

PUBLICATION

Spousal Support: How much is too much?

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Recently, one of the largest awards of interim spousal support in Canada was given to the wife of millionaire, Michael McCain. Mr. McCain is the President and owner of Maple Leaf Foods Inc. The amount of interim spousal support ordered in favour of the wife, Christine, by the Ontario Superior Court of Justice was in the sum of \$175,000 per month.

Mr. McCain is seeking to appeal this Order to the Divisional Court in Ontario. One of the main grounds of his appeal is whether the Court incorrectly set aside a Marriage Contract (postnuptial agreement) between the parties from 1997. The Marriage Contract was entered into after 16 years of marriage, and provided for no payments of spousal support to the wife after the parties' separated. The parties have been married for 30 years with five children from the marriage.

The question the Appellate Court in Ontario must review is whether the signing of the Marriage Contract was unfair, and if the proper legal test was applied by the lower Court in awarding the interim support payments in the sum of \$175,000 per month since part of the Marriage Contract was set aside. Ultimately, this question relates to whether the wife was under duress 16 years ago in signing the Marriage Contract as she had to sign the contract otherwise her husband would divorce her.

The issue that also arises in this case is that since the wife is entitled to receive millions of dollars from the property division in the Marriage Contract, whether that is sufficient property to support herself. Arguably, in light of the family's luxurious lifestyle during their marriage, and since the husband is receiving a disproportionate share of the millions of dollars of family assets from the business, the smaller amount of the property that the wife will have following the divorce is not enough to support her in the same comfortable manner as she was accustomed to throughout the marriage.

We will await the decision of the Ontario Divisional Court on whether the Marriage Contract is binding and if the amount of the interim spousal support payments awarded was too much.

For further information please contact the author, Chad Johnson at 403.254.3698 or any member of our Family Law Group.