

## Facilitator's Guide Research Case Study

### Family Law

#### Scenario

A couple is divorced after 22 years of marriage. They have one adult child attending university, who lives with the mother, and has had no contact with the father for more than 5 years. The father claims that the mother has actively prevented contact between father and child, and would like to stop child support payments.

#### Objectives

1. This is a tricky scenario where the researcher needs to learn – using searching technique – that the key concept in Saskatchewan courts is “unilateral termination,” as first defined in *Bradley v. Zaba* (1996) 137 Sask R 295 (CA)
2. Once this phrase has been discovered, it should be incorporated into the search to find SKCA authorities and recent SKQB judgments
3. Use keyword searching in CanLII or WestlawNext to discover *Federal Child Support Guidelines*, SOR/97-175, s.3(2) (Child the age of majority or over), and the Family Maintenance Act, 1997, SS 1997, c F-6.2, ss.3(7) and 4. Note up sections to find further case law

#### Textbooks

- WestlawNext (FamilySource) – MacDonald & Wilton, *Child Support Guidelines Law and Practice*
- WestlawNext (FamilySource) – MacDonald, *Canadian Divorce Law and Practice*
- Irwin Law – Payne & Payne, *Child Support Guidelines in Canada, 2015* – Chapter 3, Section E (pgs.48-62) deals with “Post-secondary Education or Training; Chapter 3, Section F (pgs.62-78) is on “Children over Age of Majority”
- Emond Montgomery – Kurtz, *Family Law: Practice and Procedure* – Chapter 8 is “Child Support” – brief section on “Child Over the Age of Majority” at pgs.94-95
- This is a scenario for which textbooks and articles are of limited use – however, it is still a useful exercise to open online books or encyclopedias and find relevant sections

#### Encyclopedia

- Canadian Encyclopedic Digest, Children, 1 – Child Support, 2 – Entitlement to Support, (c) – Child Over Age of Majority
- Canadian Encyclopedic Digest, Children, 1 – Child Support, 4 – Variation of Child Support Orders

#### Articles

- Articles are not very helpful for this question, as it is textbook law – but it's still a worthwhile exercise to conduct an article search
- Search in: ICLL (WestlawNext) – “child support” and “adult child” are subject headings
- HeinOnline – see keyword searching tips below

## Digests

- Canadian Abridgment Digests > FAM Family law > IV Support > 2 Child support > a Duty to contribute > Child at school (543 digests)
- Use filters to narrow to Saskatchewan results (75), then search within results according to outline below

## Suggested Process - Keyword Searching

### Step 1: Brainstorm for keywords

child support, child maintenance, adult child, estrangement, alienation, university, college, post-secondary education, variation of support

### Step 2: Group keywords into distinct concepts

- Concept 1: child support, child maintenance
- Concept 2: adult child
- Concept 3: estrangement, alienation, “unilateral termination”
- Concept 4: university, college, post-secondary education
- Concept 5: variation

### Step 3: Identify Connectors and Create search query

- Connectors and Expanders are listed in WestlawNext on “ADVANCED” search page
- Possible initial search in Saskatchewan cases: (child support / child maintenance) & adult child\* & (estrangle\* / alienat\*)
- The same search in CanLII: (“child support” OR “child maintenance”) & “adult child!” & (estrangle! OR alienat!)
- The same search in WestlawNext: (“child support” OR “child maintenance”) “adult child\*” (estrangle\* OR alienat\*)

### Step 4: Execute search and analyze results

- How many hits are there?
- If too many, may need to (1) add a concept, (2) drop some synonyms, or (3) filter results
- How do you want the results arranged? Relevancy? By date? Or by court level or number of cites?
- Look at a few hits – are they relevant?

- In the best results, are there other terms you should add to the search? Are there related Abridgment headings?
- In the least relevant results - are your keywords working correctly?

### **Step 5: Reformulate search**

- In this case, there will usually be a high number of hits if the alienation/estrangement concept is left out, and a low number if it is included
- "Adult child" is a concept that cannot be keyword searched because only a minority of cases use that phrase, and there are too many possible synonyms to include in a search query. The

term can be used to find some initial results – but cannot be relied upon to get comprehensive list of authorities

- In Saskatchewan courts, the alienation/estrangement concept is expressed as "unilaterally terminated" / "unilateral termination." The researcher must attempt some initial searches, then identify this phrase in the results and add it to the query to find additional (better, more recent) authorities
- For the narrower issue of unilateral termination, use filters to compile list of relevant Saskatchewan cases
- For the broader question of how the courts award child support for adult children attending university, apply filters and sorting to limit to Saskatchewan cases, then extract (1) the SKCA authorities, (2) the most-cited authorities, and (3) the most recent cases at all levels

### **Step 6: Follow chain of authorities**

- In this scenario, the ruling SKCA case, *Bradley v. Zaba* (1996), may not appear in any search results. So it is up to the researcher to pick out this case either in the citing authorities (it is cited many times), or in the body text of a case that appears in the results
- Once *Bradley v. Zaba* has been located, a good strategy is to get a list of citing cases for *Bradley* (note-up), and filter by date or relevance

### **Legislation Search**

- For legislation, use a much broader search – for example, in CanLII, try just "child support," then filter to Saskatchewan. The Family Maintenance Regs will be among the results, and the regs will point to the Family Maintenance Act (which may not be in the initial results, because it does not use the phrase "child support")
- Searching "child support" under Legislation name in CanLII, then filtering to the federal jurisdiction brings up the Federal Child Support Guidelines. Or search for "child support" as text, and filter for federal and legislation – the guidelines will be the number one hit, and the Divorce Act is number two.