

Submission No: 116

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Section:

**Submission for Inquiry into Custody Arrangements in the  
Event of Family Separation**

My marriage broke up in 1996 because my ex-wife had an affair with a guy she insisted should move in with us. When she told me about her affair I left her because I was disgusted at her, and there was no way I was going to be with her again. I wanted to take our 3 year old daughter but thought the best thing was for her was to stay home. Knowing what I know now, I wish I had kicked out the ex and the bloke, who she's married to now, and kept my daughter and the house.

About a month before she told me about her having an affair, the ex had talked me into taking out a personal loan to buy her mother's car. When I left the marriage I left the car as well because I still wanted my daughter to have the best things she could have. I also kept paying the mortgage so that my daughter could have a roof over her head, but at the same time I was also paying for the ex and her boyfriend.

When the ex finally moved out she and her boyfriend took everything, including my personal photographs, the bed, family presents and things that my family had loaned us. I was left nothing.

I sold the house and lost money, so the ex and I came to an arrangement that I would pay off the debt and she wasn't going to take me to the CSA. I ended up paying \$600 a month for the debt, for three years, instead of \$160 a month that the CSA would have charged me. The ex still thinks she paid off half of the debt, but I dispute that. The day the debt was paid off she rang me to organise child support payments. She was happy for me to pay \$80 per fortnight into a bank account that I opened in our daughter's name. I did this for one and a half years.

I was nice to the ex and her husband even though I didn't trust them as far as I could throw them. They made me lose everything and took my daughter away from me. But I made an effort to be nice for my daughter's sake. The ex phoned me all the time to let me know things about our daughter, and she got my daughter to ring me every day.

I used to have my daughter every weekend and the ex never complained. Then I found out that she was taking her out of school to spend special time with her, so I thought it was a better idea that I had her every second weekend rather than have my daughter miss school.

A couple of years ago I was knocked back by the tax department on claiming the family tax benefit that I had claimed every other year. I found out the ex-wife had been collecting the full family tax payment and had lied about having our daughter all the time. So I asked her to fill in the forms so that I could get \$16 a month. She ended up taking me to the CSA. She didn't give damn about the debt I had paid off and everything I had given her, or that I just had a new baby with my girlfriend. So I ended up paying over \$400 a month in child support that made my new family broke and meant I couldn't do much with my daughter when I had her. The ex hasn't worked for three years now and



she hasn't spent a cent of her own money on our daughter. The ex also went to see a solicitor about parenting orders. She decided she wanted me to see my daughter less, and to become responsible for all the transport. She did this all out of spite because I wanted to claim the family tax benefit and she thinks I didn't deserve it. So I decided to stand up for myself.

The ex and her husband started giving me a really hard time. The ex stopped talking to me and her husband wanted to only talk to me through e-mails. They were putting me down in front of my daughter in their home, and my daughter had to tell them to stop this. The husband didn't bother to return my calls and kept messing up arrangements that were made. He told me that he didn't care if I saw my daughter or not. My daughter told me she got so upset at school one day and the teachers had to take her out of class. She spent the whole day in counselling because the ex and her husband were saying bad things about me in front of her. She was scared she wouldn't see me again.

I took a Voluntary Redundancy from work and started my own company. I tried to talk to the ex's husband about making child support payments because I knew it was going to be \$0 through the CSA. Instead the ex made an application for change of assessment through the CSA. Her application included costs for herself, her husband and her other children, not just our daughter. The determination used these figures in its assessment. Any costs to do with my girlfriend and our baby was excluded.

I went to Relationships Australia thinking that we could get mediation. I said to the counsellor I was didn't want to deal with her husband as he didn't have my daughter's best interest at heart. I wanted to only have the ex present for the mediation but I didn't care if her husband sat in the next room. The counsellor ended up making an appointment for the three of us to be in the room together and he had ignored everything I told him.

We never ended up getting mediation because I finally managed to talk to ex. She cancelled the appointment because she agreed to start talking to me again. We're still in the process of drawing up our parenting orders.

The way I have been treated by my ex-wife, her husband, their solicitor, my ex-solicitor, the CSA and the family law is disgusting. Everybody seems to think that I am the bad guy here when it was my ex who chose to break up the marriage. And now I don't have the right to have my daughter live with me ever. Everyone talks about acting in the best interest of the child but they only seem to care about themselves. The ex-wife and her husband don't care about my daughter's right to see me, or even live with me. It's like they think I don't deserve her. They hold my daughter ransom and play power games with me, and they have absolutely no reason why they should have her for a majority of the time. The ex's solicitor can't write a bloody letter that another solicitor can understand. My ex solicitor can't be bothered to return phone calls, and makes every one else a priority instead of sorting out what is in the best interest of my child. The CSA say they claim money that is in the best interest of the child, but they can't guarantee that money is spent on the child. The CSA couldn't care less about my other child who has

less because this daughter has to have more according to their formula. The family law is only interested in making sure the mother gets everything she wants and treats the father as if he was a sperm donor and assumes it is the fathers fault the relationship broke down because he left the matrimonial home. The family law couldn't care less about how my ex psychologically abuses my daughter, or even the fact that my ex was having sex outside of the marriage.

I am a decent, honest, hard working person, and because my marriage broke up I am treated as sub-human and made to pay mentally, emotionally and financially. Because of my personal experience I submit to the committee the following:

- That it is in the best interest of the child that equal time is spent with both parents, and that this is to be the assumption by law. The child has the right to have the opportunity to live with both parents, and the onus should not be place upon the father to bring this issue to court. A parent's personal agenda to prevent contact with the other parent should have no influence in court unless one or more of the following circumstances applied:
  - if there is evidence of violence in the history of either parent;
  - if there is a history of drug abuse in either parent; and
  - if there is a recent history of serious crime with either parent.

If such circumstance apply then the onus is on the parent to prove that such circumstances exist and then each case should be considered contextually.

- That it is in the best interest of the child that the child support formula is adjusted to lower the amounts fathers pay. The current formula should include in its calculation the income of both parents and their respective spouses. It should be based on the capacity to pay and not earn. Any change of assessment application should specifically only take into account support of the child, and not other person's costs.
- That it is in the best interest of the child that the CSA be empowered with the right to ask for proof that child support collected is actually spent on the child. The production of receipts and a budget, and other supporting documentation should be mandatory if requested. What is the sense of paying child support if it is not guaranteed that this money is spent on the child?
- That it is in the best interest of the child that the CSA become responsible for ensuring that Family Tax Allowance cannot be claimed by one parent exclusively. If both parents can benefit from this allowance then the child benefits on both sides.