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# DIGEST

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**SPOUSAL SUPPORT** – An award to a common-law wife for unjust enrichment failed to consider the husband's non-financial contributions to the relationship.

Appeal from an award of \$996,500 to respondent for unjust enrichment. The parties lived in a common-law relationship for 12 years. They had two children, aged 10 and 8. When the relationship ended, respondent claimed spousal support, child support and compensation for unjust enrichment. At trial, she was awarded \$5,472 per month in child support and \$3,800 per month in spousal support until June 2015. She was also awarded a monetary award for unjust enrichment in the amount of \$996,500. Appellant husband was developing a net-

work operating system. The wife resigned her position at CSIS and relocated to Halifax, where the husband moved his business. She devoted herself full-time to running the household and raising the children. The trial judge concluded that the husband could not have built up the company as he did but for the wife's efforts. The husband had received \$11,000,000 from the sale of the company.

**HELD:** Appeal allowed. A new trial was ordered. The trial judge erred in the approach she used to quantify the compensation owed due to unjust enrichment. The correct approach was to determine the "value received" and perform a quantum meruit calculation. The value that each party received from the other should have been assessed and set off. In addition to the husband's financial contribution, the judge should have considered relevant evidence pertaining to his non-financial contributions to the relationship. For example, after the birth of their first child, the husband cut back his hours and resigned his position as president of the company, which resulted in him losing the opportunity to obtain any further stock options. Within a year after their first child was born, the family returned to Ottawa at the wife's urging. The move resulted in a diminution of his commitment to the business, friction with his partners and reduced the amount he ultimately received from the sale of the business.

*Vanasse v. Seguin*, [2009] O.J. No. 3211, Ont. C.A., per Weiler, Juriansz and Epstein J.J.A., July 29/09. Digest No. 2916-011 (Approx. 5 pp.).