

"Child" Support for Adult Children

It used to be that parental legal obligations ended, or at least dwindled towards an end, once a child reached the age of majority and had the capacity and responsibility to work, vote, drink and be drafted- in short to make adult decisions and bear adult responsibility. As young adults seem to remain dependent on their parents to a later age, the legal obligations imposed on parents continue to be extended by our courts.

While it is well settled that child support is payable for a "child," who is over the age of eighteen and pursuing post secondary studies, determining the amount of that support, whether the support is conditional on the child maintaining a relationship with the payor parent, and when child support ends, are issues which continue to be addressed by the court.

In a lengthy decision, Justice Pazaratz, in *Caterini v. Zaccaria*, 2010 CarswellOnt 9344 ONSC 6473, (SCJ) provides a good review of recent cases addressing these issues.

1. Quantum of Support

Support for children under the age of majority is prescribed by the *Child Support Guidelines* applicable Table amount. For adult children, if it considers the Table amount inappropriate, the court has discretion to order an amount considered appropriate, with regard to the circumstances of the child and the means of the parent.

In *Caterini*, Justice Pazaratz, concludes that the support payor father, on an income determined to be about \$70,000.00 per year, must pay the *Child Support Guidelines* Table amount of child support for his four children while they are pursuing post secondary education and living with their mother. The Court rejected the mother's claim for the payor father to contribute to tuition fees, books and transportation costs for the children, finding the father did not have the ability to contribute to these extraordinary expenses, and that the children were obliged to fund those expenses through loans or employment earnings. This is somewhat surprising, as it is generally accepted that a support payor should contribute to post secondary education expenses as a necessary extraordinary expense of the child. It is likely that the payor's obligation was limited to base Table amount of support because of the number of children. There are many payors who, with a \$70,000.00 income, are obligated to contribute to post secondary education costs for one or two children.

2. Education beyond first degree or diploma

In *Caterini*, one of the children had completed a college diploma in Early Childhood Education, and intended to continue her education by pursuing a university degree, and, ultimately, a teaching certificate. In finding her entitlement to support did not end with the first post secondary diploma, Justice Pazaratz, cited the reasons of Justice Taliano, in *Haist v. Haist* 83R.F.L.(6th) 147, where he states, at paragraph 58.:

As a general rule, parents of a bona fide student will remain responsible until the child has reached a level of education, commensurate with the abilities he or she has demonstrated, which fit the child for entry-level employment in an appropriate field. In making this determination the trial judge cannot be blind to prevailing social and economic conditions: a bachelor's degree no longer assures self sufficiency"

It appears there is an increasing obligation for a payor parent to support a child beyond the first post secondary course of education. It is another example of what some parents consider an

onerous level of responsibility for adult children – especially at an age when many parent payors are facing insufficient provision for their own retirement.

3. Estrangement between payor parent and adult children

In *Caterini*, the support paying father had no meaningful relationship with the children for about ten years, and he argued his support obligation should terminate for each child at age eighteen, as he blamed the estrangement on the children. Justice Pazaratz, provides a detailed review of estrangement cases, and concludes it is impossible and inappropriate for a court to apportion blame between parent and child for a breakdown in their relationship. He also finds that there was, in this case, nothing in the children's conduct "*egregious enough to justify cutting them off.*" (par.176)

He concludes his extensive analysis of this issue, at paragraph 182, with some words of wisdom:

"Families are forever. People get older and hopefully mature. These adult estranged children will soon have children of their own. Reluctant payor parents will soon be grandparents wanting access. And rightly so. While our family law system has no control over adult parent-child relationships, at every stage we have an obligation to promote resolution; to help, or at the very least, not make things worse. Clarifying the law – removing "conduct" from the child support equation – would save money and grief; and eliminate a needless impediment to family healing process"

This case exemplifies a trend that suggests family law does, in fact, exert some control over adult parent-child relationships. Whether it is progressive step forward, or the encouragement of endless childhood, continues to be debated.

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