

Failing to Disclose Income Information

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Magennis v. Roth (2010)

Section 31(1) of the *Family Law Act* states that “*every parent has an obligation to provide support for his or her unmarried child who is a minor or is enrolled in a full time program of education, to the extent that the parent is capable of doing so*”. Further, according to the *Child Support Guidelines* and the *Family Law Rules*, financial disclosure in a family law case, particularly where there are issues concerning support, is paramount and a necessity.

If a parent fails to comply with the rules of the court regarding income disclosure, negative consequences may follow. In *Magennis v. Roth*, Mr. Roth failed to provide the court with his income statements. He was so concerned with not paying child support that he requested the court to guarantee him future shared custody of at least 40 percent of the time, so that he could lower his payments. When the court asked him why he was seeking 40 percent of the time with the children, Mr. Roth explained that this would ensure that he did not have to pay a great deal of child support, as he was financial unable to do so. Mr. Roth also criticized the *Child Support Guidelines*, stating that the Guidelines were far too onerous on the hard-working fathers of Canada. Although the court continually requested that he provide them with evidence to support his claim of undue hardship, Mr. Roth failed to do so.

As a result of Mr. Roth’s failure to report his income “*in an accurate or timely fashion*,” the court awarded a fixed amount of \$25,000 to be paid immediately by Mr. Roth to Ms. Magennis. The court treated the award as if it was a support award and it was to be enforced by the Family Responsibility Office.

The lesson – income disclosure in family law cases are key. Failure to comply with this obligation can have some unwanted consequences. A delay or outright refusal in providing the financial documents may result in the court awarding costs to the other side, and better yet, enforcing them as child support payments with the Family Responsibility Office.