

Appendix II

SPOUSAL SUPPORT ADVISORY GUIDELINES: CASE SUMMARIES B.C. TRIAL DECISIONS [July 2008 – June 2009]

For summaries of the B.C. trial decisions between Sept. 2007 and June 2008 see Appendix III of our paper “The Spousal Support Advisory Guidelines Three and a Half Years Later” (June 16, 2008, revised August 1, 2008)

For the period June to September 2007 see Appendix III of our paper “The Spousal Support Advisory Guidelines 31 Months Later” (Sept. 12, 2007)

For summaries of the trial decisions prior to June, 2007 see our paper “The Spousal Support Guidelines in B.C.: The Next Generation” (June 27, 2007) prepared for the CLEBC Family Law Conference 2007

All papers available at <http://www.law.utoronto.ca/faculty/rogerson/ssag.html>

A. *Without Child Support Cases*

Vlachias v. Vlachias, [2009] B.C.J. No. 1241, 2009 BCSC 843 (Sanotove J.) (June 23, 2009)
10 – 11 year relationship (9 marriage plus 2 prior cohabitation), separation 2007, no children
Husband runs business inspecting fire alarms from home
Wife office administrator with WSBC since 1998, \$48,000
Husband’s income uncertain: set at \$95,000 based on 2006 income in year before separation
Division of assets: equal division of mat. home, h’s RRSPs, wife’s pension shared under Part 6 FRA; h’s business family asset but reappportioned 80% to h because wife made only minor contribution;
Spousal support: no entitlement on compensatory grounds (no economic loss); entitlement only based on disparity of income
Income disparity \$47,000, but need to take into account benefits wife gets from her employment, eg pension, paid holidays, that husband as self-employed does not get; thus less actual disparity
Wife entitled to small lump sum on compensatory (?) principles: \$12,000 lump sum
[SSAG range: \$588-\$783, 5 – 10 years; global range without taking into account tax, present value, \$35,280 - \$93,960]

Labbe v. Labbe, 2009 BCSC 835 (Halfyard J.) (June 23, 2009)
29 year marriage ; 2 children now adults, separation 2006, h almost 55, w 53 (almost 54)
Wife homemaker, no income
Husband works in pulp mill, good income (over \$85,000 2005-08)
After separation h pays w \$1,200/mo spousal (tax free) until Sept. 2008 (29 mos) plus \$350-\$500/mo house expenses
Aug. 2008 h loses job, then EI, \$1800/mo, to cease June 2009; h eligible for pension from former employment June 22, 2009 (\$900/mo); plans to retire; repartnered, new partner also lost job
Division of assets: mat home (\$270,000) reappportioned. 60% to w, h’s need (self-generated) vs. w’s inability to become self-sufficient; h’s pension shared under Part 6, FRA, contributions after separation excluded
Spousal support: significant entitlement on compensatory and non-compensatory grounds
Issue whether \$1 nominal order with liberty to reapply or significant order for spousal support to be paid out of capital; court chooses nominal order; ordering significant support in addition to reappportionment would be double recovery

Wife uses SSAG to claim significant retroactive support for period July 2006 to Sept. 2008, says extra \$1700/mo for 27 mos; court says no retroactive, no blameworthy conduct, payments tax-free, additional amounts for house expenses, no occupation rent paid; w no efforts at self-sufficiency; if min wage work could have earned \$16,000/yr

Liggins v. Sikorski, 2009 BCSC 818 (Curtis J.) (June 19, 2009)

17 year marriage, separation 2006, no children, w now 55, h 49

Division of assets by agreement: essentially equal division

W worked full-time during marriage, bond settlement specialist, Merrill Lynch, lost employment 2009; retirement allowance for 15 months

W's income, average past 4 years \$51,529

H's income from business \$100,000

Spousal support: strong compensatory entitlement; w looked after home and all personal matters to allow h to develop company that now gives him \$100,000/yr income

SSAG range if h. income \$91,499: \$849 - \$1,133, indefinite [rule of 65 applies, although not noted]

On basis that h's income \$100,000, \$1,200 per month appropriate

[note: w's post-separation unemployment not taken into account in determining SSAG range]

Domirti v. Domirti, 2009 BCSC 749 (Loo J.) (June 5, 2009)

16 year marriage, separation 1994, 3 children, 5,7, and 9 at separation

H unionized aircraft mechanic with Air Canada

1996: consent order, child support \$1,500 based on income of \$44,160, spousal \$100/mo

2004: spousal increased to \$1000/mo, review in 1 yr

2005 review: spousal increased to \$1,250/mo, full review in 1 yr, w had retrained as care worker but only casual work; also shoulder injury; h earning \$77,672

2009 full review: parties now separated 15 years, w 52, h, 56; h argues no further entitlement; h income now \$78,775; plans to retire in 2010 when 57; w income \$27,686 (part-time); wants to work full-time but work not available, collective agreements and cuts to health care budgets

Wife not self-sufficient, but not for want of trying; still suffering economic disadvantages of marriage and its breakdown

SSAG range: \$1021 - \$1362, indefinite (?) [incorrectly applies "rule of 65 based on wife's current age (52) not age at separation, duration should be 8 – 16 years]

Support of \$1,250 ordered (midpoint), indefinite (recognizing h will retire in 2010, not clear whether or not support will be terminated or continue, will depend upon parties' pension entitlements on which now no info)

Hall v. Mougan, [2009] B.C.J. No. 988, 2009 BCSC 645 (Savage J.) (May 14, 2009)

23 year traditional marriage; separation 2004, 3 grown children

W homemaker and then employed in bank; H geologist

W in mat home with children after separation; parties sharing children's expenses

Interim spousal \$600/mo (2006) then \$1000/mo (2008)

Equal division of family assets

W's income imputed at \$38,000 (\$30,000 employment plus \$8,000 imputed rental income); H's income imputed at \$130,000 (\$120,000 employment under contract plus \$10,000 rental and other; no additional self-employment income to be imputed at this time)

SSAG range, \$2645-\$3527, support of \$3086 ordered (midpoint)

Lamoureaux v. Kalyk, [2009] B.C.J. No. 878, 2009 BCSC 584 (Slade J.) (April 30, 2009)

Dependent's relief claim

Plaintiff and deceased lived together for 6 years, planning to marry

Deceased died unexpectedly at age 69; planned to change will to increase bequest to plaintiff but died before signing

Net value of estate of \$480,000; plaintiff received bequest of \$50,000 under will

Plaintiff brings action for order under Wills Act to provide for her proper maintenance and support

SSAG used to quantify deceased's legal obligation to plaintiff; based on deceased income of \$153,000 and plaintiff income of \$45,000, SSAG range \$788-\$1050/mo for 3-6 years; [global range not stated,

calculated as \$28,368 - \$75,600 without any discounting] \$50,000 bequest would satisfy FRA spousal support obligation

But strong moral obligation to provide for plaintiff's security; will varied to provide plaintiff with payment of \$220,000.

McEwan v. Fisher, [2009] B.C.J. No. 831, 2009 BCSC 559 (Cole J.) (April 27, 2009)

9 year unmarried cohabitation; separation in 2002

W works as nurse in first half of relationship then stops to accompany H on business travel; W 50 when separate

On separation W assets of \$802,000 and H \$5.1 million

Post-separation W plans to retrain but health issues

2004 order, \$4,500/mo, review in 2 yrs; 2006, reduced to \$4,000/mo for 2 yrs

H brings variation application seeking termination

H income \$180,000; W no income; says unable to work; medical evidence shows some ability to work; not making sufficient steps toward self-sufficiency

SSAG range for duration noted: 4.5 – 9 years

Unfair to terminate immediately, W still needs some time to prepare for self-sufficiency Support ordered at current rate for 2 more years (until 2010, total duration 6 yrs), then terminated

No reference to SSAG amounts, global ranges or restructuring

[SSAG range \$2025-\$2700/mo for 4.5 to 9 yrs; global range \$109,350 - \$291,600; amount ordered (approx. \$300,000) essentially within global range]

S.J.A. v. S.A., [2009] B.C.J. No. 725, 2009 BCSC 486 (Meiklem J.) (April 9, 2009)

17 year marriage; separation 2005; 1 adult child, both 47

W \$27,527, special needs teacher, moved for h's work

H, \$63,745, Ministry of Forests, eligible for retirement on unreduced pension 2017

Interim spousal \$685/mo

Equal division of family assets

W wants \$1000/mo spousal to equalize incomes—above SSAG

SSAG range \$730-\$974, 8.5-17 years

Court orders \$730 (low end of range), because w left with mat home, has secure employment, could increase income, and will start to share h's pension income when 56

Duration, retroactive to 2005 and continuing until May 2017 when h eligible for retirement, then review of entitlement (total 13 yrs)(support likely to come to end but can't prejudice)

Garritsen v. Garritsen, [2009] B.C.J. No. 691, 2009 BCSC 124 (Melnick J.) (April 7, 2009)

18 year relationship (not stated)

H \$49,345; W \$20,400

SSAG range \$651-\$868, mid-point \$760

In interim h living in mat home; w paying rent of \$645

Interim support: master orders \$1000, above SSAG, says mid-point would be appropriate but then interim exception because h living rent-free and w paying rent

On appeal, spousal support reduced to \$868 (upper end of range); interim exception not applicable;

husband paying \$900/mo carrying costs on mat home, equivalent to rent; SSAG range not inappropriate

Mocchi v. Mocchi, [2009] B.C.J. No. 634, 2009 BCSC 435 (Holmes J.) (March 31, 2009)

33 year traditional marriage, separation 2006; 2 children now adults,

H in restaurant business; w worked in bank before marriage but since only in h's business

Equal division of family assets

H plans to sell business; until sale w getting share income; after h capable of earning \$40,000-\$50,000; wife no income, health issues and lack of skills, limited English

Spousal support \$1 per mo until business sold, then \$1500/mo, brief reference to SSAG, [SSAG range calculated as \$1406- \$1755 if h income \$45,000; award in lower end of range]

Roach v. Dutra, [2009] B.C.J. No. 353, 2009 BCSC 229 (Pearlman J.) (Feb 27, 2009)

6 year unmarried cohabitation; separation 2006, w 38, h 49

W two children from prior relationship but no claim for child support

W receives \$40,000 payment in unjust enrichment for contribution to property
 W stopped full-time work; worked part-time during relationship, income \$24,000; post-separation lower due to stress, \$16,047, for SSAG w's income imputed at \$24,000
 H dairy farmer, gross income \$712,264, says net is \$17,000; court imputes \$108,000
 Entitlement to spousal support based on compensation and need; w needs assistance in achieving self-sufficiency
 Lump sum spousal support of \$30,000 based on SSAG; SSAG range stated as \$608-\$709, 3-6 yrs, if converted to lump sum cost to payor \$25,000-\$34,000, benefit to recipient \$31,000 - \$43,000; court chooses midpoint.
 Lump sum will bring finality and h has ability to pay from sale of one property
 [DivorceMate calculations show SSAG range as \$630-\$840; lump sum cost to payor \$13,000-\$34,000; benefit to recipient \$16,000 - \$43,000; area of overlap \$16,000 - \$34,000]

Trewern v. Trewern, [2009] B.C.J. No. 343, 2009 BCSC 236 (Metzger J.) (Feb 26)
 21 year marriage; second marriage for both, no children, separation 1999 when h 56 and w 59
 Both worked throughout marriage, w in store, lower income
 Divorce 2000; consent order, spousal \$1,200 per month; equal division of property including h's pension and RRSP's
 H retires in 2007 and stops paying; seeks variation to reduce or terminate support
 Year before retirement h's income was \$112,000
 H income \$36,509; w's income \$21,333 (from pension including share of h's pension); both living beyond their means
 H argues *Boston*, "double-dipping"; no "double-dipping" not situation where w received other assets in lieu of pension; pension now being received not considered in property division
 SSAG range: \$398-\$531; orders \$400 per month to allow w to come close to equality of lifestyles

Poitras v. Garner, [2009] B.C.J. No. 206, 2009 BCSC 144 (Goepel J.) (Feb 10, 2009)
 Married 6 years plus 8 cohabitation, total 14, separation 2005, h then 45, w 54
 Separation agreement gives wife \$200,000 (most of property) but waiver of spousal support
 H seeks to set aside agreement for duress or as unfair under FRA
 H geological consultant, income \$143,000; w some part-time during relationship, now \$3,600
 No grounds for setting aside agreement; no duress; looked at in totality, including waiver of spousal, agreement not unfair
 SSAG used to place value on waived spousal support claim: SSAG range if h \$143,000 and w zero: \$2,503-\$3,337, indefinite; if \$20,000 imputed to w, range \$2,153-\$2,870; at midrange of \$2,500 annual support of \$30,000, indefinite; assuming h works until 60, support obligations would exceed \$450,000, albeit with tax deduction.
 [No specific reference to "rule of 65" but implicit in calculations]

G.G.F. v. R.F., [2009] B.C.J. No. 215, 2009 BCPC 43 (Saunders Prov. Ct. J.) (Feb , 2009)
 8 year marriage, separation 2005
 Wife drug addict, unknown to h at time of marriage; shortly after marriage becomes disabled due to drug use
 H paid \$50,000 to repair damage to repair mat home which w used as drug house while living in it post-separation until 2007
 H income \$71,436; w on social assistance since 2007; also covered by h's extended medical insurance
 Spousal support claim brought by Minister
 No entitlement to spousal support; marriage not a joint endeavour; did not give rise to basic social obligation; w's needs arise from her drug dependency and arose long before marriage; if w were to receive funds from h instead of state support, she would end up on the streets

Enemark v. Enemark, [2009] B.C.J. No. 148, 2009 BCSC 104 (Chamberlist J.) (Feb , 2009)
 27 year traditional marriage; separation 2000, h now 62, w 59 (52 at separation)
 2003 order: spousal \$1,950/mo indefinite, review in 4 years
 On review; h argues support should be terminated bcs w no need; had investments, had received \$175,000 inheritance and was saving much of her investment income for her future

H income \$100,000; w no income from employment; few efforts in 7 yrs since separation; court imputes income of \$38,000 (what she could earn from investments, rental income, employment (\$12,000))
 Fact w saving money for future rather than to sustain marital standard of living personal choice and did not disentitle her to spousal support; “need” not to be interpreted as bare subsistence
 SSAG range: \$1937 - \$2583
 No reduction, spousal support to continue at \$1,950

S.K. v. L.K., [2009] B.C.J. No. 105, 2009 BCSC 69 (Garson J.) (Jan 27, 2009)
 21 year marriage, 2 children, separation 1995
 W nurse but mental illness and unemployed since 1994
 1997 agreement, \$9000 lump sum and \$250/mo for 2 yrs; agreement filed in court under s. 122 FRA
 W also physically disabled post-separation; unable to work; disability income \$817/mo
 H \$97,000 (\$82,632 without overtime)
 W applies for interim spousal support under FRA and to “vary” agreement
 Agreement unfair, *Miglin* stage 1; did not take into account w’s medical condition and fact self-sufficiency not realistic goal
 SSAG range based on h income \$82,632 and w. \$9720: \$1823-\$2430
 Court orders \$1200, lower than SSAG because of agreement and delay (w’s expenses found to be \$1518/mo)

Viberg v. Viberg Estate, [2009] B.C.J. No. 38, 2009 BCSC 27 (Chamberlist J.) (Jan 14, 2009)
 Children of deceased bring application under Wills Variation Act alleging inadequate provision for their support
 Deceased died in 1995, will leaving estate to w made 26 years before his death
 3 years before his death, deceased had separated from his wife after 28 years of marriage in 1992, had negotiated separation agreement dealing with division of assets but never signed; spousal support had been unresolved;
 Estate had gross value of \$478,964; deceased’s separated wife (children’s mother) received net assets of \$317,404 plus life insurance benefits totaling \$342,495 and survivor’s CPP pension of \$423/mo
 Total value of benefits w received \$699,898 (under separation agreement w would have received total assets of \$356,500; plus spousal support which was unresolved)
 Children’s lawyer introduces SSAG calculations to assist in quantifying wife’s spousal support award when looking at the legal obligation of deceased to wife
 Calculations use income of \$36,000 for husband (salary drawn from business)
 Court find SSAG not helpful; h’s monthly draw from business not helpful in determining what his income would be for spousal support purposes; also SSAG based on current incomes and circumstances; can’t be used to calculate past indebtedness
 Finds inadequate provision for children; applies formula based on scheme for intestacy; awards each of children \$50,000.

Burton v. Gillies, [2009] B.C.J. No. 1, 2009 BCSC 1 (Smith J.) (Jan 2, 2009)
 14 year relationship (3 marriage plus 11 prior cohabitation) no children, w children from prior marriage now grown; separation 2007, w now 60, h 45
 W did not work outside home during relationship; \$10,000 imputed; h earns \$77,577
 Division of assets: \$50,000 equity in home reapportioned to w; h assumes debts; h’s pension to be shared equally
 SSAG range: \$1183-\$1577, courts orders midpoint, \$1380, indefinite
 [No specific reference to “rule of 65” but implicit?]

Williams v. Williams, [2008] B.C.J. No. 2267, 2008 BCSC 1603 (Cole J.) (Nov 24, 2008)
 33 year traditional marriage, with 2 year separation in middle, 1990-92; final separation 2006; relationship abusive; 2 children, now grown, both 51
 H insists on marriage agreement after 1992 reconciliation: w to receive \$25,000 on divorce and spousal of \$1000/mo for 4 yrs
 W grade X education; husband businessman
 Agreement set aside; duress; wholly inadequate
 Reapportionment of assets, 60% to w, w left with \$1.4 million

W income imputed at \$6000; h imputed at \$150,000 (inadequate disclosure)
SSAG range: \$4500 - \$5870; court orders \$4500 because of reapportionment

Brand v. Brand, [2008] B.C.J. No. 2176, 2008 BCSC 1541 (Brown J.) (Nov 1, 2008)
30 year traditional marriage; 2 grown children; separation 2006 or 2007(?)
H 64, w. 58
Equal division of assets
H sales manager, \$82,750, including \$5000 bonus; w home care aid, \$24,456
Spousal support of \$2000/mo ordered, until date of husband's retirement; reduced to \$1800 until line of credit discharged; order based on husband's income without bonus; net after tax value of bonuses to be shared equally
[SSAG range calculated as \$1665-\$2156 (net income equalization cap)]

Mitchell v. Mitchell, [2008] B.C.J. No. 2025, 2008 BCSC 1440 (Slade J.) (Oct 28, 2008)
26 year relationship (24 marriage plus 2 prior cohabitation); 2 grown children
Separation 2003; h now 66, w 60
Equal division of assets, each left with approx. \$1 million
H owns rental properties and court reporting business, income imputed as \$90,000
W worked part-time during marriage, then in h's business, now poor health, no income
SSAG range: \$2813-\$3570; court orders \$3300.

Sarton v. Sarton, [2008] B.C.J. No. 2619, 2008 BCSC 1760 (Gropper J.) (Oct 17, 2008)
23 or 24 year relationship (married 8 or 9); separation 2006 or 2007; w now 51, h 45
1 child in university
Interim spousal: \$1300
Equal division of assets except for property worth \$185,000 inherited by wife shortly before separation; wife to keep
H \$114,000 (annualized 2008 income based on year to date salary, including bonuses)
W clerk, not employed until child 12; now secure part-time \$29,950 (no further income imputed)
Court orders midpoint of SSAG range: \$2851; child support issue adjourned
[note: Court uses SSAG calculations provided by w based on h income \$114,952 and w \$29,950; child support to be assessed on incomes after spousal?]

Gosling v. Gosling, [2008] B.C.J. No. 1870, 2008 BCSC 1323 (Wilson J.) (Oct 2, 2008)
14 year marriage with children; separation 1992
H paid interim spousal support pursuant to agreement
Trial in 2005: division of assets, w gets 72% of mat home and 30% of h's pension; spousal support of \$1000/mo based on h income of \$85,850
2006 w receives inheritance of \$560,000
H brings variation application to reduce or terminate spousal, both now 54; h mandatory retirement in 6 yrs.; w income \$32,404, caregiver of adult daughter with mental disability
Wife's inheritance material change in circumstances; relevant because spousal support order non-compensatory (?)
Spousal support terminated, no further entitlement (16 yrs. total)
Not necessary to consider SSAG, but noted that result consistent with durational limits under SSAG (7-14 years)

Lam v. Chiu, [2008] B.C.J. No. 1648, 2008 BCSC 1177 (Pearlman J.) (Aug 28, 2008)
20 year marriage, no children, separation 2006, w 47, h 52
Interim spousal \$500/mo
Equal division of assets: each \$300,000
H associate architect, \$54,000 plus gross up for benefit of leased vehicle \$21,000, total \$75,000
W had worked in retail, earned \$35,000; lost job 2007 (post-separation) and depression and stress re marriage breakdown, no income; income imputed at \$35,000
Wife asks for \$2200/mo, indefinite
Modern marriage; wife entitled to spousal support only for brief transitional period

SSAG range \$1000-\$1333, indefinite; court orders \$1200 to terminate in 15 months, subject to review of termination date

[why impute income to w if ordering only transitional to enable her to find employment?; if w zero income range \$1875-\$2188-\$2500]

Rakose v. Rakose, [2008] B.C.J. No. 1632, 2008 BCSC 1165 (Crawford J.) (Aug 2, 2008)

20 year traditional marriage; 3 children, now grown, separation 1996 or 1997, w now 51, h 55

1997: spousal support \$2000/mo

2000: reduced to \$1,300/mo

Dec. 2007: h stops payments, claims w living common law; brings variation application

H's income \$72,967, remarried

W claims engaged but not living common law; health issues; part-time in beer store, \$13,663; says no material change;

W presents SSAG calculations showing range \$1576-\$2101

Review of case law on remarriage

Insufficient evidence of material change in circumstances; court did not have global incomes, expenses, assets and liabilities of parties' new relationships

W still disadvantaged and in need of support; likely to change within next 2 years

Support of \$1200/mo ordered, subject to review in 2 years or variation before that on basis of material change in circumstances

Reavie v. Heaps, [2008] B.C.J. No. 1461, 2008 BCSC 1038 (Arnold-Bailey J.) (July 31, 2008)

2 year common law relationship; parties engaged but never married, separation 2002

Both sold prior homes to build new home

W now 54, h 55, w 12 yr old child from prior relationship

Wife awarded \$50,000 in unjust enrichment

Wife had worked as part-time teacher's aid, earning \$26,000, but did not work during relationship; income of \$24,696 imputed

H's income (own business) imputed as \$89,152

SSAG annual range calculated as \$2175-\$2900, .5-1 yr; court orders lump sum of \$2900

[note: duration should be 1-2 not .5-1; no discount for tax implications of lump sum; why impute income to wife if no income and award based on 1 year transitional period in which to regain past income? No reference to compensatory exception]

Aelbers v. Aelbers, [2008] B.C.J. No. 2291, 2008 BCSC 1624 (Smart J.) (July 3, 2008)

2005 consent order: spousal \$2100/mo; understood to be within SSAG range

2008: w brings variation application for retroactive increase based on husband's non-disclosure of income (retained earnings of company)

H's income to be salary plus half of retained earnings

W unemployable

Support to be readjusted in light of SSAG based on new income for h; no figures given

[husband appealing]

Ralph v. Ralph, [2008] B.C.J. No. 1433, 2008 BCSC 1010 (Sigurdson J.) (July 29, 2008)

26 year traditional marriage; 3 children; separation 2005; w now 48, h 50

2006: interim spousal \$4000/mo out of which w to pay \$2000/mo mortgage on mat home)

Asset division: each approx. \$200,000; w to get mat home and RRSP's; h to keep share in family business

H income set at \$85,000; w imputed income of \$15,000 (min wage)

Spousal support set at \$2750 after considering SSAG, range not stated

[range calculated as \$2188-\$2822, midpoint \$2552]

Waters v. Conrod, [2008] B.C.J. No. 1256, 2008 BCSC 869 (Johnston J.) (July 2, 2008)

10 year cohabitation; separation 2003

W 33 and h 63 at beginning of relationship; h wealthy businessman, w gives up employment in order to share domestic and social activities with h

2001 motor vehicle accident (prior to separation) leaves w unemployable

2002: h assets of over \$4 million and income over \$550,000; 2004 just over \$400,000

2005 order: spousal support of \$7000/mo, to be reviewed in 2 yrs (after w's lawsuit resolved)
 W receives \$500,000 for equalization and damages, uses to buy house
 H brings application to reduce support; his income now \$159,574
 Court analyzes as both variation and review
 As variation, h's decreased income not a material change in circumstances; while h's income had dropped his assets had increased; h major shareholder in corporation and controlled amount of income he could receive
 As review, no basis for changing amount of spousal support; damages from personal injury claim did not significantly change w's circumstances; re w's medical condition, not clear whether wife permanently unemployable, but h needs to bring better evidence
 SSAG not helpful in this case where payor's ability to pay so heavily influenced by his asset or capital base and he has ability to structure his personal financial affairs in ways that, while legitimate from business point of view, do not readily adapt themselves to the SSAG.

Kerman v. Kerman, [2008] B.C.J. No. 710, 2008 CarswellBC 793, 2008 BCSC 500 (Metzger J.) (April 24, 2008), supplementary reasons at [2008] B.C.J. No. 1244, 2008 BCSC 852 (June 30, 2008)
 Married 18 years, separated 1996, 3 adult children, wife 58
 2000 consent order: husband lost Alcan job, \$1 nominal order for spousal support, review in 2001
 2006 review application, heard in 2008: husband didn't disclose that re-employed
 2001-2007: husband averaged \$114,212, wife \$28,932/yr.
 Range \$1,919-\$2,558; high end as non-disclosure and hardship of wife
 Retroactive spousal support back 38 mos., total \$97,321
 Wife now earning \$29,250/yr.
 Husband retired at age 54, okay as new partner ill, 30 years in work camps, to obtain lump sum pension
 Can find alternate employment, income of \$50,000 imputed
 Range \$467-\$622, so spousal support of \$625/mo., for 6 more years (18 total)
 Supplementary reasons: judge clarifies he intended lump sum for retroactive support to be tax free, although cannot control Revenue Canada's determination [but no deduction in calculating lump sum to take account of different tax consequences, i.e. no tax deductability by husband and amount tax free to w]

J.M. v. L.D.M., [2008] B.C.J. No. 1746, 2008 BCSC 1235 (C. Smith J.) (April 11, 2008)
 Together 23 years (married 18), separated Jan. 2001, H 61, W 49, 3 children 23, 21 and 20
 Dec. 2002 consent order: husband professional earning \$237,000/yr., child support \$3,000/mo., spousal support \$4,500/mo., review in 5 years, post-secondary education expenses to be shared, husband to pay all private school tuition
 2004: equal division of assets; each left with approx. \$1.3 million (w house; h prof. corp. and RRSPs); child support reduced to \$2,578/mo. when one child (middle) with husband
 2005 application to vary by wife dismissed
 Now review: SSAG apply to review
 Wife still in large West Point Grey home, oldest child with her (independent, soon to move out), middle child away at university, youngest child away and in 3rd year (1 month with each parent in summer), graduating in 2009
 Wife injured in 2000 motor vehicle accident, \$100,000 settlement, hereditary neurological disorder, unable to work, could move to smaller home and earn income by investing remainder of proceeds, income imputed of \$40,000/yr.
 Husband's income at least \$244,000/yr., no deduction for \$15,000/yr. paid direct to youngest son, as he to graduate in 2009, no other child support paid; also \$3.8 million is assets
 Various ranges and calculations under SSAG offered by lawyers
 Range used by judge \$5,865-\$7,820/mo. [*without child support formula*]
 Order for spousal support of \$6,500/mo., indefinite
 [But h also paying living and educational expenses of middle child and some expenses of older child; not taken into account]

B. With Child Support Cases

R.A.C. v. V.L.C., [2009] B.C.J. No. 1233, 2009 BCSC 825 (Griffin J.) (June 22, 2009)

Together 13 years (married 11), separated Sept. 2006, H 45, W 38

Children 10, 8 and 7

Wife investment adviser, Scotia McLeod, employed 2 nannies

Husband manager of car dealership, serious cocaine addiction, discovered Dec. 2007

Interim shared custody arrangement until then, thereafter supervised access

Both spouses repartnered, husband now drug-free, seeks shared custody

Week about shared custody granted

Small reapportionment of family assets, as wife paid down mortgage and husband's debts, also husband's post-separation drug spending, wife to pay \$128,000 to husband

Income issues re wife, disclosure issues, income splitting, income fixed at \$900,000/yr.1

Husband's income \$84,000/yr.

Child support: \$14,368 - \$1,610 = \$12,758/mo. paid by wife to husband, no retro support

Husband seeks spousal support:

No compensatory basis, his career limited by his addiction, not child care

Non-compensatory? husband's new partner earns \$60,000, child support provide equivalent standard of living, husband received interim support of \$1,500/mo. from Nov. 2007 to trial (20 mos.)

Husband self-sufficient, no entitlement

M.G. v. D.G., [2009] B.C.J. No. 1225, 2009 BCSC 809 (Burnyeat J.) (June 22, 2009)

Married 14 years, separated Aug. 2008, H 49, W 46, 1 child 9

Family assets divided equally

Custody issues, access denial by wife, alienation by wife, counselling ordered, primary residence to wife

Husband project manager, earns \$61,000/yr., wife no income, once worked as German-Japanese interpreter

Child support \$570/mo.

SSAG range \$1,200-\$1,400-\$1,500/mo., order for \$1,200/mo. considering wife's expenses, all other factors, including no efforts by wife to become self-sufficient

Duration limited to 2 years only

Stanger v. Dehen, [2009] B.C.J. No. 1193, 2009 BCSC 778 (Rice J.)(June 16, 2009)

Married 20 years, 2 children 19 and 17, H 55, W 47, separated 2005

Both daughters substance abuse problems, older with husband, younger with wife

Husband manager of Xerox store, earns \$60,000/yr. wife receptionist, earns \$25,200

Child support \$561 by husband for one, older child to travel, maybe return to school

Spousal support compensatory, as wife home, left hospital job to move for his career

Reapportionment of family assets worth \$725,000, 60/40 to wife

Range \$127-\$615, mid-point of \$381/mo. ordered, indefinite

T.(J.L.) v. T.(J.D.N.), 2009 CarswellBC 1564, 2009 BCSC 780 (Ehrcke J.)(June 12, 2009)

Married 5 ½ years, separated 2000, 2 children 12 and 10 with wife, H 49, W45

Husband's income in issue, ophthalmologist, \$270,000, to remarry

Wife nurse, income imputed \$40,000/yr.

Child support \$3,525/mo.

No s. 7 expenses for private school (husband can pay if wishes), music, gymnastics, etc.

Support of \$5,500/mo., paid for 5 years

Dec. 2006 agreement: spousal support continued at \$2,000/mo., to end Dec. 2008

Wife applied to maintain support, extend for 7 years until youngest finishes high school

Miglin: agreement upheld, despite problems in wife's renovation business and split with new boyfriend

(also involved in business) since 2006

[Range \$4,528-5,928/mo.; at \$2,000/mo., wife and children receive 45.7% of NDI]

Southcott v. Southcott, [2009] B.C.J. No. 1143, 2009 BCSC 760 (Arnold-Bailey J.) (June 9, 2009)

Married 10 years, separated Aug. 2006, H 52, W 47

Children 12 and 10, shared custody, 40% with husband
 Interim order 2007: child support set-off \$713/mo., big s. 7 expenses, \$600/mo. spousal
 Wife journalist/editor, started own local magazine, now earns \$34,584/yr.
 Husband steam engineer at pulp mill, earns \$81,840/yr.
 Child support: \$1,209-\$537=\$672/mo. (s. 7 expenses?)
 Wife disadvantaged, primary during marriage, part-time work, 60% of child care now
 Wife working hard to be self-sufficient
 Range \$453-\$990/mo., order for \$700/mo., another 4 years (2 years interim paid)
 By then youngest nearing end of high school and wife larger income

Hartshorne v. Hartshorne, [2009] B.C.J. No. 1050, 2009 BCSC 698 (Leask J.)(May 28, 2009)
 Together 12 ½ years (married 9), H 61, W55, separated Jan. 1998
 Children: son 21 home with wife, ADHD/special needs, returning to university daughter 19 at university in Ontario, to wife's home during breaks
 Marriage contract litigated to SCC, upheld in 2004, redetermination of spousal support
 Son still "child of marriage", 2007 income \$19,998, ½ table amount until return to school
 Retro child support and s. 7 expenses for 2005-07 as husband's income higher
 Wife claims spousal support for period 1999 to 2008
 Husband lawyer, own firm, remarried to another lawyer, 1 child, earns \$320,550/yr.
 Wife lawyer, home 14 years, strong compensatory claim
 Wife worked to requalify, associate in firm and not partner, earns \$121,879/yr.
 Wife no income 1999-2001, increased from 2001 to 2007
 Husband argues wife should not share in post-separation income increase(from 1998 \$175,789/yr.), but full increase included
 SSAG limitations in this context identified, but high range for amount and duration
 Lump sum spousal support calculated as \$350,000 using SSAG, other methods
 Set off against wife's payment on home (\$265,318),and then SCC property award

D.L.G. v. R.A.G., [2009] B.C.J. No. 1020, 2009 BCSC 687 (Beames J.)(May 25, 2009)
 Together 19 years (married 13), separated March 2005, H 41, W 41
 4 children 22, 15, 14 and 11, with wife
 Interim order 2005: husband earned \$152,542, child support \$2,683, spousal \$2,000/mo.
 Interim custody of 3 younger children to wife, high-conflict, judge remain seized
 Reapportionment: family company shares given to husband, 80/20 to husband, other family assets divided equally
 Oldest child not "child of marriage", now employed part-time, part-time university courses over time,could change if returns to school full-time
 Husband's income now \$75,000, family companies in trouble
 Child support \$1,459/mo. for 3, no s. 7 expenses
 Spousal support: wife 18 when married, not finished Grade 12
 Separated 4 years, no steps taken by wife, deliberately unemployed, imputed \$15,000
 Duration indefinite, 4 years gone, 9 to 18 years under SSAG
 Modest spousal support in future, range \$130-\$500/mo.
 Order to continue at \$2,000/mo. to Aug. 2009, transition, then \$400/mo.

E.G.P. v. S.L.P., [2009] B.C.J. No. 1019, 2009 BCSC 685 (Hinkson J.)(May 25, 2009)
 Married 5 years, separated Oct. 2007, H 45, W 33, wife 1 child 12 by prior relationship
 Also boy 4, shared custody
 Husband owned martial arts business, wife worked there too
 Prenup: spouses only share increase in value of family assets, accepted by wife and Court
 Husband income issues, charges 70% of all expenses to business
 Declared 2007 income \$16,935, income of \$40,000 imputed, plus \$20,000 expenses grossed up, for total income \$68,800/yr.
 Wife earns \$15,000/yr., trying to become firefighter
 Child support: step-parent, biological father never paid, table amount, review in 1 year shared custody set-off: \$1,036 - \$125 = \$911/mo.

Retroactive spousal support from Nov. 2007 to March 2009, to be calculated
 [Range estimated as \$288-\$707/mo.]
 Lump sum support of \$10,000 for training plus \$6,000 for 9 months, review in 12 mos.

G.P. v. M.J.R.P., [2009] B.C.J. No. 981, 2009 BCSC 659 (Fisher J.)(May 15, 2009)
 Together 6 years (married 4), separated Sept. 2007, wife 28
 Children 6 and 5, shared custody, week about
 Husband deckhand, towing co., earns \$63,636/yr.
 Wife home 3 years, cleaning business, self-employed, income issues, earns \$28,800/yr.
 Child support: \$961 -\$453 = \$508/mo.
 Section 7: husband pays full day care, \$1,078/mo. (gross?)
 Wife entitled to spousal support, on non-compensatory basis (?)
 Range \$84-\$585, wife seeks mid-range, order \$350/mo., review by July 2011
 Retro spousal support back to May 2008, husband paid expenses before that
 Property negative, reapportionment, husband to bear contingent liability on foreclosure

Samson v. Samson, [2009] B.C.J. No. 952, 2009 BCSC 635 (Gropper J.)(May 12, 2009)
 Together 14 years (married 11), separated Sept. 2005, wife 44 at separation
 Children 13 and 11, shared custody
 2006 minutes of settlement: child support \$1,057, spousal support \$650/mo.
 Review under agreement
 Husband firefighter, workers compensation, \$81,786/yr.
 Wife in car sales, then home, various jobs since separation, failed real estate exam twice, now membership
 development at golf club, earns \$40,000
 Husband unilaterally terminated spousal support and reduced child support, affected wife's ability to
 develop self-sufficiency
 Child support: \$1,209 -\$744 = \$465/mo.
 Spousal support under agreement in SSAG range (\$563-\$1,145/mo.)
 \$650/mo. continued from July 2007 to April 2008
 Reduced to \$325/mo. until Sept. 2008 (range 0-\$460), nominal order after that

N.L.H. v. S.H.H., [2009] B.C.J. No. 904, 2009 BCSC 609 (Williamson J.)(May 4, 2009)
 Together 15 years (married 12), separated Jan. 2008, children 9, 6 and 8 mos., with wife
 Husband income issues, says \$38,220, martial arts business "sold", imputed \$43,500/yr.
 Interim child support \$869/mo., plus s. 7 expenses (no amount stated)
 Wife unemployed, formerly involved in martial arts business, no income
 Range \$255-\$455, inadequate info so mid range, interim spousal support \$397/mo.

Sonnberger v. Sonnberger, [2009] B.C.J. No. 879, 2009 BCSC 586 (Master McCallum) (April 30, 2009)
 Married 11 years, 2 children with wife
 Husband runs excavating business, 2009 income \$30,000, not \$50,000 claimed by wife
 Husband had to restart business
 Wife no income, living with new partner
 Interim child support \$472/mo.
 Interim spousal support, mid-point of range, \$360/mo., range \$279-\$437/mo.

Godinez v. Gallant, [2009] B.C.J. No. 840, 2009 BCSC 540 (Bernard J.)(April 28, 2009)
 Together 22 years (married 16), children 16, 13 and 11
 Husband server, tips, declared income \$29,000/yr., tips \$69,600, but no gross-up (?)
 Matrimonial home proceeds reapportioned 60% to wife, no amount stated
 Wife also server, \$35,000/yr., employment restricted to mid-day hours for children
 Child support \$1,365/mo. (?)
 Spousal support range 0-\$201/mo., indefinite
 No spousal support after apportionment
 [If undeclared tips properly grossed up, husband's income \$87,500]
 [Child support \$1,668/mo., spousal range 0-\$497-\$798/mo.]

Paheerding v. Palihati, [2009] B.C.J. No. 830, 2009 BCSC 557 (MacKenzie J.)(April 27, 2009)
 Married 9 years, separated Aug. 2008, H 44, W 42, married in China
 Husband's 2 children of first marriage live with him, age 19 and 16
 Wife's son 18 of first marriage also with them
 Wife little English, home and employed in low wage jobs
 Husband beat wife, wife on EI disability, income \$12,168/yr., ending in 2 mos., then social assistance
 Husband in jewellery supply business, says part-time, income only \$16,800/yr., court imputes \$28,471/yr.
 No child support sought, offsetting obligations (?) (\$266 - \$151 = \$115)
 Spousal support on compensatory basis, range \$253-\$479/mo.
 Order for maximum \$479/mo., indefinite, wife disabled from spousal abuse
 [Social assistance treated as income? If her income zero, range \$740-\$856/mo.]

Andreychuk v. Andreychuk, [2009] B.C.J. No. 822, 2009 BCSC 549 (C. Smith J.)(April 24, 2009)
 Married ?, separated June 2003, 5 children, 3 left ages 16, 14 and 11, with wife
 2003 order: child support \$1,000/mo., spousal support \$1,000/mo.
 2004: 1 child with husband, 4 with wife, child support \$891/mo., arrears reduced
 Husband large debt to Revenue Canada, was \$49,400, now \$29,600, garnished husband's income since
 April 2005, \$935/mo.
 Wife earns \$24,000, husband earns \$54,468 from contracting business
 Child support \$1,080/mo.
 SSAG range shows zero support, no support for 18 months, then review

M.E.C. v. D.E.J., [2009] B.C.J. No. 766, 2009 BCSC 519 (Barrow J.)(April 1, 2009)
 Married 9 years, children 11 and 9, with wife, H 49, W 41, separated Nov. 2005
 Wife from Mexico, at home, various jobs, earns \$23,000/yr.
 Husband developer, motel owner, income issues, works for steel shed company
 Income imputed at \$75,000 (and not actual \$20,000)
 Child support \$1,120/mo., 75% of child care if wife back to work
 House and motel proceeds divided 50/50, income tax liability
 Interim spousal support \$500/mo. from Oct. 2006
 Range \$209-\$842 for 4 ½ to 12 years
 Order for \$500/mo., for 3 more years (6 years total?)

Hosseini v. Kazemi, [2009] B.C.J. No. 743, 2009 BCSC 502 (Boyd J.)(April , 2009)
 Husband applies to vary for shared custody, to terminate spousal support on review
 Husband and wife both 51, children 11 and 4 with wife
 Husband vascular surgeon, earns \$351,649/yr.
 Shared custody premature, child support \$4,521/mo.
 Section 7 expenses: \$15,000/yr. child care, \$3,549/yr. medical expenses
 2006 order: spousal support \$8,000/mo., review in 2 years
 Wife pediatric occupational therapist, worked part-time (15 hrs/wk) in public sector
 Now self-employed, loss in 2008, wife says 5 more years to establish self
 Wife got first \$400,000 equity in home as reapportionment
 Upscale West Van home, big debts, more affordable housing required, plan "doomed"
 Expert evidence that wife could earn \$49,900 as OT
 Spousal support: \$8,000/mo. for 6 mos., \$7,000/mo. for 6 mos., \$6,000/mo. for 1 yr., terminate in April
 2011, as wife earning \$50,000 as OT then (5 years total)
 [Range \$7,269-\$8,841/mo. if zero income; if wife earns \$50,000, \$5,932-\$7,660/mo.]

Durrad v. Durrad, [2009] B.C.J. No. 736, 2009 BCSC 492 (Gray J.)(April 14, 2009)
 Together 11 years (married 10), separated Oct. 2005, children 13 and 11, H 51, W 50
 Husband steel grinder, earns \$60,000/yr.
 Wife business analyst, ICBC, worked throughout marriage except maternity leaves
 Wife did not seek promotions as parental responsibilities, earns \$55,541/yr.
 Reapportionment: 60% of family assets to wife, except pensions/RRSPs

Child support \$937/mo. in Provincial Court order
 Spousal support: no entitlement, not non-compensatory, as wife's income
 Not compensatory either, as reappportionment, no impairment of earning
 SSAG zero spousal support
 [But incorrectly includes child support in wife's income, zero even without]

V.E.T. v. C.E.T., [2009] B.C.J. No. 730, 2009 BCSC 444 (C. Smith J.)(March 31, 2009)
 Together 8 years (married 4), child 6, H 49, W 47, high conflict case
 Husband mechanical technologist, earns \$66,624/yr.
 Wife machine operator, home, now looking for work
 Interim orders 2007: child support \$580/mo., spousal support \$1,350/mo., interim possession of home to wife
 Custody: shared equal custody, parallel parenting, detailed order
 Child support: \$580/mo. continue while parties attempt settlement
 Equal division of assets
 Wife seeking spousal support of \$1,438/mo., husband says mid-range
 Spousal support paid 2 years since separation, wife's efforts "not strenuous"
 Support of \$1,350/mo. continued, review in 1 year

Conner v. Conner, [2009] B.C.J. No. 616, 2009 BCSC 423 (Brooke J.)(March 3, 2009)
 Together 25 years (married 16), children 20 and 18 (spina bifida), H 53, W50
 2003 order: husband earned \$70,000, child support \$920/mo., 65/35 reappportionment of home and RRSPs, spousal support \$1,800/mo. (4 mos.), \$1,200/mo., review 2 yrs.
 Child 20, moved to husband in 2004, not child of marriage since 2007
 Husband electrician, income fluctuating, 3-yr. average \$82,021/yr.
 Child support not stated [\$756/mo.?
 Wife income of \$12,500 imputed in 2003, 30 hrs/wk, youngest child's special needs
 Spousal support varied, SSAG as "guide", \$900/mo. ordered, 2 more years to April 2011
 7 years total duration
 [Range estimated as \$1,577-\$2,014/mo. for 1 child]

Schaefer v. Schaefer, [2009] B.C.J. No. 590, 2009 BCSC 169 (Burnyeat J.)(March 2, 2009)
 Married 20 years, children 22 and 18
 2008 interim order: child support \$627/mo., plus \$174/mo. for s. 7 expenses
 Husband lawyer, income issues, professional corp., management corp., property corp.
 2007 \$124,939; 2008 \$122,500; 2009 \$100,000
 Wife nurse, works 86% job, 35-38 hrs/wk, least senior nurse on unit, \$65,000/yr.
 Child support \$906 (1) until September, then \$1,444/mo. (2), retro too
 Husband to pay 60% of s. 7 expenses: older \$1,378/yr, younger \$5,709/yr
 Spousal support to equalize standards of living in past
 SSAG mid-range used to calculate 3 years retro support 2006-08
 Equal division of assets, no further support after Dec. 2008
 [Range going forward after s. 7 expenses: 0 - \$595/mo.]

Mohajeriko v. Gaudomi, [2009] B.C.J. No. 576, 2009 BCSC 393 (MacKenzie J.)(March 2, 2009)
 Married 5 years, married in Iran, separated Feb. 2007, H 58, W 40
 Wife daughter of previous marriage, 14 when to Canada in 2003, now 20 years old
 Both spouses disabled
 Wife depression, kidney/back problems, English poor, social assistance, \$880/mo.
 Husband heart problems, knee surgery, operates body shop with son of 1st marriage, now receiving CPP disability \$7,080/yr., but still working in shop
 Family assets \$615,352, many disputed debts
 Reappportioned 75/25 to husband, as short marriage, his substantial contribution to business, ownership of property before marriage, wife gets \$80,140
 Both agree wife entitled to spousal support and in lump sum form
 SSAG not helpful as both disabled and lump sum support

Husband's income \$30,000, not \$7,000 as he claims or \$48,000 as wife claims
 Lump sum support ordered as 25% of assets, i.e. \$80,140
 Wife likely employed in 18-24 months, learning English
 Child support: daughter lives with wife, attends university, student loans, 2 years to go
 Tuition of \$3,000 per term, plus books
 Table amount of \$187/mo. ordered
 [Range if husband \$30,000, wife zero: \$771-\$843-\$916/mo., global \$55,000 at top end]

Morrison v. Morrison, [2009] B.C.J. No. 360, 2009 BCSC 256 (Master Keighley)(Feb. 27, 2009)
 Married 22 years, son 17 with husband, daughter 20 with wife, H 53, W 56
 Husband trucking business, hauling gravel, income after downturn, \$34,000/yr.
 Interim child support adjourned, daughter has RESP and funds for spring term, no child support for son
 Wife unemployed, teacher 20 years ago, 5 months, no employment effort
 Range \$792-\$1,056/mo., under custodial payor formula
 Interim order for maximum \$1,056/mo.
 [Range if split custody, no child support, \$1,028-\$1,190/mo.]

Bigelow v. Downie, [2009] B.C.J. No. 293, 2009 BCSC 205 (Truscott J.)(Feb. 20, 2009)
 Together 11 years (married 7), separated Nov. 2004
 Children 10 and 7 (behavioural issues), shared custody since separation, week about
 Child support: set-off \$1,344 - \$319 = \$1,025/mo.
 [Child tax benefit wrongly included in wife's income]
 Retro child support 2005-08 calculated, small overpayment, zero ordered
 Husband parts manager, auto dealership, earns \$92,205/yr.
 Wife part-time teller, 4 da/wk, shorter hours, home 5 years, earns \$20,221/yr.
 SSAG used to calculate retro spousal support 2005-08:
 2005 \$900/mo., 2006 \$1,200, 2007 \$844, 2008 \$1,100
 Spousal support to continue at \$1,100/mo., 8 years max, review in 5 years
 [Range estimated \$856-1,206-\$1,527/mo., at \$1,100/mo., wife has 50.5% NDI]

Rotaru v. Rotaru, [2009] B.C.J. No. 280, 2009 BCSC 191 (Bernard J.)(Feb. 18, 2009)
 Married 28 years, separated Feb. 2002, H 64, W 54
 Children 24 and 19, 19 in 2nd of 4 years at college
 Wife property manager, earns \$63,645
 Husband self-employed maintenance man, 1992 injury, but lost worker's comp claim, earns \$15,881/yr.
 Wife accumulated significant and extravagant debt post-separation
 Family assets divided equally
 Child support: \$142/mo. for one child, no income imputed
 No retro support due to long delay, wife and children in matrimonial home, collected rents on 2 suites,
 husband made no claim for spousal support, "tacit agreement"
 Wife claims spousal support, says his income should be \$100,000/yr., none imputed
 Wife earns more, 10 years younger, no entitlement (wife trying to keep house)

Bockhold v. Bockhold, [2009] B.C.J. No. 188, 2009 BCSC 130 (Ross J.)(Feb., 2009)
 Married 17 years, separated Dec. 2000, H 43, W 45 at separation, 2 children 21 and 19
 2003 consent order: child support \$6,000/mo. plus s. 7's, spousal \$4,500/mo., husband's income \$580,000
 Review:
 Both children at McGill U., husband paid \$33,432 for tuition, residence, apt., books, etc., no budgets, no
 info on earnings, 1 child scholarships of \$6,000
 Husband financial advisor, income falling to \$360,000/yr.
 Wife home during marriage, income of \$3,000/yr., design, Feng Shui studies, etc.
 Equal division of assets
 Compensatory basis for spousal support, insufficient efforts by wife, wife says impute income \$18,000/yr.
 Range \$10,836-\$15,430/mo., budgets together double husband's income
 SSAG "not of assistance", income uncertainty, debts, her lack of effort, no change yet in husband's income
 Amount of \$4,500/mo. continued, review when child support ceases

[Adult child formula range \$7,962-\$10,617/mo., without child support formula \$11,943-\$15,923/mo.]

Birinyi v. Lindstrom, [2009] B.C.J. No. 143, 2009 BCSC 97 (Gaul J.)(Feb. 2, 2009)

Together 11 years (married 8), W51, H 43, children 15 and 13

Husband from wealthy family, given shares in family company

Husband various jobs, natural food company until 2004, now landscaper

Wife helped in business, retrained as Feldenkrais practitioner

Oct. 2005 interim separation agreement: \$3,600/mo. spousal support, but only varying amounts paid, now down to \$300/mo.

Family assets divided equally, family company shares not family asset

Husband earns \$30-\$40,000, argues no spousal support, but \$50,000/yr. imputed

Child support \$759/mo.

Wife now earns \$20,000/yr., order for \$57/mo. top end SSAG range

Review in 3 years, wife then in business 4 years, oldest then 18 years old

E.A.C. v. L.A.C., [2009] B.C.J. No. 283, 2009 BCPC 49 (Wingham Prov.Ct.J.)(Jan. 8, 2009)

Together 9 years, separated June 2007, H 45, W 40, husband violent to wife

Children 8 and 6, wife also 2 children of previous marriage 18 and 14, all with wife

Husband longshoreman, earns \$128,000/yr.

Child support \$1,794 (2)

Wife disability, neurological dysfunction, atonia of colon, unable to work, receiving social assistance of \$8,036/yr. [wrongly treated as income]

Entitled to support on non-compensatory basis, mid-range \$3,000/mo., due to wife's limited income and need

Duration: 5 years, terminating review order, end January 2014 (total 6 ½ years)

[Range estimated as \$2,374-\$2,752-\$3,159/mo. if wife zero income]

Dong v. Liu, [2008] B.C.J. No. 2559, 2008 BCSC 1795 (Savage J.)(Dec. 31, 2008)

Together 15 years, separated July 2004, wife 42, one child 17, with wife

Husband sentenced to life imprisonment in China for "gangsterism"

Husband's Chinese assets confiscated

Husband failed to disclose, traditional marriage, wife no income

Wife seeks 100% reapportionment of Cdn. assets, granted by Court

Alternative: 75/25 reapportionment plus lump sum spousal support

Husband's past income at least \$150,000/yr

SSAG 5 years retro, 10 years prospective, spousal support \$774,000

Court uses \$4,300/mo., above mid-range [range \$3,703-\$4,087-\$4,468/mo.]

Similar calculation for child support \$124,992

Total of both \$898,922, more than offset remaining 25% of assets for husband

Schloegl v. McCroary, [2008] B.C.J. No. 2443, 2008 BCSC 1722 (N. Smith J.)(Dec. 15, 2008)

Together 4 years (3 married), separated Feb. 2007, child 2, with wife

Husband glazier with glass co., earns \$60,000/yr.

Child support \$561/mo.

Wife in Vancouver, was clerk at college earning \$44,000/yr., home now, until child 6/7

Child so young, wife entitled to spousal support, range \$1,154-\$1,428/mo.

But wife living with her mother, permanent arrangement, lower expenses

Support fixed at amount lower than range, \$1,000/mo., reviewable when child attends school

Lane v. Creighton, [2008] B.C.J. No. 2389, 2008 BCSC 1689 (Bruce J.)(Dec., 2008)

Married 19 years, H 57, W 53, separated 2000

3 children 24, 21 and 11, 2 older with husband from 2001, youngest with wife

2001 interim order: child support \$730, spousal \$2,270/mo., husband earned \$95,196

Husband psychologist, Ph.D., children's counsellor

Claims income reduced due to stress from wife's behaviour and alienation of youngest

Income reduced to \$37,800, but "temporary", little done to reduce stress, says Court

Income imputed for underemployment, \$86,585/yr. (2006 income)
 New career as organizational psychologist, maximum income \$50,000, his choice
 Child support \$795/mo., equal division of assets
 Wife nurse, home, didn't upgrade, wanted to return to work quickly, home care, earns \$20,464 (including child tax benefit)
 Last child 4 in 2001, problems in 2005, but at times wife failed to take steps
 Range \$1,139-\$1,438-\$1,716/mo.
 Low end of range \$1,300/mo., review in 3 years, both situations uncertain
 Security for support of \$25,000 ordered

Fleck v. Fleck, [2008] B.C.J. No. 2382, 2008 BCSC 1682 (Powers J.)(Dec. , 2008)
 Married 12 ½ years, separated Oct. 2000, 1 son 19, H 46, W44
 2004 order: child support \$496, spousal \$800/mo., husband \$59,000, wife \$11,000
 2007 order: shared custody, review, husband \$64,700, wife \$38,800, child support \$300/mo., spousal support \$400/mo.
 Husband draftsman/administrator, lumber co., income reduced to \$57,000/yr.
 Wife's education completed, university job, \$39,000, significant student loans
 Husband's application to terminate spousal support
 Child living with wife, at university, employment income and scholarships
 Child support \$300/mo. for living expenses
 Husband to pay 60% of shortfall for tuitions, books, etc. (\$200/mo. roughly)
 Spousal support range \$263-\$306-\$350 [without child support range?]
 Wife supported for 8 years, but her debts
 Order \$300/mo., review Sept. 2010, by then 10 years, possible termination
 [If basic formula adjusted for child support outcome, range 0-\$185-\$407/mo.]
 [If adult child formula, range \$167-\$194-\$222/mo.]

L.J.C. v. G.S.C., [2008] B.C.J. No. 2370, 2008 BCSC 1672 (Rogers J.)(Dec. 3, 2008)
 Together 4 years (married 1), interim
 Wife 2 children by other fathers, D 16 and E 11
 D's father now pays \$751/mo. plus \$500/mo. on arrears, change not disclosed by wife
 E's father pays \$300/mo.
 Husband earns \$45,000 in cabinet-making business, wife earns \$46,263/yr.
 Wife claims interim child support at table amount plus \$500/mo. spousal
 Child support: husband accepts that "parent", argues s. 5 CSG, wife receiving \$1,551/mo., his table \$684/mo., no child support ordered
 Spousal support: no need for SSAG as no entitlement

Miolla v. Miolla, [2008] B.C.J. No. 2310, 2008 BCSC 1630 (Ehrcke J.)(Nov. 2, 2008)
 Married 10 years, separated July 2006, 3 children 11, 9 and 8, with wife
 Husband longshoreman, work injury 2007, workers' comp, income issues
 2004-2006: average income \$190,000, income estimated at \$125,000/yr.
 Child support \$2,277/mo.
 Wife in college, criminology, finish 2011, income \$6,000/yr.
 Spousal support range \$1,363-\$1,678-\$2,033/mo.
 Mid-point ordered, \$1,678/mo., indefinite, review in April 2012

Bassi v. Grewal, [2008] B.C.J. No. 2218, 2008 BCSC 1573 (Truscott J.)(Nov. 18, 2008)
 Married 5 years, 2 children 5 and 2 with wife, husband served, but no appearance
 2006 interim order: child support \$877, spousal \$797/mo., husband earned \$66,000/yr.
 Same income for husband, child support increased to \$996/mo.
 Wife homemaker, matrimonial home reapportioned 85% to wife, i.e. \$151,000/\$27,000
 So low end of SSAG range, not \$1,102/mo. sought by wife, but \$850/mo.
 Review in 2012, when both children in school full-time
 [Range estimated as \$858-\$1,003-\$1,150/mo.]

N.L.H. v. S.H.H., [2008] B.C.J. No. 2161, 2008 BCSC 1540 (Master Keighley)(Nov. 12, 2008)

Together 14 years (married 11), separated Jan. 2008, 3 children 9, 5 and 3 mos.

Husband convicted of assault upon wife

Interim sole custody to wife, paternity test ordered re last child

Husband's income in issue, his figure \$40,500/yr., "sold" gym business

Wife on social assistance, help from her parents

Child support \$812/mo.

Spousal support range \$207-\$301-\$397, interim order for \$397/mo., family NDI's

Ginther v. Ginther, [2008] B.C.J. No. 2440, 2008 BCSC 1650 (Barrow J.)(Nov. 10, 2008)

Married 3 years, separated April 2006, children 4 and 2 with wife, H 38, W 40

Husband earns \$39,232/yr.

Child support \$599/mo., no child support for wife's 10 year old, as biological father's child support plus husband's amount greater than 3-child amount

S. 7 expenses: no to preschool program, day care cost issues, husband to pay 75%, i.e. \$490 of \$650/mo.

Equal division of family assets, no reapportionment as short marriage, no change in her position and no improvement in husband's

Wife in college in Castlegar, environmental studies, 2 year program, coop employment, 2008 income \$13,000 (?)

Spousal support range zero to zero, none ordered

Hilton v. Hilton, [2008] B.C.J. No. 2150, 2008 BCSC 1536 (Parrett J.)(Nov. 7, 2008)

Married 17 years (plus one of cohabitation), separated March 2007, interim

Children 12 and 10, husband's s. 9 claim rejected

Income issues, 3-year average, husband earns \$62,900

Child support \$951/mo., s. 7 expense claim dismissed as inadequately documented

Interim spousal support: insufficient material re entitlement, e.g. wife's historical pattern of employment, economic disadvantage

Wife's income \$50,600

[Range estimated as zero to zero]

Bozak v. Bozak, [2008] B.C.J. No. 2080, 2008 BCSC 1458 (Stromberg-Stein J.)(Nov., 2008)

Married 20 years, H 44, W 41, children 11 and 9, shared custody, week about

2006 interim agreement: child support \$3,000/mo.; spousal \$7,000/mo.

Equal division of family assets, no reapportionment

Husband dentist, income \$512,000

Wife insurance claims adjuster, back to work part-time (20 hrs/wk)

Income \$60,000 (if 30 hrs/wk), plus \$18,000 interest on assets, total \$78,000

Income above ceiling for spousal support, discretion, range \$6,448-\$11,617/mo.

Spousal support of \$6,000/mo., until June 2016 (8 years), when youngest graduates from high school

Child support: \$6400-\$2,000=\$4,400, as \$150,000 income imputed to wife (?)

[Actual set-off for incomes found: \$6,477-\$1,160=\$5,317/mo.]

[Shared custody formula using \$5,317 estimated as \$8,500-\$10,378-\$11,596/mo.]

[If income of \$150,000 used for wife, spousal support range \$6,520-\$9,221]

Singleton v. Singleton, [2008] B.C.J. No. 2040, 2008 BCSC 1446 (Josephson J.)(Oct.30, 2008)

Married 10 years, H 39, W 43, separated Jan. 2005, children 8 and 10, with wife

Husband dentist, wife physiotherapist then home

2005 separation agreement with mediator: no independent legal advice, husband said income \$60,000/yr.,

child support \$600/mo. plus s. 7 expenses from family trust, spousal support \$2,500/mo. for 2 years,

then \$1,000/mo. for one year, then end

Miglin: non-disclosure by husband, no independent legal advice, wife in turmoil, set aside at stage 1

Family assets divided equally under agreement: okay

Husband's income, average 2004-06, \$254,333/yr.

Retro child support at \$3,334/mo. plus his share of s. 7 expenses, same table amount going forward

Wife delayed in requalifying due to parental responsibilities, \$20-\$30,000/yr. income reasonable

SSAG range 2005-07 \$4,826-\$5,881/mo., so \$5,000/mo. retro until Dec. 2007
Assume wife earns \$25,000 in 2008 and after, spousal support reduce to \$4,250/mo., indefinite

Turpin v. Clark, [2008] B.C.J. No. 2013, 2008 BCSC 1425 (Pearlman J.)(Oct. 27, 2008)

Married 20 years, separation 2005, wife 54

Children daughter 21 at Trent University, son 16 at home with wife, private high school

Husband president of university, basic income plus bonus

October 2005 minutes of settlement: complex agreement

- Husband's income \$340,000/yr.
- Child support \$2,301/mo. plus \$350/mo. for son
- For daughter share of university expenses plus \$500/mo. allowance, plus \$1,000/mo. to wife for 4 summer months
- Spousal support stepped down: 2005-06 \$9,800/mo., 2007 \$8,000; 2008 \$6,500; 2009 \$5,500, 2010-2012 \$4,000/mo., end 2012 or husband's retirement
- Deduct 50 cents on dollar for any income of wife over \$25,000

Wife's health deteriorated, cancer worsened, employment problems, losses in consulting business, her income \$2,000/yr.

Husband's income increased to \$382,720/yr., remarried, new wife makes \$170,000/yr.

Child support for son \$3,117/mo., plus \$350/mo. for s. 7 expenses

Child support for daughter \$15,000 for past year's budget, plus his share of \$500/mo. allowance, plus \$1,337/mo. for summer months

Miglin analysis re spousal support:

Significant departure at stage 2, agreement built around wife's self-sufficiency, not achieved, even a little, for reasons of health/disadvantage

Not \$6,500/mo. under agreement, but increased to \$9,300/mo. for 2008-10 and \$7,500/mo. for 2011-12, then end as in agreement

Range at \$350,000 stated as \$8,460-\$10,155; at \$382,720, \$9,351-\$11,211/mo., apparently using without child support formula

[With child support formula range, full income, 1 child \$9,397-\$11,240/mo., for two children, with child support adjustments, full income range \$8,507-\$10,067/mo.]

Marino v. Marino, [2008] B.C.J. No. 1996, 2008 BCSC 1402 (N. Smith J.)(Oct. 23, 2008)

Married 21 years, 3 children 16, 14 and 10, shared custody of younger 2, oldest with wife

Family assets: investments, family cos., one account reapportioned to wife, \$115,000

Income of husband: vice-president of real estate in corp., earning \$156,000 plus bonus

Depression/breakdown, disability, tried to return to work, terminated Jan. 2008, lawsuit vs. employer under way

Husband failed to lead medical evidence, but can't earn same now, \$100,000/yr. imputed

Wife at home, no income, each can earn \$27,000 investment income

Child support: 1 child \$1,122, 3 chld \$2,309/mo., order for \$2,000/mo. (75% of difference?) [set-off for 3 would be \$2,309-\$425=\$1,884/mo.]

Section 7 expenses: Catholic private school (\$9,000/yr) and tutoring (\$1,400), extracurricular \$5,000 (not \$16,000/yr. claimed)

Spousal support: wife home 16 years, was HR professional before children

Range \$800-\$1,700/mo., order for \$1,300/mo., review if husband's lawsuit resolved or wife finds employment

[Range for \$2,000/mo. and after s. 7 expenses, estimated \$378-\$1,011-\$1,450/mo.]

Busby v. Busby, [2008] B.C.J. No. 1889, 2008 BCSC 1334 (Halfyard J.)(Oct.7, 2008)

Married 22 years, 3 children 23, 19 and 18, H 55, W 52

Youngest still child of marriage, with wife, 10-month welding course

Husband real estate appraiser, assessment authority, earns \$62,000/yr.

Child support \$580/mo.

Wife bought barber business, income issues, \$32,000 understated, \$36,000 found

Wife asks for 70/30 reapportionment on home proceeds of \$202,000, granted, so \$141,400 to wife, \$60,600 to husband

SSAG would be indefinite, if 13 years at \$300/mo., lump sum \$46,800 vs. \$41,400 additional property ordered, no spousal support
[With child support range \$181-\$624/mo., without child support range \$715-\$953/mo.]

MacNutt v. MacNutt, [2008] B.C.J. No. 1831, 2008 BCSC 1290 (Pearlman J.)(Sept. 26, 2008)
Together 10 years (married 5), H 60, W 46, separated July 2007, interim
Wife 3 children by 1st marriage 23, 21 and 19, youngest in university in Ont.
Husband one child of previous relationship, 15, pays \$2,000/mo. child support
Husband trucking businesses, income issues, wife says \$511,000, husband says \$195,097
Husband's estimate accepted for interim purposes
Wife's income \$10,800/yr. from rents, business with no income yet
Husband paying mortgages/expenses on various properties pending division, \$3,800/mo.
Child support: husband is "parent", full table for 4 mos. pending joinder of natural father little info from child, \$1,653/mo.
Spousal support range \$4,525-\$5,013-\$5,516/mo.
Interim spousal support \$5,500/mo., considering budgets, husband's property expenses and prior child support [and possibly higher income?]
[No adjustment made for prior child support, adjusted range \$3,277-\$3,664-\$4,057/mo.]

Dhaliwal v. Dhaliwal, [2008] B.C.J. No. 1722, 2008 BCSC 1226 (Bernard J.)(Sept. 10, 2008)
Married 5 years, married in India, wife to Canada in 2003, separated Nov. 2006
H 33, W 27, one child 4 years old, with wife
Husband forklift driver at plywood co., earned \$95,000/yr.
Now depressed, back problems, on disability, \$30,000/yr.
Wife learning English, works part-time, income \$6,750/yr., plus social assistance
Family assets reapportioned 80/20 to husband, accepted by wife
Husband intentionally unemployed, income imputed of \$75,000 (less than full-time)
Child support \$698/mo.
SSAG mid-range \$1,359/mo., 36 months support from separation to Dec. 2009
Lump sum spousal support ordered, no amount stated, but \$48,924 (?), payable out of husband's half-share of house proceeds (his half \$86,200)
Husband's "steadfast unwillingness" to share financially
[Range estimated as \$1,123-\$1,582/mo., indefinite]

Friedl v. Friedl, [2008] B.C.J. No. 1716, 2008 BCSC 1222 (Blair J.)(Sept. 9, 2008)
Together 13 years (married 9), separated 2006, H 48, W 41, children 11 and 9 with wife
Husband orthopaedic surgeon, university chair in Germany, on paid leave since 2000
Wife physiotherapist, can't practise in Canada
German marriage agreement 1996 found invalid for duress, coercion, undue influence
Complex property divided: equal division of BC assets, compensation orders for various percentages of European assets
Custody issues, father alcohol problems, wife allowed to move to Edmonton, for 2 year course in massage therapy
Income issues re husband, determined as \$150,000/yr., wife \$30,000/yr.
Child support \$2,061
Spousal support range \$2,231 to \$3,051/mo.
Various factors warrant mid-point \$2,640/mo., indefinite

Bishop v. Bishop, [2008] B.C.J. No. 1703, 2008 BCSC 1216 (Arnold-Bailey J.)(Sept. 5, 2008)
Married 30 years, H 52, W 52, separated 2006, 3 adult children
1 grandchild with them since birth, now 11, shared custody, alternating weeks
Consent order 2006: child support \$458/mo., spousal support \$1,000/mo., wife to pay Christian school fees and counselling (s. 7)
Husband brings application to vary: his income reduced as demoted permanently from supervisor to maintenance worker at lumber mill, from \$72,000 to \$63,000/yr., his side wood business also declined
Also wife's hours increased as sales clerk at health food store, from \$22,500 to \$26,000/yr.

Husband seeks to reduce s. 9 child support and also mid-point of new SSAG range \$429/mo.
 Court finds no material change, as both knew of demotion at time of consent order and possibility that it was permanent, also downturn in wood business anticipated and losses in other years
 Child support only changed slightly, package deal, as wife's s. 7 expenses now \$597/mo.
 [New s. 9 set-off would be \$589-\$240=\$349/mo. vs. \$458/mo. in consent order]
 [Husband's calculation of SSAG range ignores s. 7 expenses, about \$199-\$756/mo.; if wife's s. 7 expenses considered, range actually \$756-\$979-\$1,195/mo.]

Abelson v. Mitra, [2008] B.C.J. No. 1672, 2008 BCSC 1197 (Brine J.)(Sept. 3, 2008)
 Married 14 years, separated 2006, H 51, W 46, 2 children 16 and 13, with wife
 Husband paediatrician, income \$355,000/yr.
 Child support \$4,562/mo.
 Wife nurse, Masters in epidemiology, completed during marriage, now doing Ph.D. at UBC, but living in Victoria due to daughter's gymnastics, wife underemployed earning \$29,000/yr. part-time
 Income imputed as \$40,000 in Sept. 2009, increased to \$50,000 in Sept. 2011
 SSAG range \$6,985-\$8,631/mo., mid \$7,796/mo.
 Wife suffered little disadvantage, achieved her academic goals, amount lower end of range
 Duration 7 years from Sept. 2006: \$7,500/mo. for 2006-09, \$7,000/mo. for 2009-11, \$6,500/mo. for 2011-13, \$2,000/mo. for 2013-15, end Sept. 2015
 Section 7 expenses: private school paid from wife's trust funds, parties share \$4,000/yr., no to gymnastics and other expenses, yes to tutoring (\$220/mo.), need to recognize costs of access for husband from Prince George to Victoria, husband to pay 65% of expenses

Roper v. Roper, [2008] B.C.J. No. 1642, 2008 BCSC 1174 (Grauer J.)(Aug. 28, 2008)
 Together 21 years (married 14), separated Dec. 2005, H 45, W 50
 1 child 19, with wife, wife also another child of previous relationship, now 25 and adult
 Husband dentist, income agreed at compromise figure \$190,000/yr.
 Wife medical office assistant, then home, helped in husband's practice, no income now, not employed since separation, finishing Grade 12 equivalency, considering retraining options
 Interim consent order March 2006: child support \$1,536/mo., spousal support \$4,500/mo. plus husband pays mortgage on family home, \$2,700/mo.
 Child support: husband to pay all education and living costs for daughter in dental hygienist training program, \$32,000 plus, 18 month program
 Division of family assets: equal division, but 55% of home and 54% of RRSPs, i.e. \$826,250 to wife, \$637,750 to husband
 Parties agree that SSAG range is \$4,988-\$5,819-\$6,650/mo. [without child support formula used]
 Order for \$5,500/mo., not impute office assistant income, wife to retrain, review in 5 years
 Below mid-range, as wife in mortgage-free home, wife's retraining and husband paying daughter's university expenses
 [If cost of university \$2,000/mo., adult child formula range \$3,867-\$5,156/mo., thereafter without child support formula would apply]

G.C.H. v. H.E.H., [2008] B.C.J. No. 1582, 2008 BCSC 1127 (Joyce J.)(Aug. 2, 2008)
 Together 13 years, marriage a nullity as wife not divorced from husband in Phillipines, H 69, W 48
 1 child of relationship, age 16, in home with father, wife 2 children of previous marriage came to Canada, husband acted as father, now adults aged 28 and 26
 Husband machinist, gear-cutting business with son on family home property
 Wife home, now farm labourer, living with daughter, earns \$28,683/yr.
 Child support not paid, retroactive back to start 2005, \$268/mo. going forward
 Family assets reapportioned 60% to husband, as property owned before marriage
 Wife home, few employment skills, possible retraining
 Husband's income in issue, corporate payments, income splitting with family, fixed at \$125,000/yr.
 Custodial payor range \$1,157-\$1,350-\$1,542/mo.
 Order for \$1,350/mo., for 5 years, from March 2007.

Gaita v. Gaita, [2008] B.C.J. No. 1558, 2008 BCSC 1111 (Gray J.)(Aug. 18, 2008)

Married 15 years, child 11, equal time shared custody

2007 interim order: child support \$561/mo., plus 70% summer camp fees

Husband accountant, consulting company from home, little income declared

Failed to file tax returns, convicted, large tax debt to CRA, procrastination problems

Equal division of family assets

Income imputed to husband of \$80,000/yr. (\$60,000 for 2006-08)

Wife teacher, health problems, earned \$46,700/yr., back to full-time at \$74,000/yr.

Child support: \$739-\$689=\$50, plus retro child support

Wife seeks \$2,200/mo. in spousal support, plus \$44,000 retroactive (20 mos.)

SSAG range 0-\$32/mo., no ongoing spousal support, and no retro support

Moniz v. Moniz, [2008] B.C.J. No. 1555, 2008 BCSC 1109 (Masuhara J.)(Aug. 15, 2008), further reasons [2009] B.C.J. No. 589, 2009 BCSC 395 (March 26, 2009)

Married 19 years, H 45, W 44, separated Sept. 2002, 3 children 24, 22 and 19

April 2005 consent order: spousal support \$1,350/mo., review in 3 years

Child support settled: oldest not "child", support for two youngest with wife, table (?) \$1,120/mo.

SSAG used on review, given issues

Wife home during marriage, education program after separation, now in child and youth care program, scheduled to graduate in June 2010

Husband seeking date for termination of support

Husband's income \$75,000, up from \$63,600/yr. in 2005

Income imputed to wife of \$10,000/yr: \$8,000 as home-stay parent, \$2,000 as part-time employment

Range \$1,026-\$1,347/mo., questioned by wife, but her home-stay income treated as non-taxable income

Order for \$1,100/mo., to end 6 months after graduate in June 2010

Fearnside v. Fearnside, [2008] B.C.J. No. 1525, 2008 BCSC 1072 (Gray J.)(Aug. 1, 2008)

Married 8 years, separated 1997, 2 children 18 and 16, with wife

Wife commenced proceedings in 1997, obtained interim orders re possession, property, child support and entitlement to spousal support but amount never determined

Wife cohabited from 1999 to 2004, on social assistance thereafter

2002 homemade "separation agreement" prepared by husband: dividing property, child support of

\$480/mo., on income of \$51,000 (vs. \$709/mo. table), wife no legal advice

Husband works at Smithers airport, income now \$60,900/yr.

Wife auto detailer, earns \$25,548/mo.

Child support \$921/mo., plus \$16,158 retro back to Jan. 2004

Assets divided, home reapportioned 70/30 to wife, i.e. \$100,800/\$28,800

Wife seeks spousal support of \$400/mo. for 2 years, plus retroactive

Range \$107-\$552/mo., mid-range appropriate as wife seeking training and reapportionment

Order for \$375/mo., for 2 years, converted to lump sum of \$9,000 [no adjustment for tax]

Retroactive spousal support only from Feb. 2008, due to her delay, cohabitation, etc.

Decock v. Decock, [2008] B.C.J. No. 1477, 2008 BCSC 1055 (Halfyard J.)(Aug. 1, 2008)

Together 17 years (married 16), separated Sept. 2004, H 42, W 40, 1 child 16, with wife

Husband backhoe operator for logging company, earns \$45,533/yr.

Child support \$422/mo., equal division of assets

Interim order 2005: \$550/mo. spousal support, nothing paid til then, retro for 14 mos. \$10,500

Wife not made reasonable employment efforts, income \$1,700/yr., 3 hrs/wk for local paper, after period of depression and some education efforts

Court agrees with husband, imputes minimum wage income to wife of \$16,640/yr.

Husband says range \$75-\$357/mo., \$450/mo. ordered [no explanation], review in 5 years

D.C.O. v. J.S.O., [2008] B.C.J. No. 1472, 2008 BCSC 1047 (Johnston J.)(Aug. 1, 2008)

Married 13 years, separated 2006, 2 children 11 and 7 with wife

Husband electrician, for others and own proprietorship, income issues, \$50,000/yr.

Child support \$759 plus child care and some s. 7 expenses, amounts not specified

Family assets divided equally, no reapportionment of home, wife 1 year to buy out husband
 Wife operates catering business from home, commercial kitchen in basement, developed during marriage,
 income \$26,000/yr.
 SSAG calculations [range 0 to 0] reinforce that no spousal support, as wife self-sufficient and no
 disadvantage

Lemcke v. Lemcke, [2008] B.C.J. No. 1475, 2008 BCSC 1051 (Chamberlist J.)(Aug. 1, 2008)
 Together 19 years (married 15), separated Oct. 2007, H 53, W 52, one son 17 with husband
 Son finishing high school, works summers and part-time, earns \$10,500/yr., attending U of Alberta in fall
 Wife home, also her 2 children of previous relationship, now 2 part-time janitor jobs, \$17,000/yr., no
 further income imputed, osteoarthritis of knees limit work
 Husband teacher, earns \$68,200/yr., also firearms instruction business, small net income, CCA added back,
 another \$10,800, total income rounded \$80,000/yr.
 SSAG range, *custodial payor* formula, \$1,152-\$1,344-\$1,536/mo., review of budgets and expenses
 Interim spousal support of \$1,350/mo., retroactive to May 2008

E.A.T. v. M.S.T., [2008] B.C.J. No. 1456, 2008 BCSC 1029 (Fisher J.)(July 31, 2008)
 Married 13 years, separated Dec. 2005, 2 children 13 and 7 with wife, wife 44
 Husband systems analyst, earns \$75,000/yr.
 Wife home, after separation $\frac{3}{4}$ time secretarial job, earned \$23,000/yr., laid off, now EI
 Child support \$1,120/mo., interim husband paid \$1,100/mo. for share of private school, but parties can't
 afford it, so no s. 7 order, only if parties want to do it voluntarily
 Family assets divided equally, except house reapportioned 55% to wife, order for sale of house
 SSAG range \$316-\$881/mo., husband agrees entitlement and at high end of range
 Wife sought lump sum (to keep house), but court said no
 Order for \$850/mo., indefinite

M.M.F. v. R.B., [2008] B.C.J. No. 1406, 2008 BCSC 984 (N. Smith J.)(July 25, 2008)
 Together 13 years (married 12), separated 2004, H 62, W 53
 Split custody: daughter 15 with wife, son 8 with husband
 2004 separation agreement, left spousal to be determined
 Husband musician, lending money to others on Gabriola Isld., then earning \$15-\$20,000/yr., while wife a
 jewelry maker and movement teacher, earning \$6,000/yr.
 2007 husband earned \$67,500, as inheritance from mother, more loans and investments, treat like new job
 post-separation
 Wife doing same work, 2007 earned \$12,300, starting education program to become teacher in 2 years
 Child support: \$631 - \$73 = \$558/mo.
 Spousal support not compensatory (?), as wife and husband both sacrificed careers and did what wanted
 Support for two years ordered, but time limit could be extended if change in circumstances
 Left to lawyers to calculate SSAG ranges and make submissions back to court
 [Range estimated as \$619-\$789-\$993/mo.]

McClaghry v. McClaghry, [2008] B.C.J. No. 1403, 2008 BCSC 982 (Allan J.)(July 24, 2008)
 Married 17 years, separated May 2007, 2 sons 13 and 11
 Shared custody, husband in basement of matrimonial home for $\frac{1}{2}$ week, other $\frac{1}{2}$ with girlfriend
 Husband automotive instructor, earns \$56,000/yr.
 Wife hairdresser, part-time, earns \$20,540/yr.
 SSAG range 0-\$252, but husband paying mortgage (\$946/mo.) and utilities, so no spousal support
 Child support: set-off \$848 - \$326 = \$522, but reduced to \$350/mo. if husband pays mortgage
 [No mention of interim exception]

Reis v. Bucholtz, [2008] B.C.J. No. 1616, 2008 BCSC 1156 (Gropper J.)(July 23, 2008)
 Together 4 years, separated Oct. 2004, H 47, W 43, 1 child 5
 Met in India, wife moved from Portugal, where HR professional
 Husband seeks shared custody, week about, rejected as husband travels too much, for pleasure
 Primary residence with wife, extensive access

Husband earns income from two corporations, one renting garden lots and renting property for films, income issues, fluctuating, s. 18 CSG

Income for child support \$126,500/yr, i.e. \$1,119/mo., retro child support for 2004-08

Wife retrained as shiatsu massage therapist, earns \$10,000/yr.

Husband paid voluntary spousal support of \$500/mo. from March 2005, retroactive support calculated SSAG range calculated using \$110,000 for husband, \$8,000 for wife: \$2,169-\$2,820/mo.

Low end of range, \$2,169/mo., as short relationship, wife more time to work as daughter older

Duration: for five years to July 2013 (total 8+ years)

Kjosness v. Kjosness, [2008] B.C.J. No. 1501, 2008 BCSC 1004 (H. Holmes J.)(July 29, 2008)

Together 19 years (married 18), separated Sept. 2006, H 60, W 51

2 daughters 19 and 16, older no longer “child of marriage”, younger with wife

Family assets divided equally, big debts, including to CRA, business and personal intermingled

Husband’s income from his corporation \$60,000, also some drywall work on side, \$10,000, \$70,000/yr.

Child support \$654/mo., also s. 7 expenses reimbursed ½ of \$5,317/yr., i.e. \$2,658

Wife nurse, qualifications lapsed when home, now part-time work at seniors residence

Wife plans to retrain as unit clerk, 7 month course starting in September 2008, tuition \$6,000, not able to work while on course, so no income

Spousal support ordered \$1,600/mo. (mid-range) for 9 months, until course finished

Commencing April 2009, wife’s income expected to be \$32,000/yr., support reduced to \$525/mo. (mid-range SSAG), indefinite

Chen v. Liu, [2008] B.C.J. No. 1354, 2008 BCSC 928 (Butler J.)(July 17, 2008)

Married 13 years, immigrated from China in 1999, separated July 2005, 2 daughters 8 and 6, with wife

Husband involved in various import/export businesses to China, unsuccessful, income issues, now not working, depressed, s. 19(1)(a), income of \$30,000/yr. imputed (same as 2004)

Wife working on CGA, employed as accountant/bookkeeper, \$37,000/yr., but breast cancer and on disability from Aug. 2007 to Nov. 2008, benefits \$18,000/yr.

Child support \$472/mo. plus 45% of s. 7 expenses (\$135/mo.)

SSAG not great deal of assistance given unusual circumstances of case

Spousal support in small amount should have been paid while wife on disability, lump sum \$2,000

[range zero to zero; if 15 mos., lump sum equivalent of \$180/mo. periodic]

B.J.A. v. W.A.A., [2008] B.C.J. No. 1852, 2008 BCSC 1319 (H. Holmes J.)(July 4, 2008)

Married 16 years, separated May 2007, H 49, W 38

3 children 15, 13 and 10, 15 year old with wife, equal shared custody of younger two

Husband works in family company, shares from his mother, clinical psychologist

Family assets divided equally: company to husband, house to wife

Business in decline, income issues, husband’s income \$85,000/yr.

Wife started new business, limited prospects, earns less than \$6,000, unless more, must change plan

Income imputed: \$15,000 for 2008-09, \$20,000 for 2009-10, \$30,000 from 2010 on

Child support: set-off (\$1,626 - \$245 = \$1,381/mo., then \$1,311, then \$1,154/mo.

Spousal support on both compensatory and non-compensatory grounds, wife primary caregiver

Mid-range of SSAG used, \$500/mo. for 2 years, then \$300/mo. for 3 years, end Aug. 2013

[Range estimated 2008-10 \$313-\$521-\$790/mo.; 2010-13: 0-\$238-\$703/mo.]