TAB 13

Remarriage & Spousal Support

Case Law Chart: Remarriage and Ongoing Periodic Spousal Support

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Continuing Legal Education

REMARRIAGE & SPOUSAL SUPPORT[1]

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This paper examines the effect of cohabitation and remarriage on the obligation of a payor to continue to pay, and the entitlement of a recipient to continue to receive, spousal support.[2]

For decades, subsequent cohabitation or remarriage were viewed as clear terminating events, releasing payors from the spousal support obligations of a previous marriage; in the past, a subsequent remarriage was determinative.

Today, however, the law is clear that remarriage is not determinative. Remarriage is no longer a terminating event. While remarriage usually constitutes a material change in circumstances sufficient to trigger a variation application,[3] remarriage is just one factor to be considered on such an application. Through the concept of compensatory spousal support, courts recognize that the economic consequences of marriage (especially long marriages) are not necessarily radically changed by the existence of a new relationship. At the very least, remarriage no longer leads to any presumption of self-sufficiency.[4]

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[1] Co-authored by Melanie Kraft and Aaron Franks, both of Epstein Cole LLP, with thanks to Hillary Braden for her excellent research assistance.

[2]Attached to this paper is a chart summarizing recent cases on point, where courts have terminated, reduced or continued spousal support upon remarriage or subsequent cohabitation. The cases cited in the paper are summarized in the chart.

[3]It is arguable that in some cases, remarriage (or cohabitation) is not a material change. In *Willick* v. *Willick*, [1994] 3 S.C.R. 670 (S.C.C.), the Supreme Court of Canada makes it clear that a "material change" is a change that, if known at the time, would likely have resulted in different terms. The corollary to this is that if the matter which is relied on as constituting a change was known at the relevant time, it cannot be relied on as the basis for variation. Therefore, in *L.G.* v. *B.G.*, *(infra note 4)*, the Supreme Court of Canada found that subsequent cohabitation was *not* a material change as at the time of the agreement, the husband knew that the wife was "seeing" a third party and it was, therefore, foreseeable that they would cohabit.

[4]*L.G.* v. *B.G.* [1995] 3 S.C.R.. 370.

The Legal/Emotional Issue

In one sense, the difficulties presented by subsequent marriage (to avoid repetition, "remarriage" includes cohabitation in a conjugal relationship of some permanence) are more emotional than legal. Almost universally, payors evince fierce resistance to the possibility of owing a continued obligation to a former spouse who has remarried. It is an *extremely* difficult proposition for payors to accept. On the other hand, it does not seem fair that a spouse entitled to support becomes disentitled to support upon remarriage, even where the new spouse is of significant means. This is especially true in the case of compensatory support. That is, to suggest that continued support depends on whether a spouse remarries a "prince or a pauper" completely ignores the nature of compensatory support, and focuses only on non-compensatory support (need and ability to pay). Indeed, all four of the "objectives" in subsection 15.2(6) of the *Divorce Act* ought to be considered on a variation application.

The Older Line of Cases:

Historically, the courts relied upon the maxim *dum sola et casta vixerit* in awarding support. This required that a woman remain both single and chaste in order to continue her entitlement. These clauses were popular in the 19th century as a way to restrict a husband's obligation to pay support. Jay McLeod gave an excellent annotation on the origin of *dum sola et casta vixerit* and *dum casta* clauses in *Weingarden v. Weingarden.* [5]

Cases from 1970's:

By the late 1970's *dum casta* clauses fell out of favour. Such clauses were deleted from separation agreements and were not enforced by courts as repugnant and against public policy.[6] They were replaced by *dum solo* clauses in which a woman's entitlement to support did not

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[5] (1979) 9 R.F.L. (2d) 355 (Ont. C.A.)

[6] See *Weingarden* v. *Weingarden* (*ibid*), *Sleigh* v. *Sleigh*, and *Caroll* v. *Caroll* (1974), 13, R F.L. 357

require sexual chastity, but did require post-marital fidelity. For example, in *Swalm v. Swalm*[7] the Court directed that support payments continue "throughout the term of her life or until her remarriage or until she establishes a relationship with a man whereby she is either being supported by him or ought to be supported by him."

In the 1970's, courts regularly terminated support upon the remarriage or cohabitation of the recipient. The rationale for termination was straightforward: it was "morally offensive" to continue a support obligation to a remarried spouse. A new conjugal relationship was seen as terminating any prior dependency.

For example, in *Chaffey* v. *Chaffey*,[8] the court stated:

> While common-law relationships may be an increasing feature of our society, the strength of the fabric of society still rests in the family unit. While I cannot doubt that some persons living common law, as some say, or 'in sin', as others say, may maintain a strong family unit, common law relationships are generally repugnant to the family unit. To foster, endorse or encourage common-law relationships is to diminish the presence of the family unit in our society and anything which diminishes that presence diminishes our society. To impose upon a man an obligation to provide periodic maintenance to his former wife who is living with another man is to make a mockery of basic social principles. While I acknowledge the jurisdiction of the Court to make such an imposition, I will not exercise that jurisdiction except in remarkable circumstances.

It was also thought that to continue a support obligation in the face of a subsequent relationship was repugnant to the personal nature of the support obligation between spouses:

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[7] (1974), 12 R.F.L. (2d) 13 (O.S.C.)

[8] *Chaffey* v. *Chaffey* (1978), 3 R.F.L. (2d) 69 (Nfld). Other cases that followed this reasoning include *Neal* v. *Neal* (1972), 8 R.F.L. 194 (B.C.); *Richards* v. *Richards* (1972), 7 R.F.L. 101 (Ont. C.A.); *Hodder* v. *Hodder* (1976), 10 Nfld & PEI R. 82 (Nfld.).

(a) "While I recognize that acts of adultery will not necessarily disqualify a wife from an order for periodic maintenance, I feel that where she chooses to share her life, her home and her body with another man on a permanent or semi-permanent basis, she forfeits her right to periodic maintenance to the same extent as if she had remarried."[9]

(b) "It does indeed seem wrong to saddle a man with the responsibility of maintaining his former wife after she has contracted another marriage. Quite apart from any obligation the second husband might have to support his wife, the notion of the first husband's obligation, which arises only out of a judgment, continuing to operate in these changed circumstances, is repugnant not only to the concept of the finality of divorce, but to the fact that the second marriage has put yet another barrier between the two original spouses. Suppose a woman divorces and marries a series of men: must they all contribute to her support".[10]

Although no longer good law, this thinking continues to resonate to this day with payors, on an entirely emotional level.

Compensatory Support and its Impact on Support After Remarriage:

By the mid-to-late 1970's, however, attitudes began to change. In 1976, for example, in *Seeman v. Seeman*[11], Chief Justice Lieff noted that "the primary consideration must be the financial position of the parties. Unless it can be said that the...affair...has in some manner altered the

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[9] *Hodder* v. *Hodder*, [1976] N.J. No. 126 (S.C.) at ¶ 8

[10] *Neal* v. *Neal* (1972) 29 D.L.R. (3d) 254 (B.C.S.C.) at 2

[11] (1976), 13 O.R. (2d) 414 at 416

financial condition of the husband or wife, there is no valid basis for altering the wife's maintenance."[12]

When the "new" *Divorce Act* came into force in 1985, the support landscape fundamentally changed. Whereas subsection 11(1) of the 1968 *Divorce Act* directed courts to consider support "having regard to the conduct of the parties and the condition, means, needs and other circumstances of each of them," the 1985 *Act* prohibited considering "spousal misconduct" in determining support and introduced expanded considerations for support entitlement, including a compensatory element.

Slow Change: A Switch in Onus?

The new theory of compensatory support espoused in the 1985 *Divorce Act* took some time to sink in, interpret and accept.[13] Although courts began to accept the idea that a new relationship did not *automatically* terminate support, courts imposed an evidentiary onus on the recipient to establish that s/he still *needed* support. For example, in *Lowther* v. *Lowther*[14] and *Vine* v. *Vine*,[15] the B.C. and Ontario Courts respectively determined that, where a former spouse enters into a new relationship, that spouse bears the burden of demonstrating that there is a continuing need for support, despite the new relationship.

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[12]See also *Ewart* v. *Ewart* (1979), 10 R.F.L. (2d) 73 (Ont. C.A.) where the court states that the test of the wife's entitlement to maintenance is need and once this has been amply demonstrated, the wife is not barred from receiving maintenance because of her common law relationship.

[13]Some may argue that the full effect of the "paradigm shift" in the 1985 *Divorce Act* was not understood until the decision of the Supreme Court of Canada in *Moge* v. *Moge*, [1992] 3 S.C.R. 813.

[14](1986), 12 B.C.L.R. (2d) (B.C.S.C.)

[15](1986), 54 O.R. (2d) 580 (S.C.)

Ultimately, the propriety of this switch in onus was brought into question after the Supreme Court of Canada decision in *Moge* v. *Moge*. An example of this is the case of *May* v. *May*.[16] In *May*, the parties were married in 1962 and separated in 1983, at which time the husband was ordered to pay spousal support. The wife remarried and the husband applied to terminate his spousal support obligation. While Cosgrove, J. reduced support from $2,600 to $800 a month, he did not terminate it. In reviewing the discussion of the court in *Vine*, Cosgrove, J. concluded that the onus on the recipient to demonstrate continuing need was based on the false assumption that the second marriage resulted in automatic self-sufficiency on account of which the court would relieve the payor from any continuing obligation. Justice Cosgrove concluded that in *Moge*, the Supreme Court of Canada replaced any previous jurisprudence that may have required a recipient spouse to establish continuing need. Cosgrove, J. noted that, "in summary, *Moge* v. *Moge* indicates that self-sufficiency is only one of the four tests that ought to be considered or weighed by the court, on an application vary – that is, where the issue is the appropriate level of support between parties."[17]

In *Rosario* v. *Rosario*,[18] another decision on this issue closely following *Moge*, the Court looked beyond the narrow "needs and means" analysis and applied *Moge*'s compensatory approach. In doing so, Fraser C.J.A. noted that, if one of the original reasons for granting support was on account of what was given up during the course of the marriage, then it is not improper for support to continue after remarriage.

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[16][1993] O.J. No. 2169 (Gen. Div.)

[17] May v. *May*, *supra*, at ¶ 15

[18] (1992), 37 R.F.L. (3d) 24 (Alta. C.A.)

The Supreme Court of Canada

In *L.G.* v. *G.B.*[19], the Supreme Court of Canada was given the opportunity to comment specifically on this issue. In this case, the parties entered into a separation agreement that was then incorporated into a divorce judgment. The agreement provided that the husband would pay the wife $2,600 a month as spousal support and $100 a month for child support. The spousal support was not to be reduced unless the wife earned income of more than $15,000 a year. At the time the agreement was signed, the wife was seeing a friend with whom she had been cohabiting since May of 1989. In July of 1989, the husband filed a variation application under s.17 of the *Divorce Act,* claiming a declaration that the wife was financially self-sufficient and the termination of his support obligation.

On the evidence, during the marriage, the wife looked after the parties' three children and the household, as well as contributing to the husband's business. At the time of the application, the wife was 53 years old and not in working. Her new companion gave her $1,000 - $1,300 a month and loaned her $45,000 to purchase a condominium. They shared all other common expenses. The Superior Court dismissed the application to terminate the support order. The Court of Appeal, relying on the presumption of "self-sufficiency", reduced the amount of support payable from $2,600 a month to $1,250 a month because the wife had established that she was still in need of support, notwithstanding the cohabitation.

The Supreme Court of Canada found that there was no material change of circumstances because at the time the agreement was executed, the husband knew that the wife was "seeing" a third party and it was, therefore, foreseeable that they would cohabit. Therefore, there was no jurisdiction to vary the quantum of support payable to the wife.

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[19] [1995] 3 S.C.R.. 370

Despite the finding of no material change in circumstances, the Court took the opportunity to clarify the law regarding support, remarriage and "deemed self-sufficiency" (albeit in *obiter*). Specifically, the Court stated:

> The fact that the wife is living with a companion certainly does not mean that she can be presumed to be financially independent, no more than the fact that if the husband had been in the same circumstances as the wife at the time of the divorce, he could have been regarded as financially independent merely because he was living with a companion who was in the labour market and sharing common expenses, as well as giving him a gift and a loan."[20].

Essentially, the court found that self-sufficiency is not to be presumed but must be proven. Of course, lower courts have been following the *dicta* of L.G. v. G.B.[21]

Factors the Court Considers on a Variation Application to Terminate Spousal Support on Remarriage:

Recent case law confirms that a recipient's entitlement to continued spousal support may well survive a new relationship. There is, however, a careful weighing of factors on variation applications which focuses on the following questions:[22]

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[20] *L.G.* v. *B.G.* at ¶ 69

[21] For example, in *Nantais* v. *Nantais* (1995), 26 O.R. (3d) 453 (Gen. Div.) the court found there was no evidence that the wife's companion had assumed an obligation to support her. They shared living expenses, the sharing of which might reduce her personal living costs, but not to the point where she no longer needed spousal support. While the fact that the wife had entered into a common law relationship was a factor that called for examination, the examination itself did not show that her need for continued support at the previous level had abated or disappeared.

[22] Gordon, Marie *"Glass Ceilings in Spousal Support"*, Syrtash Collection of Family Law Artciles, SFLRP/1998-001 at pp. 33-34.

1. Does the spouse still need support in view of her new relationship and the income of the new partner?

2. Is there a way to terminate the periodic obligation while acknowledging an ongoing entitlement (i.e., by way of a final lump sum payment)?

3. Did the parties specify the reason(s) why support was being paid when they signed their agreement?

4. Was it foreseeable at the time of the agreement that the spouse would remarry/cohabit?

5. Can it be said with any degree of certainty that the new relationship will last? Is it an enduring relationship, or is it short-lived?

6. What efforts is the spouse making to achieve self-sufficiency? Is the spouse staying out of the workforce to maintain a new home for the new relationship?

7. Will the new relationship ever compensate her for the economic consequences of the first marriage?

Conclusion

1. Remarriage or subsequent cohabitation does not automatically give rise to a material change of circumstances sufficient to vary or terminate spousal support. If it does give rise to a material change in circumstances, it is only one of many factors to be considered. Such circumstances do not automatically terminate support as remarriage or cohabitation do not give rise to any deemed self-sufficiency.

2. Particularly in the case of long-term marriages, support has both compensatory and non-compensatory elements. The roles assumed during marriage often leave the support recipient in a mature state of life with little to show for years of dedication and sacrifice. Support addresses not only "need," but also compensation for economic disadvantage on account of the roles assumed during marriage. A spouse's right to compensatory support does not evaporate simply on account of a new relationship. However, where the new

relationship leaves the spouse completely self-sufficient, it is at least arguable that support ought to terminate.

3. In each case, the Court will examine the length of the previous marriage; the consequences of the separation; the current standard of living of each of the former spouses; the nature and permanence of the subsequent relationship; and the economic benefits flowing to a payee as a result of the new relationship[23].

4. The current state of the law does not change the raw attitude and emotion upon which the "old law" was based. That is, payors will continue to find it repugnant to have to continue to support a spouse that has moved into another serious relationship.

5. As many lawyers (and most payors) have yet to abandon the notion that support does not terminate upon remarriage, to ensure as much as possible the continued support after cohabitation or remarriage, separation agreements should clearly specify why support is being paid.

6. Spousal support continues to be one of the most challenging areas of family law because it is the meeting place of statute, gender economics, judicial discretion and very deep-seated beliefs about entitlement, independence and fairness[24].

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[23] *Gallant* v. *Gallant* [1999] N.B.J. No. 301 (N.B.Q.B.) at ¶20

[24] *Supra,* note 23 at p. 35

CASE LAW CHART
REMARRIAGE AND ONGOING PERIODIC SPOUSAL SUPPORT

Case Name	Decision
Bissett v. *Bissett* (1984), 5 R.F.L. (4th) 405 (B.C.S.C.)	After 24-year marriage wife in common-law relationship - wife last worked in 1976, husband on disability - interim support application dismissed - follows *Lowther* - onus on wife to demonstrate continuing need
Vine v. *Vine* (1986), 54 O.R. (2d) 580 (S.C.J)	The court was satisfied that the common law relationship of the wife did not disentitle her to support *per se.* While it was found by Desmarias L.J. S.C. to be an important factor to be taken into account, the determinative factor remained *the need of the spouse*. He further found that where the spouse being supported has established a new relationship, the onus should lie on that spouse to establish, notwithstanding the change, that the economic loss resulting from the first relationship remained
Rogers v. *Rogers* (1992), 42 R.F.L. (3d) 410 (N.B.Q.B.)	After separation the wife and boyfriend spent substantial amount of time together and boyfriend spent nights in the wife's apartment. They did not, however, hold themselves out as spouses. For the purposes of the divorce proceeding, the court held that the arrangement constituted cohabitation,, and support was terminated under the agreement that provided for termination on remarriage or cohabitattion with another as husband and wife
May v. *May*, [1993] O.J. No. 2169 (Gen. Div.)	Parties married in 1962 and separated in 1983. Wife remarried and husband applied to terminate his spousal support obligations. Spousal support was reduced from $2,600 a month to $800 a month, but did not terminate support. Cosgrove, J. stated that the Moge decision replaced the jurisprudence requiring the separated and now remarried party to prove an onus to demonstrate a continuing need for support.
Bracewell v. *Bracewell* (1994), R.F.L. (4th) 183 (Alta. Q.B.)	Husband was awarded $350 a month support - 32-year marriage - husband's cohabitation with another woman did not dis-entitle him to support
Wrobel v. *Wrobel* (1994), 8 R.F.L. (4th) 403 (Alta. Q.B.)	Remarriage not automatically resulting in termination of support, but onus shifts to recipient spouse to demonstrate continued economic loss from short first relationship - support terminated on remarriage.
Campbell v. *Rooney* (1995), 10 R.F.L. (4th) 351 (P.E.I.S.C.)	Spousal support of $659 a month reduced to $350 a month - remarriage not on automatic dis-entitlement, but new husband expected to contribute to wife's living costs.

Rideout v. *Rideout* (1995), 13 R.F.L. (4th) 191 (B.C.S.C.)	Court following onus in *Lowther* requiring the former wife who enters into a new relationship to demonstrate a continuing need for maintenance from former spouse - wife failing to provide information - support of $300 a month for two years awarded.
Range v. *Range* (1995), 14 R.F.L. (4th) (B.C.S.C.)	Wife having onus of proving why second marriage not meeting her support needs - spousal support cancelled
L.G. v. *G.B.*, [1995] 3 S.C.R. 370	Husband was paying spousal support of $2,600 a month. At the time the agreement was signed the wife was seeing a friend with whom she had been cohabiting since May, 1989. In June, 1989, the husband filed a variation application under s.17 of the Divorce Act seeking to cancel his spousal support obligation. The wife was 53 years old and not in the work force. Her new companion paid her between $1,000 and $1,200 a month and lent her $45,000 to purchase a condo. They shared all other common expenses. The S.C.C. held that the agreement should stand and held that there was no material change in circumstances because at the time the agreement was executed the husband knew that the wife was "seeing" a third party and it was, therefore, foreseeable that they would cohabit. The court stated *"the fact that the wife is living with a companion certainly does not mean that she can be presumed to be financially independent, no more that the fact that if the husband had been in the same circumstances as the wife at the time of the divorce, he could have been regarded s financially independent merely because he was living with a companion who was in the labour market and sharing common expenses, as well as giving him a gift and a loan".*
Nantais v. *Nantais* (1995), 16 R.F.L. (4th) 201 (Ont. Gen. Div.)	34 year marriage, the husband was ordered to pay spousal support of $1,500 a month, which was reduced to $1,300 a month after the parties both formed new relationships in 1991. The husband applied to terminate support following his retirement. Court dismissed the husband's application to terminate spousal support, indicating that, although the wife had received benefits from her new relationship, she continued to need spousal support at the previously established level. The Court stated, "Further, the need, in my view, clearly relates back to her previous matrimonial status, and her 28 years out of the work force, rather than to her present relationship."
Lamey v. *Lamey* (1996), 19 R.F.L. (4th) 172 (P.E.I.S.C.)	29-year marriage where wife full-time homemaker. Wife awarded $625 a month in 1986. Wife remarried and agreed that she was "self-sufficient". However, Court found she still experienced economic disadvantage. Court refused to terminate support even when receiving spouse was economically independent

Robson v. *Robson* (1996), 20 R.F.L. (4th) 123 (Alta Q.B.)	Parties divorced in 1976 and spousal support reserved $1 per year. Wife living common law between 1983 and 1988 but that relationship terminated. Chambers Judge awarded $600 a month spousal support. Husband appealed and the appeal was dismissed
Lauderdale v. *Lauderdale* (1996), 12 R.F.L. (4th) 17 (Alta. Q.B.)	Parties separated after 17-year marriage - wife was a stay-at-home mother with 4 children. Wife in new common law relationship since 1993. Wife's application for spousal support granted. Economic disadvantage not affected by new relationship, but Court made a lump-sum award rather than periodic, taking into account new relationship
Cooper v. *Cooper* (1996), 23 R.F.L. (4th) 181 (Alta. Q.B.)	Parties married between 1971 and 1979. Wife remarried in 1980. Husband applied to terminate spousal sport and vacate arrears since 1980. Husband's application successful retroactive to date of remarriage
Lewis v. *Lewis*, [1996] WDFL, issue 46, November 18, 1986	Cohabitational relationship alone does not dis-entitle mother to support, however wife's employment as a bank teller earning $22,000 per year not affected by first marriage. Husband's earnings between $56,000 and $81,000
Harris v. *Gilbert* [1997] O.J. No. 155 (C.A.)	22 year traditional marriage, the husband was obliged to pay spousal support of $800 a month. Both parties subsequently remarried. The wife's remarriage was not considered a material change in circumstances and the husband was directed to pay ongoing spousal support of $500 a month.
Uens v. *Uens* (2000), 11 R.F.L. (5th) 202 (Ont. S.C.J.)	The wife's subsequent arrangement with a new partner is not an automatic bar to her entitlement to support. After an 18-year traditional marriage during which she raised 4 children, the wife entered into a pre-nuptial arrangement requiring her to pay household expenses for the children and waiving support. The wife was entitled to compensatory and non-compensatory support to attain financial independence
Lockyer v. *Lockyer* (2000), 10 R.F.L. (5th) 318 (Ont.S.C.)	The wife's comfortable lifestyle in new cohabitation relationship is a relevant factor in determining the quantum of spousal support payable by the husband, despite the waiver of support in the cohabitation agreement governing her current relationship. In obiter the Court held that if the wife's current relationship terminated, she could apply to vary the quantum of support as a material change in circumstances.

Sharpe v. *Ebers* [2002] O.J. No. 3468 (S.C.J.)	Husband applied to terminate his ongoing spousal support obligation. The parties had divorced after a 21 year marriage. Minutes of Settlement were entered into. The husband was a doctor and had moved to England, where the cost of living was substantially higher. That and the husband's obligations for new dependants constituted a material child in circumstances. The wife was a nurse. The agreement provided for a reduction of spousal support as the wife's income from employment increased. The wife had married a multi-millionaire. The application was allowed in part. The court held that the wife had no need for support, which constituted the requisite material change in circumstances. Aston J. stated that the wife's current income earning capacity is evidence that she had substantially overcome the economic disadvantages to her arising out of her role in the marriage to the husband and as a consequence of its breakdown. At the time of the separation the wife was working part-time as a nurse and by the time this motion was brought before the court she was earning substantially higher income than at the time of separation. He went on to say that the elimination of the support obligation would take away an economic safety net that the wife had the right to expect after a 21-year marriage to a highly successful man. The court reduced the ongoing spousal support to a nominal sum capable of future review, if necessary.
Kollinger v. *Kollinger* [2002] M.J. No. 507 (Q.B.)	The husband brought a motion to terminate his obligation to pay spousal support. The parties had been married for 25 years and had 6 children. The wife began cohabiting with another man, who contributed a small amount toward monthly groceries and did not contribute to any household expenses. The court held that the wife was no longer entitled to spousal support. In this case, Diamond, J. drew a negative inference because the wife's boyfriend did not give any financial disclosure. The court imputed that the wife's boyfriend be responsible for half of the wife's household expenses and that the deficit ought to be rectified if the boyfriend contributes to the expenses.
Boddington v. *Boddington* [2003] O.J. No. 4008 (S.C.J.)	Flynn, J. held that despite the fact that the wife was cohabiting with another man, she was not dis-entitled to support on the basis solely that she had formed a new relationship. However, based on the evidence, the court held that the wife had not discharged the onus upon her to prove the case and establish need.

Levandusky v. *Levandusky* [2003] O.J. No. 2783 (S.C.J.)	The Ontario Court declined to terminate a wife's support when she was cohabiting with a new partner who now had a statutory obligation to support on the grounds that the first marriage was a long-term traditional 26-year marriage. The support was reduced by 2/3 to be cut further when the husband turned 65. In this case, after the parties' separation, they negotiated a resolution of their marital affairs, a division of their assets, liabilities and responsibilities in an equitable manner. The material change was that the husband had retired and the wife had re-partnered with someone who was in better financial circumstances than the husband and this third party was legally obligated to support her. The wife failed to show an actual need for ongoing spousal support. She chose not to disclose her investment portfolio; or the details of her use of two joint accounts. The court held that the wife's new partner had "replaced" the husband as the principal male obliger to the wife. Despite the court finding that the wife's ongoing need for spousal support had been significantly reduced, after 26 years of commitment to her first husband and family, her entitlement to some continued compensatory spousal support has not yet been eliminated entirely.