

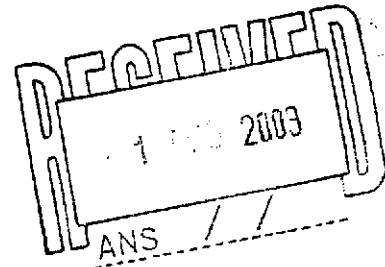
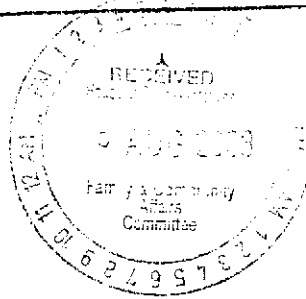
Submission No. 342

Date Received: 6-8-03

Secretary: [REDACTED]

30 July 2003

Mr Paul Neville
Federal Member for Hinkler
Suite 1 City Centre Arcade
Woongarra Street
BUNDABERG Q 4670



Dear Paul

RE: CHILD CUSTODY & SUPPORT

I would like to take this opportunity to lodge a formal submission relating to my personal experience with the above process. Appreciate your assistance in forwarding this through the appropriate channels to register my comments.

BACKGROUND

My wife of 10 years and I separated in August 2001 in Bundaberg. We had a son, [REDACTED] who was born on 5 July 2000. Without going into detail, it was a "messy" separation and the ex-wife is still very bitter to this day. This has severely impacted on the relationship with my son and still does.

CHILD SUPPORT

Firstly, I have no problem as a Father supporting my son financially. The issue I have is that the money being paid is not used wholly and solely for the welfare of [REDACTED] and the level is not appropriate when you take the whole-of-life scenario into account and considering all other circumstances.

The current formula applied to my salary is 18% of my taxable income less an exempted amount of \$11,271.00. This equates to \$227 of my net income going to my ex-wife tax-free every week. This is an enormous burden when trying to start again from scratch.

What the formula doesn't take into account is the dispersion of matrimonial assets. In this case, the ex-wife through lawyers and the fact she wanted to be a "stay-at-home" mother for the benefit of proceedings, retained all the assets from the marriage including a house worth a minimum \$280,000, vehicle worth \$40,000 and all the household goods and items in excess of \$15,000. I ended up with my clothes, stereo, fishing gear and started again with nothing. I worked 10 years for nothing, started again and currently pay the ex-wife \$227 a week on top of that. I probably could have fought this through court. However, based on advice from a barrister at \$1000 a pop, the court fees would have exceeded any return I may have been granted by the court.

There was always the risk the courts would grant me nothing and I was left with court fees.

The ex-wife has now shot through to [REDACTED] to live with her parents (refer details under Child Custody). She currently resides with her parents in [REDACTED] rent free, with no living costs, supported by her parents who are extremely well-off and with assets she could now sell and realise a return in excess of \$250,000.

The ex-wife is a qualified teacher (with early childhood qualification) and can return to work at any time. She chooses to stay at home rather than work and put [REDACTED] into daycare. However, once [REDACTED] starts pre-school, she returns to work full-time and I continue to pay (based on current wage) \$227.00 per week on top of that. This is not fair.

SUGGESTION

It is important for the Father to provide reasonable support to their child/children upon separation. A standard formula is also a reasonable approach considering everyone is treated equally. However, the formula needs to take into account a number of other factors, not just a flat 18% and should be based on the parties' specific circumstances. 18% of \$100,000 is a lot different to 18% of \$50,000. There needs to be a sliding scale based on income brackets and what is reasonable to sustain quality of life for the child/children. My suggestion is

1. Take into account what it costs for a child each week. Surely it is not difficult to determine a weekly figure that a child can live comfortably until he goes to school, taking into account clothing, personal needs and food. The Father is responsible for sharing the burden of caring for his children only.
2. Take into account the earning capacity of the Mother. In my case, I see no reason why the costs of caring for Samuel should not be shared equally once he starts school and the Mother returns to work full-time. If she chooses not to work because she is on such a good wicket staying at home, her choice and should be factored into what the father reasonably pays. Again, it should not be difficult to work out what it costs for schooling through public school over a 12 month period through the various grades and both parents share costs.
3. Also consider some form of means testing. Again, in my situation the ex-wife is comfortably well off with the assets she has acquired through separation.

CHILD CUSTODY

There is a long story and I will attempt to summarise as best I can.

I will be in court for the third time in September to obtain reasonable access to see my son. Due to the "messy" nature of separation, my ex-wife has used our Son as a form of punishment/revenge, denying me access. The only way I get to see my son for a reasonable time is through court orders.

I am more than capable (as capable as the Mother) to care for my son. I did so before separation and am more than capable now he is getting older. There is no reason I could not have shared his caring evenly with the Mother, even more so when he

commences school. I am a professional Engineer and extremely capable in the rigors of everyday life and caring for a child.

However, due to the current climate that favours the mother, there is no assistance for a Father denied access. The mother can basically do whatever she wants unless it is contested in court.

HISTORY

August 2001 – Separation. Did not see my son for over a month. When I could eventually see him, it was only in a park for a few hours at the most. I was not allowed to take him anywhere and it was only when it suited the mother. She often cancelled and had complete control of the situation.

November 2002 – Finally made it to court after months of skulking around parks with my son on one day a weekend for a few hours when the mother did show up. This was only after lengthy negotiations through solicitors in an attempt to reach an amicable solution. It had to go to Court because there was no change in sight and the mother continued to control the situation completely. Court orders were issued based on [REDACTED] age and a graduated access to [REDACTED] from a full day each week up to overnight weekend visits after 6 months. This was the best I could obtain, even though I was more than capable of looking after [REDACTED] for whatever time I was allowed. This was only an interim measure until November 2003 when we were expected to go back to Court to determine ongoing suitable access if we could not sort it out between us. More solicitor fees and court costs.

April 2003 – The mother shoots through to [REDACTED] (4 hours away) under devious/underhanded circumstances using medical information she had basically concocted through doctors. [REDACTED] cannot talk and the mother basically convinced and obtained letters from doctors supporting her case for [REDACTED] and asthma. To cut a long story short, I gathered solid information refuting this move and trying to keep my son where I could grow up with him and maintain a father/son relationship. My only option is court and I cannot afford \$15,000 legal fees to try and get my son back when it could quite easily go against me based on the doctor letters the mother has dictated to them. Basically a case of my word against hers. It also benefits the mother to live with her parents. She struggled to cope on her own and it is much easier to have full-time babysitters and help with [REDACTED] 24 hours a day from her parents. This also works against me in court as they also consider what benefits the mother, regardless of Samuel & my needs as a Father & son. Again, all in favour of the mother.

June 2003 – In court again trying to obtain reasonable access to [REDACTED] considering the move to [REDACTED]. The mother still refused to give any ground and allow me to have reasonable access. Interim orders are in place allowing me minimal overnight visits every 3 weeks until September when we go to court again with proposals to try and see my son on a regular basis.

SUMMARY

The system is totally in favour of the mother who can control and dictate how much a father can see his son. I love my little boy very much and have had an extremely

upsetting and stressful 2 years spending \$1000's on solicitors and court fees just to see my son. I have been deprived of countless hours with him, which has been detrimental to him and myself as he loves spending time with me (doesn't want to leave when he has to go).

SUGGESTIONS

Remove the mother's complete domination of the situation. While it is vital for the mother to care for the child, do not rule out the needs and capabilities of the father. Do not put all fathers into a category that they cannot look after their children as well as a mother. Take the father's history and background into account. Conduct a quick independent assessment on the father with the son present and assess his capability to care for the child. If it is clear that the father is capable of caring for the child, set some black and white guidelines on access from day one. Unclog the Family Courts and stop making solicitors rich on family separation. It would be extremely easy to set some guidelines for certain ages based on an assessment of the father and what is reasonable at various ages and how the child develops. Set a program in place upfront based on overall assessment of the situation. Only go back to court if there are breeches of the arrangements.

I thank you for the opportunity to provide a submission and hope this assists in the deliberations of this complicated issue. I am more than willing to provide further input if required.
