



Highlights from Recent Family Law Cases

March 23, 2026

Presenter: Valerie Dye, Family Law Lawyer, Dye Law

Land Acknowledgement

We acknowledge that this land is the traditional territory of many nations including the Huron-Wendat, Haudenosaunee, and the Mississaugas of the Credit. Today, the meeting place of Toronto is still home to many Indigenous people. We honour all the First Nation, Metis and Inuit people living on this land. We recognize the traditional territories on which our organization is located, and on which our programs and trainings take place.

Disclaimer

This webinar is for general information purposes only and is not legal advice. It is not intended to be used as legal advice for a specific legal problem.

METRAC: Action on Violence

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- works to end violence against women, youth and children, Two Spirit, Trans, and Nonbinary people.
- a not-for-profit, community-based organization

METRAC's Community Justice Program

- provides accessible legal information and education for women and service providers
- focuses on law that affects women, from diverse backgrounds, especially those experiencing violence or abuse

FLEW, Family Law Education for Women in Ontario

- provides information on women's rights and options under Ontario family law
- in 14 languages (including ASL), accessible formats, online and in print

Presenter

Valerie Dye

Family Lawyer, Dye Law

Valerie is the owner of DYE LAW of which she is a sole practitioner. Her practice focuses mainly on family law, real estate and wills and estate. Valerie has also taught business law at Toronto Metropolitan University as a sessional lecturer.

Valerie was first admitted to practice in Guyana where she practiced briefly before moving to St. Kitts and Nevis, where she worked as Crown Counsel for the Ministry of the Attorney General. She later attended the University of Manchester in the United Kingdom where she did postgraduate studies and where she also taught for a number of years. Valerie also taught at the University of Liverpool online LLM programme.

Valerie was called to the Ontario Bar in 2013 and has been in solo practice since February 2014.



Family Law Cases to be Discussed

1. Davies v. Jane, 2025 ONCA 752 - Separation Agreements
2. R.L. v. M.F., 2025 ONCA 595 - Spousal Support
3. C.C. v. C.H.C., 2025 BCPC 9 - Parental Alienation
4. John v. Laing, 2025 ONCJ 500 – Child Support
5. Kristensen v. English 2025 ABKB 310 – Whether a Child can Choose a Parenting Schedule

Separation Agreements

Davies v. Jane, 2025 ONCA 752

Davies v. Jane, 2025 ONCA 752

Background

- 21-year marriage; 4 children
- Wife: homemaker; Husband: Ontario government employee (~\$80,000/year)
- Financial distress at separation; home at risk of foreclosure
- Two separation agreements: first (no support), second (support + property division)
- Same lawyer assisted both parties initially

Davies v. Jane, 2025 ONCA 752

Terms of the Separation Agreement

- Husband pay the Wife spousal support of \$28,200 a year until the Wife:
 - (a) remarries;
 - (b) cohabits in a relationship resembling marriage for one or more periods totaling three years; or
 - (c) dies.

It also included a clause suspending the Wife's support if she cohabited in a relationship resembling marriage.

Davies v. Jane, 2025 ONCA 752

Claims and Issues

- The Husband paid support for just over 5 years, until he suspended payments in December 2020 because the Wife was in a relationship with a man living in Texas.
- Wife moved to set aside the separation agreement.
- The trial Judge set aside the agreement on the ground that it was not negotiated fairly and that the wife did not fully understand the nature of the Agreement.
- The Husband appealed.

Davies v. Jane, 2025 ONCA 752

Setting Aside a Domestic Contract

- Section 56 (4) of the *Family Law Act* allows setting aside:
 - if a party failed to disclose to the other significant assets, or significant debts or other liabilities, existing when the contract was made;
 - if a party did not understand the nature or consequences of the domestic contract; or
 - otherwise in accordance with the law of contract.

Davies v. Jane, 2025 ONCA 752

Court of Appeal Analysis

- Burden on party seeking to set aside agreement
- Domestic contracts should be encouraged
- Flaws do not lead to automatic invalidation (courts have discretion)
- Adequate disclosure and understanding required
- Prejudice must be shown.
- Hence the Contract should not have been set aside since:
 - Agreement valid despite flaws
 - Disclosure was adequate
 - Wife understood the agreement
 - No duress or coercion found

Davies v. Jane, 2025 ONCA 752

Compliance with *Divorce Act*

- Cohabitation clause invalid under *Divorce Act* objectives
- It does not meet the objectives of the Act.
 - a) recognize any economic advantages or disadvantages to the spouses arising from the marriage or its breakdown;
 - b) apportion between the spouses any financial consequences arising from the care of any child of the marriage over and above any obligation for the support of any child of the marriage;
 - c) relieve any economic hardship of the spouses arising from the breakdown of the marriage; and
 - d) in so far as practicable, promote the economic self-sufficiency of each spouse within a reasonable period of time.

Davies v. Jane, 2025 ONCA 752

Key Lessons

- Domestic contracts are presumptively valid
- In order to set a Domestic Contract aside the flaws must nullify consent
- Joint legal representation is a conflict of interest

Spousal Support

R.L. v. M.F., 2025 ONCA 595

R.L. v. M.F., 2025 ONCA 595

Background

- 14-year marriage with two daughters (17 and 15)
- Father: Banker earning over \$2 million/year
- Mother: Respirologist, part-time, earning \$350,000/year
- Mother reduced hours for childcare and household duties
- Separated in 2020; cohabited until late 2021

R.L. v. M.F., 2025 ONCA 595

Trial Judge Decision

- Moderate compensatory and non-compensatory entitlement found
- Support ordered: \$20,000/month for 9 years, 8 months
- Total support duration: 12.5 years (including interim)
- Child support: \$24,661/month + \$6,627/month in s.7 expenses

Husband Appealed

R.L. v. M.F., 2025 ONCA 595

Issues on Appeal

- Entitlement: Was wife entitled to support even though she did not lose her career?
- Post-Separation Income: Should mother share in father's income growth?
- Quantum & Duration: Was the award excessive?

R.L. v. M.F., 2025 ONCA 595

Court of Appeal Analysis

- Entitlement: No presumptive right; income disparity alone insufficient
- Childcare and domestic work have economic value
- Imputed income doesn't bar entitlement
- Post-Separation Income: 15 guiding principles outlined
- Connection test: Link between marriage and income growth required

R.L. v. M.F., 2025 ONCA 595

Court of Appeal Findings

- Appeal dismissed
- Support award was reasonable
- Spousal support may be awarded despite high recipient income
- Moderate compensatory and non-compensatory entitlement can justify support
- Post-separation income may be shared if linked to marital roles

R.L. v. M.F., 2025 ONCA 595

Significance of the Case

- Clarifies entitlement and post-separation income sharing
- Reinforces appellate deference in support cases
- Spousal Support Guidelines are flexible tools, not formulas, in high-income cases
- Fairness remains the guiding principle

Child Support

John v. Laing, 2025 ONCJ 500

John v. Laing, 2025 ONCJ 500

Background

- Unmarried parties; one child together
- Father: former Paralympic athlete; received Sports Canada grants
- Mother: primary caregiver; child always lived with her
- Father charged with assaulting Mother (peace bond)
- Litigation began in 2024; child support added later
- Father failed to disclose income; pleadings struck

John v. Laing, 2025 ONCJ 500

Issues

- Retroactive child support
- Imputation of income
- Treatment of non-taxable Sports Canada grants as income

John v. Laing, 2025 ONCJ 500

Retroactive Child Support

- Retroactive child support is a debt; by default, there is no reason why it should not be awarded unless there are strong reasons not to do so. See: Michel
- Effective notice: when support is first broached
- Formal notice: written communication or court filing
- Retroactivity capped at 3 years before formal notice
- Court may depart from presumptive date based on delay, conduct, hardship

In this case

- Effective notice: November 30, 2018 (child's first birthday)
- Formal notice: April 17, 2024 (case conference brief)
- Retroactivity capped at April 17, 2021
- Support ordered from May 1, 2021

John v. Laing, 2025 ONCJ 500

Imputation of Income

- Legal test from Drygala and Kohli v. Thom
- Is underemployment intentional?
- Is underemployment justified by education, child, or health needs?
- What income should be imputed?
- Father provided no evidence of injury, job search, or income

John v. Laing, 2025 ONCJ 500

Imputation of Income-Who has to prove?

- The onus is on the party seeking to impute income to the other party to establish that the other party is intentionally unemployed or under-employed.
- The person requesting an imputation of income must establish an evidentiary basis upon which this finding can be made.
- The court inferred that the failure of the payor to properly disclose would mitigate the obligation of the recipient to provide an evidentiary basis to impute income.
- The receipt of social assistance is not sufficient proof of one's inability to work for support purposes

John v. Laing, 2025 ONCJ 500

Factors to be considered in imputing income

- The court must have regard to the payor's capacity to earn income in light of such factors as employment history, age, education, skills, health, available employment opportunities and the standard of living enjoyed during the parties' relationship. The court looks at the amount of income the party could earn if they worked to capacity.
- The payor must prove that any medical excuse for being underemployed is reasonable.
- Detailed medical opinion should be provided by the payor in order to satisfy the court that they are unable to work to capacity

Parental Alienation

C.C. v. C.H.C., 2025 BCPC 9

C.C. v. C.H.C., 2025 BCPC 9

Background

- Married in 2004; separated in 2021
- Two children: ages 17 and 14 at trial start
- Continued cohabitation post-separation
- High-conflict, volatile relationship
- Father left with children in Aug 2022
- Children refused contact with mother

C.C. v. C.H.C., 2025 BCPC 9

Key Issue

- Was the children's rejection of their mother due to:
 - Parental alienation?
 - Realistic estrangement?
 - Or both?

C.C. v. C.H.C., 2025 BCPC 9

Parental Behaviours

- Mother: rigid, one-way communication, shaming; surreptitious recordings (admitted)
- Father: denigrated mother, involved kids in financial disputes; Ignored court orders, failed to support mother-child relationship

C.C. v. C.H.C., 2025 BCPC 9

Findings

- Mixed case: both alienation and estrangement
- Alienation was the dominant factor
- Children's rejection not fully justified by mother's conduct

C.C. v. C.H.C., 2025 BCPC 9

Remedies Considered

- Do nothing(Leave the child with the alienating parent: generally disfavored because it can reward harmful conduct)
- Change in parenting arrangements (Place the child with the rejected parent: potentially effective but highly intrusive and risky, especially for older children)
- Reunification therapy (Maintain residence with the favored parent while ordering therapy: may fail if alienating behaviors continue.
- Transitional placement with neutral third party (plus therapy, aiming to reintegrate the child with the rejected parent)

There is no guaranteed remedy, and response must be tailored to children's age

C.C. v. C.H.C., 2025 BCPC 9

Final Orders and Key Takeaways

- Child to resume contact with mother
- Mandatory counselling for child
- Review hearing in 5 months
- Change in parenting arrangements denied due to logistics and child's stability

Key Takeaways:

- Alienation and estrangement often co-exist
- Courts can find alienation without expert evidence
- Late intervention limits effectiveness
- Timely resolution is critical in high-conflict parenting cases

Whether a Child can Choose a Parenting Schedule

Kristensen v. English 2025 ABKB 310

Kristensen v. English 2025 ABKB 310

Background

- Child age 12.5
- Existing court-ordered parenting schedule
- Child requested break from father's parenting time in late 2024
- Mother & child sought suspension of parenting time
- Father agreed to pause but proposed child decide weekly

Kristensen v. English 2025 ABKB 310

Key Legal Question and Principles

- Should a child decide week-to-week whether parenting time occurs pending trial?

Key Legal Principles

- Children's wishes are relevant, not determinative
- Emotional burden of decision-making matters
- No 'veto' or discretionary access for children

Kristensen v. English 2025 ABKB 310

Material Change

- Child's consistent refusal to see their father amounted to a material change.
- Court found material change without deciding blame

Kristensen v. English 2025 ABKB 310

Key Takeaways

- Parenting time suspended pending trial
- Weekly decision-making rejected (Child does not have to see father but more importantly, they need not be the one deciding whether to do so).

Family Law Resources

- **Legal Aid Ontario** www.legalaid.on.ca/en/getting/default.asp
 - Free telephone interpretation services for languages other than English & French
 - Toll-free: 1-800-668-8258; TTY: 1-866-641-8867
- **Ontario Women's Justice Network (OWJN)** www.owjn.org
- **FLEW (Family Law Education for Women)** www.onefamilylaw.ca/en/resources/
- **CJFO (Centre juridique pour femmes de l'Ontario)** <https://www.cjfo.ca/>
- **Family Court Support Workers**
 - Check local community agency or call Toll-free: 1-888-579-2888 or 416-314-2447
 - <https://www.ontario.ca/page/family-court-support-workers>

Family Law Resources

Mandatory Information Program (MIP)

https://www.ontariocourts.ca/scj/family/court-services/#Mandatory_Information_Programs_MIPs

Family Law Information Centres (FLICs) <https://www.ontario.ca/page/family-law-information-centres>

Steps to Justice <https://stepstojustice.ca/>

Family Responsibility Office, Ministry of Children, Community and Social Services

- Toll-free: 1-888-815-2757

Family Violence and Abuse

For information, if your partner is abusive or violent:

Assaulted Women's Helpline www.awhl.org

- 24 hours/7 days; multiple languages
- Toll-free: 1-866-863-0511; TTY: 1-866-863-7868

- **Ontario Coalition of Rape Crisis Centres** <http://www.sexualassaultsupport.ca/>
- **Network of Sexual Assault/Domestic Violence Treatment Centres**
www.sadvttreatmentcentres.ca
- **Victim Services Directory** <https://www.justice.gc.ca/eng/cj-jp/victims-victimes/vsd-rsv/index.html>

Family Violence and Abuse (cont'd)

Barbra Schlifer Legal Clinic

- Toronto: 416-323-9149
- Free counselling, referral, legal and interpreter services to survivors of violence (Family, Criminal and Immigration law)

<https://www.schliferclinic.com/>

Luke's Place - Virtual Legal Clinic

- Free legal advice for women who are subjected to intimate partner violence
- Tel: 1-866-516-3116

<https://lukesplace.ca/>

• Domestic Violence – Legal Aid

- Free 2-hour emergency meeting with a lawyer
- Offered through some shelters and community legal clinics
- Toll-free: 1-800-668-8258; TTY: 1-866-641-8867

<https://www.legalaid.on.ca/services/domestic-abuse/>

General Resources

Law Society of Ontario Referral Service

- Online: <https://lsrs.lso.ca/lsrs/welcome> (English or French)
- **Crisis line:** 416-947-5255 or Toll free: 1-855-947-5255

JusticeNet

- Reduced fee lawyers for low-income people not eligible for Legal Aid
- <https://www.justicenet.ca/>

Community legal clinics

- Toll-free 1-800-668-8258
- <https://www.legalaid.on.ca/legal-clinics/>

General Resources (cont'd)

The Family Justice Centre – Virtual Legal Clinic

- 647-952-3354 (Check the website for the current intake hours)
- <https://www.probonostudents.ca/family-justice-centre>

Ontario Legal information Centre

- Free 30-minute meeting with a lawyer (legal information and referral services)
- Meetings by phone at 1-844-343-7462 or 613-842-7462
- Video conferencing available upon request
- <https://legalinfocentre.ca/>

Ministry of the Attorney General

- Toll free: 1-800-518-7901
- TTY: 1-877-425-0575
- <https://www.ontario.ca/page/ministry-attorney-general>

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