



## **Q&A By John T. Syrtash, Associate, Garfin Zeidenberg LLP**

### **Answers to pressing questions on Family Law.**

#### **Requests take time to get through courts**

**Question:** I want to vary my child support payments, as my income has dropped because I moved into my investment property and lost rental income because of my separation. Also, my son has moved in with me as he could not bear to live in the matrimonial home any longer and he is still attending high school. I have retained a lawyer to vary my support but he has taken three months to do what I consider basically nothing other than sending emails, reviewing files, photocopies, courier services and instructing other associates. They wanted a \$4,000 binder and have just sent me another bill for \$775 to “replenish the trust account.” Should it take so long to accomplish a basic variation in child support? And secondly, why do I have to go through such an expense and long period of time to accomplish this? Who knows. This is taking so long that by the time litigation ends either my financial situation or hers might change again. Then I may have to start all over again with yet another variation application.

**Answer:** Without reviewing your file, I cannot comment on your case or whether your lawyer is handling it expeditiously. Bt it sounds like your expectation of costs and the timing of results was fashioned either by a lack of knowledge or a failure by your lawyer to explain the reality of the Ontario court system, its methods, limitations, paperwork and process. First, it is quite normal for it to take at least three months before a client suing got a change in child or spousal support court order can see a judge to discuss their case at something called a “case conference.” The courts are simply overwhelmed and there is a severe shortage of judges. Prior to such a conference, which takes the form of a settlement meeting, each of your lawyers prepares detailed court briefs comprised of family law financial statements, showing budgets and asset/liability calculations. They also attach three years of tax returns/notices of assessments. Your lawyer might also prepare a detailed list of questions for the other party to answer asking for such documents as credit card statements, bank statements or past credit applications for car lease of mortgage applications to uncovers someone’s “real income or assets. If there is a private pension, it has to be valued as tot its current value. I cannot comment on whether \$4000 was appropriate to charge on your file, but preparation is costly if you want a good result.

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