



# Suing a Corporation for Child Support

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It seems parents will have a harder time hiding behind their corporations to avoid child support.

The Ontario Court of Appeal recently decided that the courts can sometimes enforce child or spousal support by coming after corporate assets when the shareholder owes support.

This is an important decision because it changes the usual understanding in law about corporations. Courts normally treat corporations as separate legal entities, like they are their own independent individuals. They file their own tax returns, buy and sell assets, can sue or be sued. If a corporation borrows money and then defaults, it can be very difficult if not impossible to hold the shareholders or directors responsible.

For this reason, people sometimes use corporations as tax shelters or for legal protection. For example, if one business person owns five different corporations, one can go bankrupt without it affecting the other corporations or the business person.

In the Ontario Court of Appeal case, a man owned a great deal of

child and spousal support to his spouse. He was the sole shareholder and director of a decorative stone work and landscaping business. He worked for his business. The corporation owned substantial assets and was very successful. Based on the owner's income of \$700,000 each year, he was supposed to pay spousal support of \$16,072 each month, and child support of \$7,481 monthly. By the time of the trial, the husband had not made his payments, and was \$523,759 behind in support.

The Court said that the support debt could be enforced against the assets of the corporation. They did not think it was fair to let a delinquent spouse use the company as a shield for fraudulent purposes. Corporate law cannot be used to create an injustice in family law. Basically, where the two areas of law intersect, finding justice in family law will be more important.

The husband in this case had full control over the company. He alone decided what to do with the assets and how much to pay himself. He was in the position of using his corporation to easily avoid any attempts to collect the support.

To justify such a change in the law, the Judges noted the connection between non-payment of child and spousal support, and the problem of child poverty in Canada.

One of the arguments against this decision related to innocent third parties who may be affected. For example, a corporation could have employees or creditors or customers who may now take a back seat to the support debt. They never would have expected child support to be an issue with a corporation.

The Judges noted that there was no other person involved in the corporation. For example, there were no other shareholders. It may be that if the person owing support is only one of many owners of the corporation, this rule may not apply.

One other question for family law lawyers will be if this new rule also applies to property law. If one spouse owes a large sum to the other for a marital property settlement, the question will be whether that can be collected against the spouse's corporation as well.