont. S.C.J.) (Karakatsanis J.) (July 24/08)

Interim support

10 year marriage; separation 2006, 2 children 6 and 4 with mother in mat home

H no payments since separation

H income \$192,300; w \$83,352 (teacher)

Interim child support \$2483 plus significant s. 7; interim spousal \$1000/mo

SSAG not explicitly relied upon but parties using calculations based upon different income assumptions [SSAG range based on incomes found by court not provided but calculated as \$1045-\$2308, not including s. 7 expenses]

*Kajorinne v. Kajorinne*, [2008] O.J. No. 2789 (Ont. S.C.J.) (Pierce J.) (July 8/08)

20 year marriage; separation 2004, 2 children 12 and 14, with w

Interim sep. agreement 2005 based on h income \$77,851: child support \$1009 plus s. 7 and \$817/mo spousal

H subsequently unemployed, income \$22,000 from employment insurance

W now employed, income \$27,500

Child support reduced to \$335/mo, plus some s. 7

Spousal support terminated; SSAG calculations provided by h show no spousal support payable [also reference to exception for payor income between \$20,000 - \$30,000]

\*\**Vanasse v. Seguin*, [2008] O.J. No. 2832 (Ont. S.C.J.) (Blisshen J.) (July 4/08)

12 year common law relationship; separation 2005; 2 children now 10 and 8

W employed in first part of marriage; no employed after birth of children and still unemployed

H acquired and sold business during marriage; living off investments

Interim agreement 2006, child support \$2186, spousal \$5000/mo

H income imputed as \$450,000 (using "conservative" 6% figure for return on investment)

W imputed income of \$85,000 as of July 2008 (investment interest on property award for unjust enrichment plus \$45,000 imputed employment income)

Child support \$5472/mo (table amount despite shared parenting arrangement)  
 SSAG stated not to be applicable because income over \$350,000 ceiling; court uses Murray/Mackinnon study to show dominant pattern of 48.6 – 57.5% NDI in cases where child support in pay  
 Spousal support of \$3,800 per month ordered, giving w 48% NDI  
 [SSAG range not provided but calculated using \$350,000 income ceiling for h as \$4817-\$6687]  
 Time limit appropriate given length of relationship, ages of children, shared parenting, regime, w's age, good health, and past employment record.  
 Total duration of 10 years support from date of separation appropriate; so further 7 years, when children 17 and 15.  
 W's request for lump sum spousal rejected

*Billingsley v. Billingsley*, [2008] O.J. No. 2617 (Ont. S.C.J.) (R.J. Smith J.) (June 30/08)

Interim support

7 year marriage; separation 2006; 2 children; wife 1 prior child; h convicted of sexual abuse of w's child  
 H income imputed at \$125,000 (w had argued for \$200,000); w income \$32,700  
 Child support for 3 children, \$1977 (\$2209 table minus \$232 from step-daughter's biological father)  
 SSAG range, \$811 - \$1654, \$800/mo ordered

\*\**Mann v. Mann*, [2008] O.J. No. 2942, 2008 ONCJ 231 (Ont. C.J.) (Sherr J.) (June 19/08)

Use of SSAG on variation application to recalculate spousal support because of changed incomes  
 19 year marriage; w primarily at home with 2 children; 2 part-time jobs after separation  
 2006 order based on h \$58,500 and w \$28,700: child support \$879 (table 2 children) and \$150 spousal  
 Both parties' incomes drop; h now \$42,900, w. now \$23,693; oldest child ceases to be child of marriage  
 Dec. 2007; court asked to recalculate support for 2007 and 2008  
 For 2007, SSAG show no spousal support payable; although SSAG only advisory and not designed for variation motions (*Fisher*) provide a useful starting point when court being asked to recalculate spousal support back to time of final order; reasonableness of guideline award needs to be assessed against individual circumstances of case; here with no spousal has 57.5% NDI, reasonable result; no basis to depart from Guidelines  
 For 2008, CS for 1 child only, \$395/mo, plus \$66/mo s. 7 (dental), total \$461; SSAG range stated as \$94-\$247; w wants \$815 to give her 61% of NDI; far too high; court orders \$350; leave w with 52.4% NDI (52.7% with s.7); reasonable result [incorrect SSAG calculations used; SSAG range zero to \$27 if no s. 7; no spousal support payable; if include s. 7 expenses; w left with 52.2% NDI before spousal]

\*\**Durakovic v. Durakovic*, [2008] O.J. No. 3537 (Ont. S.C.J.) (Scott J.) (June 11/08)

7 year marriage; separation 2004; 2 children now 10 and 5; h 57 and w 20  
 Children with w; h supervised access  
 Interim support \$8,300/mo combined child and spousal; h in arrears; no payment  
 H doctor, partially retired; engaged in many religious and philanthropic activities; some U.S. employment; many issues re assessing income; determined to be \$225,000  
 W unemployed but some issues re family trust, income of \$14,400 imputed (min wage)  
 Child support \$2862, plus \$500/mo s. 7 (mainly private school) subject to accounting at end of year based on actual expenditures  
 W seeking spousal support for further 5 years (8 ½ yrs total)  
 Parties did not submit SSAG calculations but court refers to SSAG to confirm its own analysis  
 Appropriate duration 6 years from date of separation (ct. looks to length of marriage and date youngest child in full time school)  
 Spousal support \$4,500/mo from May/04 to Jan/06; then \$3,500/mo until April 2010  
 Result stated to be "not outside of an alternate calculation projected by use of SSAG" (implicit reference to restructuring?) [SSAG range not provided; calculated as \$4024-\$5097, taking into account s. 7 expenses]  
 On-going support from Jan 2008 converted to lump sum [\$98,000 in periodic payments for 28 months converted to lump sum of \$49,907 after discount of 30% for tax, 3% for present value and 25% for negative contingencies]



*Baker v. Baker*, 2008 CarswellOnt (Ont. S.C.J.) (Turnbull J.) (June 4/08)

Interim interim support application

4 year marriage; separation 2008; 1 child, 3 yrs. old

H in mat home; w with parents

H income approx \$80,000

Interim interim shared custody

C.S. \$500/mo (lower than table of \$719 bcs shared custody)

SSAG range \$1589 - \$2008

\$1500 interim interim spousal support ordered, but noted no info at this stage re h's carrying costs on mat home

*Arsenault v. Arsenault*, [2008] O.J. No. 2782 (Ont. S.C.J.) (Plantana J.) (June 4/08)

17 year marriage; separation 2007; 2 children, 1 adult, younger child in grade 12

W home until youngest child in grade 9, now part-time, \$14,040

H \$99,550, now in B.C.

No child support paid after separation because h paying off debts; now paid off

Child support \$902 (B.C. table)

SSAG range \$1688-\$2329; spousal support of \$2000/mo ordered (amount w requested), indexed to cost of living