



Spousal Support is the Most Difficult Issue in Family Law By Jodi Wyman

If you ask a family law lawyer what is the most difficult issue to handle, they will probably say spousal support. Custody and visitation matters can be emotionally tough, but in terms of giving clients advice and predicting outcomes for them, spousal support is a real challenge.

Spousal support is sometimes referred to as “alimony”. It is money paid from one spouse to the other to remedy the economic disadvantage of the marriage or its breakdown.

There are a few reasons why spousal support is such a difficult issue. The first is that the test for spousal support is a vague one. The spouse seeking support first has to show that they are entitled to it, in that they suffered financial disadvantage. There are an endless amounts of ways a spouse can be disadvantaged; giving up a job to move, dropping out of school or a career to raise children, taking on more of the household chores, working only part-time,

caring for a disabled child, suffering a disability themselves, losing assets during the marriage etc. As well, simply having a long marriage and ending up earning far less than one’s spouse can be entitlement enough.

The spouse seeking support also has to show they have a need for spousal support. Do they have enough money to support themselves in a reasonable fashion, looking at how the family lived when together. There can be major disagreement between spouses as to what a “reasonable” monthly budget is, or should be.

The third test is whether the higher income earner has the ability to pay spousal support. Sometimes, once child support is taken into account, there is no money left to pay support. Sometimes, the higher income spouse is paying the majority of the family debt and therefore cannot afford to also pay support. This too can be an area of major disagreement.

Even if both spouses agree that the three tests have been met, choosing an appropriate spousal support amount can be tough. There are no simple tables like with child support. What number a Judge will choose can be difficult to predict, which makes these cases hard to settle out of court.

Spousal support can be paid monthly, like child support, or it can be paid in a lump sum. Sometimes the lower-income spouse needs a lump sum to purchase a new home, or sometimes the payor spouse finds it easier to pay a lump sum of support as part of the property settlement.

Once an amount of monthly support is chosen, the next question is how long it should last. In some cases, there is a set amount for a fixed time (such as the time required for the recipient spouse to finish their schooling, or for the children to be in school full-time). Other times, the amount is just to be indefinite. In those cases, it is open to review should there be a

change of circumstances; for example, a dramatic change in either spouses' income or expenses, re-marriage, relocation or the children moving out.

Unfortunately, at a first meeting with a lawyer a client is sometimes told they may have to pay support, but we have no idea for sure, how much it will be or for how long.