

<u>CASE NO.</u>	<u>VOL. NO.</u>	<u>PAGE</u>
CLIFFORD PERRY GAETZ (Appellant)	- and -	SHARON EVANGELINE GAETZ (Respondent)
CA166031	Halifax, N.S.	Freeman, J.A.

[Cite as: Gaetz v. Gaetz, 2001 NSCA 57]

APPEAL HEARD: February 5, 2001

JUDGMENT DELIVERED: April 6, 2001

SUBJECT: **Child and Spousal Support; Child Support Guidelines; Extraordinary Expenses; Undue Hardship; Variation**

SUMMARY: Custodial father of three teenage boys appealed from a variation order suspending spousal support but limiting mother's obligation to pay child support of \$100 per month instead of the \$576 per month required under the **Child Support Guidelines**. He also sought a contribution towards \$18,634 annual extraordinary expenses for hockey, golf, school activities, educational savings and orthodontic care. Father's income was found to be \$80,000 per year and mother's income \$30,000 - 31,000. Trial judge reduced extraordinary expenses to \$7,752 of which mother's share would have been \$166.09. He found no circumstances giving rise to undue hardship as listed in s.10(2) (a) to (e) of **Guidelines**, but compared the mother's standard of living with the father's and concluded she would suffer undue hardship if required to pay the table amount under the **Guidelines**.

ISSUE: Should the mother's responsibility for child support be reduced on grounds of undue hardship?

RESULT: The appeal was allowed without costs. The trial judge erred in finding undue hardship. No circumstances such as those listed in s. 10(2)(a) to (e) of the **Guidelines** were found. Such a finding is

step-one of the two-step test for undue hardship. It is a prerequisite to the second step, the comparison of standards of living. Extraordinary expenses were further reduced to include only orthodontic costs of which the mother's share would be \$64.49 a month. The order was varied to require the mother to pay child support in the table amount of \$576 a month plus the add-on of \$64.49 for a total of \$640.49 per month. Arrears resulting from the variation were forgiven.

This information sheet does not form part of the court's judgment. Quotes must be from the judgment, not this cover sheet. The full court judgment consists of 6 pages.