

Ontario: Jurisdiction and Family Law

In *Okmyansky v. Okmyansk*, 2007 ONCA 427 (available [here](#)) the court answered three questions about its jurisdiction to hear different types of family law issues.

It held that under the (federal) *Divorce Act* it did not have jurisdiction to hear an application for spousal support following a valid divorce in a foreign jurisdiction (in this case Russia). The divorce had to have been a Canadian divorce for the court to be able to address support. On this issue the court's decision is in line with recent British Columbia authority and is contrary to recent authority from Quebec.

It held that under the (provincial) *Family Law Act* it equally did not have jurisdiction to hear an application for spousal support following a foreign divorce.

It held that under the *Family Law Act* it did have jurisdiction to hear a claim for equalization of the family assets following a foreign divorce. Accordingly, this claim was allowed to proceed in Ontario.

On each issue the analysis focuses mainly on statutory interpretation and the fact that under the Canadian constitution the federal government's ability to make laws governing support (otherwise a provincial matter) is only ancillary to its exclusive ability to make laws about divorce.