

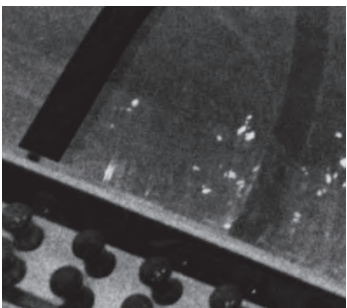
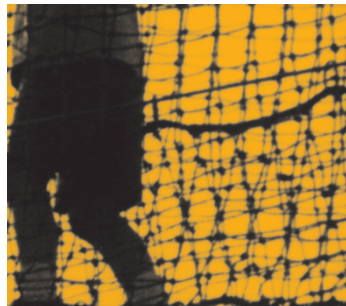


JUDICIAL COUNCIL
OF CALIFORNIA

OPERATIONS AND PROGRAMS DIVISION

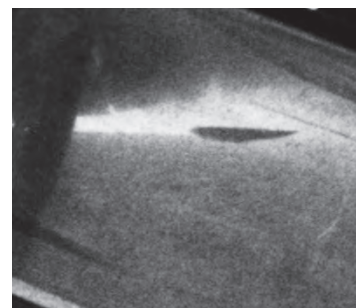
CENTER FOR FAMILIES, CHILDREN & THE COURTS

18th Annual AB 1058 Child Support Training Conference



September 30–
October 3, 2014
Los Angeles Airport Marriott Hotel

Child Support Commissioners,
Family Law Facilitators,
Title IV-D Administrative
and Accounting Staff,
Paralegals, and Court Clerks



Conference CD Usage Instructions

For Attendees of the 18th Annual AB 1058 Child Support Training Conference

The Center for Families, Children & the Courts (CFCC) is pleased to release this conference CD, which serves as an electronic binder of handout materials from the 18th Annual AB 1058 Child Support Training Conference.

To navigate through this CD, please click through the outline of bookmarks that appears to the left of this document. The bookmarks are linked to corresponding pages.

Materials on this CD may not be reproduced for distribution without the express written permission of the author(s). Materials on this CD may be used for personal reference.

When printing materials from this CD, make sure to specify the exact page numbers of the section you want to print. This CD contains over 800 pages of materials.

The points of view expressed at the conference and in the conference materials are those of the author(s) and presenter(s) and do not necessarily represent the official positions or policies of the Judicial Council of California.

We appreciate your attendance at the 18th Annual AB 1058 Child Support Training Conference. If you have any questions or comments, please contact the editors:

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TAB 1

AB 1058 Primary Assignment Orientation

(For child support commissioners only)

Hon. Patti C. Ratekin

**Materials were distributed in the class,
not available online.**

TAB 2

New Child Support Commissioners' Orientation

(For child support commissioners only)

*Hon. Adam Wertheimer,
Hon. Rebecca L. Wightman &
Mr. Michael L. Wright*

**Materials were distributed in the class,
not available online.**

TAB 3

**Plenary Session/Welcomes & Updates
(Judicial Council, DCSS, and Legislative)**

TAB 3

Plenary Session/Welcomes

*Hon. Scott M. Gordon &
Ms. Diane Nunn*

No materials distributed.

TAB 3

Plenary Session/Judicial Council Update

*Mr. Michael L. Wright &
Ms. Anna L. Maves*

Affordable Care Act— Twelve Things You Need to Know

1. The Affordable Care Act does not change existing federal medical support regulations and state law.
2. The Affordable Care Act and existing medical support regulations and state law intersect in a number of areas and are not necessarily in alignment.
3. Parents will have access to new affordable coverage options through a new employer mandate (large employers) and through the state insurance Marketplaces set up under ACA (Covered California).
4. Any individual who is legally present in the United States can shop for insurance for themselves or a dependent through the insurance Marketplace. However, there are limitations on who will be eligible for a subsidized premium.
5. Under ACA parents and children are responsible for covering themselves and any federal tax dependents unless a statutory exemption applies.
6. ACA mandate for self and dependent coverage can be met by applying for MediCal, employer-sponsored coverage, Marketplace coverage (Covered California) and other plans that provide minimum basic coverage as defined by the statute.
7. Under ACA the parent who can claim the child as a federal tax dependent is responsible for demonstrating the child has coverage.
8. Parent obligated under the ACA to provide coverage for self or dependent and who does not obtain coverage is subject to a penalty enforced by the IRS.
9. Parent who has the federal dependency exemption is the parent who will be eligible for a premium cost subsidy (can be substantial) if coverage is obtained through the exchange and they otherwise meet the requirements for a subsidy (e.g. income limits, not available through employment, not covered by MediCal).
10. Enrollment through the Marketplace is generally available only during an open enrollment period (next one is November 15, 2014 through February 15, 2015).
11. Certain “life events” as defined by ACA will trigger an opportunity to enroll through the Marketplace under a “special enrollment” period that last for 60 days after the triggering event. Entry of a court order to provide health insurance coverage is considered a trigger for a 60-day period according to Covered California website.
12. ACA will impact families in ways that need to be considered in setting child and medical support orders and how child and medical support orders are set will impact families rights, responsibilities and benefits under the ACA.



Medicaid Expansion (Medi-Cal)

- Non-disabled, non-elderly childless adults with income up to 138% of federal poverty level (FPL) may now be eligible for Medi-Cal coverage
- Why do we care? Non-custodial parents may now be eligible and would not have any cost for their own coverage and not subject to ACA penalties
- Household of 1 at 138% FPL = \$15,856 or less qualifies
- If parent ordered to provide medical insurance under FC§ 3751 and is entitled to low income adjustment on the child support order, cost is presumed to not be reasonable

Individual Mandate Penalty

Tax Year	
2014	1% of annual income or \$95, whichever is higher \$47.50 per uninsured child Maximum = \$285
2015	2% of annual income or \$325, whichever is higher \$162.50 per uninsured child Maximum = \$975
2016 & thereafter	2.5% of annual income or \$695, whichever is higher \$347.50 per uninsured child Maximum = \$2,085

Individual Penalty

- Penalty must be paid when an individual's tax return is due
- Penalty is assessed & collected like most other taxes except that taxpayers who fail to pay the penalty are subject to neither criminal penalties nor liens nor levies
- The IRS may reduce the amount of the individual's tax refund in the future

Special Medical Support Order Exemption

“You expect to claim a child as a tax dependent who’s been denied coverage in Medicaid and CHIP, and another person is required by court order to give medical support to the child. In this case, you don’t have to pay the penalty for the child.”

-Taken from OMB Form No. 0938-1190

Premium Subsidy Eligibility is Based On:

Number of People in Your Household	Annual Household Income
1	\$15,860-\$45,960
2	\$21,400-\$62,040
3	\$26,950-\$78,120
4	\$32,500-\$94,200
5	\$38,050-119,280
If your income is less than \$15,860 (for an individual), or \$32,500 (family of four) you may qualify for Medi-Cal.	

Role of the Dependency Exemption

ACA	Child Support
Person with the dependency exemption is responsible for providing health insurance unless exempt. Possible penalty if non-compliance	Allocation of dependency exemption as part determining child support orders
Allocation of the dependency exemption can change household size for purposes of calculating household income and income based eligibility for subsidies, cost sharing, etc.	Possible increase in available pre-support net disposable income of paying parent and thus, an increase in the amount of guideline child support
Person with the dependency exemption is eligible to receive premium subsidy for the dependent, if otherwise qualified	Possible increase in paying parent's post-child support net disposable income leading to increased ability to pay
Change in allocation of dependency exemption could impact dependent's existing or future eligibility for MediCal	Current practice of alternating dependency exemption between the parents from year to year to equalize the tax benefit of the exemption

Affordable Care Act Web Informational Resources

Getting Yourself and Your Family Fact Sheet:

http://www.coveredca.com/PDFs/fact-sheets/Covered_California_Getting_Covered_fact_sheet_English.pdf

Shop and Compare Tool

<https://www.coveredca.com/shopandcompare/>

ACA Special Enrollment:

<https://www.coveredca.com/coverage-basics/special-enrollment/>

<https://www.coveredca.com/coverage-basics/special-enrollment/qualifying-life-events/>

<https://www.coveredca.com/FAQs/special-enrollment/>

Application for Exemption from Individual Mandate to Cover:

<http://marketplace.cms.gov/applications-and-forms/affordability-ffm-exemption.pdf>

Insurance Premium Tax Credit/Subsidy

<http://www.coveredca.com/faqs/Tax-Credits/>

CSDA California Affordable Care Act Child Support Workgroup Report (July 2013)



JUDICIAL COUNCIL OF CALIFORNIA

455 Golden Gate Avenue · San Francisco, California 94102-3688

www.courts.ca.gov

REPORT TO THE JUDICIAL COUNCIL

For business meeting on: October 28, 2014

Title

Child Support: Revise Income Withholding for Support and Related Instructions

Agenda Item Type

Action Required

Effective Date

January 1, 2015

Rules, Forms, Standards, or Statutes Affected

Revise forms FL-195 and FL-196

Date of Report

September 9, 2014

Recommended by

Family and Juvenile Law Advisory Committee

Contact

Hon. Jerilyn L. Borack, Cochair
Hon. Kimberly J. Nystrom-Geist, Cochair

Anna L. Maves, 916-263-8624
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Executive Summary

The Family and Juvenile Law Advisory Committee recommends revising *Income Withholding for Support* (form FL-195/OMB No. 0970-0154) and *Income Withholding for Support—Instructions* (form FL-196/OMB No. 0970-0154) to comply with Family Code section 5208 and federal law.

Recommendation

The Family and Juvenile Law Advisory Committee recommends that the Judicial Council, effective January 1, 2015, revise *Income Withholding for Support* (FL-195/OMB No. 0970-0154) and *Income Withholding for Support—Instructions* (FL-196/OMB No. 0970-0154) to comply with Family Code section 5208 and federal law.

The proposed forms are attached at pages 6–16.

Previous Council Action

Income Withholding for Support (FL-195/OMB No. 0970-0154) and *Income Withholding for Support—Instructions* (FL-196/OMB No. 0970-154) were developed by the federal Office of Child Support Enforcement and were adopted by the Judicial Council on December 2, 1999. The *Income Withholding for Support* form was renumbered, effective January 1, 2003, as FL-195 and the instructions for the FL-195 were renumbered as FL-196. The federal Office of Management and Budget (OMB) revised the form and instructions in 2007, and the Judicial Council revised FL-195 and FL-196 to incorporate the changes made to the federal form effective July 1, 2008. Most recently, the federal OMB revised the form and instructions on May 16, 2011, and the Judicial Council revised FL-195 and FL-196, without circulating the forms for public comment, to incorporate the changes made to the federal forms effective January 1, 2012.

Rationale for Recommendation

The Personal Responsibility and Work Opportunity Reconciliation Act of 1996 (PRWORA) (Pub.L. No. 104-193) instituted welfare reform, which included a requirement that the Office of Child Support Enforcement (OCSE) develop a standardized form to collect child support payments in all title IV-D cases and in nontitle IV-D cases with orders initially issued in the state on or after January 1, 1994. Local child support agencies and the courts that are authorized under state law to issue Income Withholding Orders (IWOs) must use the federal Office of Management and Budget–approved IWO for all child support income withheld by employers.

Family Code section 5208 was amended in 1999 to comply with this federal mandate and required that the federal form *Order/Notice to Withhold Income for Child Support*¹ be used as the earnings assignment order in any action in which child or family support is ordered.² Under Family Code section 5208, the Judicial Council must adopt a new version of the federal form without any modifications. California courts are provided an opportunity to comment when federal OCSE solicits comments for revisions to the form via the Federal Register.

In governmental child support cases, after a judgment for child support is issued or child support is modified, the *Income Withholding for Support* (FL-195) is prepared by the local child support agency and sent to the obligor’s employer. The employer then withholds child support from the obligor’s earnings consistent with the instruction on the form and sends the child support to the State Distribution Unit. In family law cases where the local child support agency is not involved in enforcing the support order, the wage assignment is usually prepared by the obligee and then filed with the court. The court must issue the order and the order becomes part of the court’s record. The obligee then sends the order to the employer for withholding. The Judicial Council adopted the federal form as a Judicial Council form to make this commonly-used form readily

¹ In 2007, the federal form was renamed *Income Withholding for Support*.

² PRWORA requires that states transmit orders and notices for income withholding to employers using uniform formats prescribed by the Secretary of Health and Human Services. (42 U.S.C. § 666(b)(6)(A)(ii).) A copy of 42 U.S.C. § 666(b) can be found at http://www.law.cornell.edu/uscode/42/uscode_sec_42_00000666----000-.html. Family Code section 5208 is available at <http://www.leginfo.ca.gov/cgi-bin/waisgate?WAIISdocID=2327708132+1+0+0&WAIISaction=retrieve>.

accessible to family law litigants who are often self-represented, and because this form becomes part of the court's record when the court issues the order.

The Income Withholding for Support form previously approved by the Office of Management and Budget was modified to address items identified by states and employers/income withholders. The federal Office of Child Support Enforcement solicited comments for revisions to the Income Withholding Order via the *Federal Register* on July 9, 2013.³ The comments were reviewed and many of the recommended changes were incorporated into the revised form. The revised form was issued on July 15, 2014, and became effective immediately, but states are allowed until July 31, 2015, to implement the changes to the form.

Consistent with the changes to the federal form, *Income Withholding for Support* (FL-195) has been revised. These key changes include:

- Updating the hyperlinks in the form to provide the current OCSE web pages.
- Standardizing the terms in the form such as changing "Remittance ID" to "remittance identifier" and revising legal citations to all appear in similar fashion.
- Enlarging the font size to improve readability and adding more lines to allow states to include state-specific information. These and other changes resulted in the addition of one page in the total number of pages of the IWO form.
- Adding language to the **Remittance Information** section on page 2 that directs employers/income withholders to Supplemental Information on page 3 for withholding limits for nonemployees.
- Updating the headers on pages 2–4 so they contain all of the same information, which includes the employer name and Federal Employer Identification Number, employee name and social security number, child support agency case identifier, and order identifier.
- Clarifying that tribal law governs withholding limits for tribal orders.

In addition to the changes made by the federal Office of Child Support Enforcement, the Family and Juvenile Law Advisory Committee recommends that the remittance section on page 2 of FL-195 be pre-populated with the address of the California State Disbursement Unit. This addition would ensure compliance with federal and state law which requires employers to send all earnings withheld pursuant to the terms of an earnings assignment order to the State Disbursement Unit for disbursement to the obligee, and not directly to the obligee, whether the local child support agency is providing services or not. Adding the State Disbursement Unit address would not modify the language of the form, but instead pre-populate the form to add information required to be completed by the litigant. In some rare circumstances an attorney or litigant may need to access an income withholding order in which the child support payments

³ The federal website does not provide the actual content of the comments, but more information on the comments and how to individually request them can be found at <http://www.gpo.gov/fdsys/pkg/FR-2013-07-19/pdf/2013-17331.pdf>.

should not be sent to the California State Disbursement Unit. These circumstances include an attorney who is assisting someone who resides in another state or members of a tribe who have a title IV-D program. In both these circumstance, the payments are still required to be sent to a state disbursement unit, but not California's. In these uncommon situations, a wage withholding order without the California State Disbursement Unit's pre-populated address can be obtained on the federal Office of Child Support Enforcement's website.

Income Withholding for Support—Instructions (FL-196) has also been revised to provide guidance in the instructions to the form that one IWO form must be issued for each title IV-D case (as defined in 45 C.F.R. § 305.1).

Income Withholding for Support (FL-195) continues to require that the employee's social security number be included on the form. The intention of this requirement is so that employers can do their due diligence in making sure that the wage assignment received is for the correct employee or where the employer may employ several people with the same name. There may be some concerns regarding potential identity theft and confidentiality. Because this is a mandatory federal form, it cannot be revised to remove this item or provide further instruction to the person completing the form. However, rule 1.20(b)(2)(A) of the California Rules of Court provides, "If an individual's social security number is required in a pleading or other paper filed in the public file, only the last four digits of that number may be used." Compliance with this rule by the person filling out the form will protect the obligor's confidential information while still providing sufficient information for the employer and substantially adhering to the federal form.

Significant amounts of federal funding for both welfare and child support programs are contingent on compliance with federal child support program regulations. Thus, it is important that state forms and procedures comply with these regulations. The federal government requires that the form be adopted without any local changes to either content or format although—because these are Judicial Council forms—the Judicial Council form numbers would continue to appear on the forms. Adopting these federal forms as Judicial Council forms FL-195 and FL-196 ensures that they are published and made easily available for California users.

Comments, Alternatives Considered, and Policy Implications

The Family and Juvenile Law Advisory Committee did not circulate FL-195 or FL-196 for comment because these forms must be implemented exactly as approved by the OMB without any local changes. The federal forms approval process included a public comment period and stakeholder input through a federal Office of Child Support Enforcement workgroup, review of the forms and recommendations for changes by the U.S. Government Accountability Office, and approval by OMB.

Because the recommended revisions of *Income Withholding for Support* (FL-195/OMB No. 0970-0154) and *Income Withholding for Support—Instructions* (FL-196/OMB No. 0970-0154) are necessary to comply with federal requirements, no alternative actions were considered.

Implementation Requirements, Costs, and Operational Impacts

The committee is not aware of any implementation requirements, costs, or operational impacts affecting the local courts that will result from approval of the proposed forms other than standard reproduction costs. The forms will be posted on the California Courts website. Courts will not incur costs beyond those that they may incur if they provide the forms to the public.

Attachment

1. Forms FL-195 and FL-196, at pages 6–16.

DRAFT

INCOME WITHHOLDING FOR SUPPORT

- ORIGINAL INCOME WITHHOLDING ORDER/NOTICE FOR SUPPORT (IWO)
- AMENDED IWO
- ONE-TIME ORDER/NOTICE FOR LUMP SUM PAYMENT
- TERMINATION OF IWO

Date: _____

Child Support Enforcement (CSE) Agency Court Attorney Private Individual/Entity (Check One)

NOTE: This IWO must be regular on its face. Under certain circumstances you must reject this IWO and return it to the sender (see IWO instructions www.acf.hhs.gov/programs/css/resource/income-withholding-for-support-instructions). If you receive this document from someone other than a state or tribal CSE agency or a court, a copy of the underlying order must be attached.

State/Tribe/Territory _____ Remittance ID (include w/payment) _____
 City/County/Dist./Tribe _____ Order ID _____
 Private Individual/Entity _____ CSE Agency Case ID _____

Employer/Income Withholder's Name

Employer/Income Withholder's Address

Employer/Income Withholder's FEIN

Child(ren)'s Name(s) (Last, First, Middle)

Child(ren)'s Birth Date(s)

RE: _____

Employee/Obligor's Name (Last, First, Middle)

Employee/Obligor's Social Security Number

Custodial Party/Obligee's Name (Last, First, Middle)



ORDER INFORMATION: This document is based on the support or withholding order from _____ (State/Tribe). You are required by law to deduct these amounts from the employee/obligor's income until further notice.

\$ _____ Per _____ current child support
 \$ _____ Per _____ past-due child support - **Arrears greater than 12 weeks?** Yes No
 \$ _____ Per _____ current cash medical support
 \$ _____ Per _____ past-due cash medical support
 \$ _____ Per _____ current spousal support
 \$ _____ Per _____ past-due spousal support
 \$ _____ Per _____ other (must specify) _____

for a **Total Amount to Withhold** of \$ _____ per _____.

AMOUNTS TO WITHHOLD: You do not have to vary your pay cycle to be in compliance with the *Order Information*. If your pay cycle does not match the ordered payment cycle, withhold one of the following amounts:

\$ _____ per weekly pay period \$ _____ per semimonthly pay period (twice a month)
 \$ _____ per biweekly pay period (every two weeks) \$ _____ per monthly pay period
 \$ _____ **Lump Sum Payment:** Do not stop any existing IWO unless you receive a termination order.

Employer's Name: _____ Employer FEIN: _____

Employee/Obligor's Name: _____ SSN: _____

CSE Agency Case Identifier: _____ Order Identifier: _____

REMITTANCE INFORMATION: If the employee/obligor's principal place of employment is _____ (State/Tribe), you must begin withholding no later than the first pay period that occurs _____ days after the date of _____. Send payment within _____ working days of the pay date. If you cannot withhold the full amount of support for any or all orders for this employee/obligor, withhold up to _____ % of disposable income. If the obligor is a non-employee, obtain withholding limits from Supplemental Information on page 3. If the employee/obligor's principal place of employment is not _____ (State/Tribe), obtain withholding limitations, time requirements, and any allowable employer fees at www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information for the employee/obligor's principal place of employment.

For electronic payment requirements and centralized payment collection and disbursement facility information (State Disbursement Unit (SDU)), see www.acf.hhs.gov/programs/css/employers/electronic-payments.

Include the **Remittance ID with the payment** and if necessary this FIPS code: _____.

Remit payment to _____ California State Disbursement Unit (SDU/Tribal Order Payee) at _____ P.O. Box 989067, West Sacramento, CA 95798-9067 (SDU/Tribal Payee Address)

Return to Sender [Completed by Employer/Income Withholder]. Payment must be directed to an SDU in accordance with 42 USC §666(b)(5) and (b)(6) or Tribal Payee (see Payments to SDU below). If payment is not directed to an SDU/Tribal Payee or this IWO is not regular on its face, you *must* check this box and return the IWO to the sender.

Signature of Judge/Issuing Official (if Required by State or Tribal Law): _____
Print Name of Judge/Issuing Official: _____
Title of Judge/Issuing Official: _____
Date of Signature: _____

If the employee/obligor works in a state or for a tribe that is different from the state or tribe that issued this order, a copy of this IWO must be provided to the employee/obligor.

If checked, the employer/income withholder must provide a copy of this form to the employee/obligor.

ADDITIONAL INFORMATION FOR EMPLOYERS/INCOME WITHHOLDERS

State-specific contact and withholding information can be found on the Federal Employer Services website located at www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information.

Priority: Withholding for support has priority over any other legal process under State law against the same income (42 USC §666(b)(7)). If a federal tax levy is in effect, please notify the sender.

Combining Payments: When remitting payments to an SDU or tribal CSE agency, you may combine withheld amounts from more than one employee/obligor's income in a single payment. You must, however, separately identify each employee/obligor's portion of the payment.

Payments To SDU: You must send child support payments payable by income withholding to the appropriate SDU or to a tribal CSE agency. If this IWO instructs you to send a payment to an entity other than an SDU (e.g., payable to the custodial party, court, or attorney), you must check the box above and return this notice to the sender. Exception: If this IWO was sent by a court, attorney, or private individual/entity and the initial order was entered before January 1, 1994 or the order was issued by a tribal CSE agency, you must follow the "Remit payment to" instructions on this form.

Reporting the Pay Date: You must report the pay date when sending the payment. The pay date is the date on which the amount was withheld from the employee/obligor's wages. You must comply with the law of the state (or tribal law if applicable) of the employee/obligor's principal place of employment regarding time periods within which you must implement the withholding and forward the support payments.

Multiple IWOs: If there is more than one IWO against this employee/obligor and you are unable to fully honor all IWOs due to federal, state, or tribal withholding limits, you must honor all IWOs to the greatest extent possible, giving priority to current support before payment of any past-due support. Follow the state or tribal law/procedure of the employee/obligor's principal place of employment to determine the appropriate allocation method.

OMB Expiration Date - 7/31/2017. The OMB Expiration Date has no bearing on the termination date of the IWO; it identifies the version of the form currently in use.

Employer's Name: _____ Employer FEIN: _____

Employee/Obligor's Name: _____ SSN: _____

CSE Agency Case Identifier: _____ Order Identifier: _____

Lump Sum Payments: You may be required to notify a state or tribal CSE agency of upcoming lump sum payments to this employee/obligor such as bonuses, commissions, or severance pay. Contact the sender to determine if you are required to report and/or withhold lump sum payments.

Liability: If you have any doubts about the validity of this IWO, contact the sender. If you fail to withhold income from the employee/obligor's income as the IWO directs, you are liable for both the accumulated amount you should have withheld and any penalties set by state or tribal law/procedure.

Anti-discrimination: You are subject to a fine determined under state or tribal law for discharging an employee/obligor from employment, refusing to employ, or taking disciplinary action against an employee/obligor because of this IWO.

Withholding Limits: You may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (CCPA) (15 USC §1673(b)); or 2) the amounts allowed by the state of the employee/obligor's principal place of employment or tribal law if a tribal order (see *Remittance Information*). Disposable income is the net income after mandatory deductions such as: state, federal, local taxes; Social Security taxes; statutory pension contributions; and Medicare taxes. The federal limit is 50% of the disposable income if the obligor is supporting another family and 60% of the disposable income if the obligor is not supporting another family. However, those limits increase 5% --to 55% and 65% --if the arrears are greater than 12 weeks. If permitted by the state or tribe, you may deduct a fee for administrative costs. The combined support amount and fee may not exceed the limit indicated in this section.

For tribal orders, you may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers/income withholders who receive a state IWO, you may not withhold more than the limit set by tribal law.

Depending upon applicable state or tribal law, you may need to consider amounts paid for health care premiums in determining disposable income and applying appropriate withholding limits.

Arrears greater than 12 weeks? If the *Order Information* does not indicate that the arrears are greater than 12 weeks, then the employer should calculate the CCPA limit using the lower percentage.

Supplemental Information:

IMPORTANT: The person completing this form is advised that the information may be shared with the employee/obligor.

Employer's Name: _____ Employer FEIN: _____

Employee/Obligor's Name: _____ SSN: _____

CSE Agency Case Identifier: _____ Order Identifier: _____

NOTIFICATION OF EMPLOYMENT TERMINATION OR INCOME STATUS: If this employee/obligor never worked for you or you are no longer withholding income for this employee/obligor, you must promptly notify the CSE agency and/or the sender by returning this form to the address listed in the contact information below:

This person has never worked for this employer nor received periodic income.

This person no longer works for this employer nor receives periodic income.

Please provide the following information for the employee/obligor:

Termination date: _____ Last known phone number: _____

Last known address: _____

Final payment date to SDU/tribal payee: _____ Final payment amount: _____

New employer's name: _____

New employer's address: _____

CONTACT INFORMATION:

To Employer/Income Withholder: If you have questions, contact _____ (issuer name)

by phone: _____, by fax: _____, by e-mail or website: _____.

Send termination/income status notice and other correspondence to: _____ (issuer address).

To Employee/Obligor: If the employee/obligor has questions, contact _____ (issuer name)

by phone: _____, by fax: _____, by e-mail or website: _____.

The Paperwork Reduction Act of 1995

This information collection and associated responses are conducted in accordance with 45 CFR 303.100 of the Child Support Enforcement Program. This form is designed to provide uniformity and standardization. Public reporting burden for this collection of information is estimated to average 5 minutes per response for Non-IV-D CPs; 2 minutes per response for employers; 3 seconds for e-IWO employers, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

INCOME WITHHOLDING FOR SUPPORT - Instructions

The Income Withholding for Support (IWO) is the OMB-approved form used for income withholding in tribal, intrastate, and interstate cases as well as all child support orders initially issued in the state on or after January 1, 1994, and all child support orders initially issued (or modified) in the state before January 1, 1994 if arrearages occur. This form is the standard format prescribed by the Secretary in accordance with 42 USC §666(b)(6)(A)(ii). Except as noted, the following information is required and must be included.

Please note:

- For the purpose of this IWO form and these instructions, “state” is defined as a state or territory.
- Do’s and don’ts on using this form are found at www.acf.hhs.gov/programs/css/resource/using-the-income-withholding-for-support-form-dos-and-donts.

COMPLETED BY SENDER:

- 1a. **Original Income Withholding Order/Notice for Support (IWO).** Check the box if this is an initial or original IWO.
- 1b. **Amended IWO.** Check the box to indicate that this form amends a previous IWO. Any changes to an IWO must be done through an amended IWO.
- 1c. **One-Time Order/Notice For Lump Sum Payment.** Check the box when this IWO is to attach a one-time collection of a lump sum payment. When this box is checked, enter the amount in field 14, Lump Sum Payment, in the *Amounts to Withhold* section. Additional IWOs must be issued to collect subsequent lump sum payments.
- 1d. **Termination of IWO.** Check the box to stop income withholding on a child support order. Complete all applicable identifying information to aid the employer/income withholder in terminating the correct IWO.
- 1e. **Date.** Date this form is completed and/or signed.
- 1f. **Child Support Enforcement (CSE) Agency, Court, Attorney, Private Individual/Entity (Check One).** Check the appropriate box to indicate which entity is sending the IWO. If this IWO is **not** completed by a state or tribal CSE agency, the sender should contact the CSE agency (see www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information) to determine if the CSE agency needs a copy of this form to facilitate payment processing.

NOTE TO EMPLOYER/INCOME WITHHOLDER:

This IWO must be regular on its face. The IWO must be rejected and returned to sender under the following circumstances:

- IWO instructs the employer/income withholder to send a payment to an entity other than a state disbursement unit (for example, payable to the custodial party, court, or attorney). Each state is required to operate a state disbursement unit (SDU), which is a centralized facility for collection and disbursement of child support payments. Exception: If this IWO is issued by a court, attorney, or private individual/entity and the initial child support order was entered before January 1, 1994 or the order was issued by a tribal CSE agency, the employer/income withholder must follow the payment instructions on the form.
- Form does not contain all information necessary for the employer to comply with the withholding.
- Form is altered or contains invalid information.
- Amount to withhold is not a dollar amount.
- Sender has not used the OMB-approved form for the IWO.
- A copy of the underlying order is required and not included.

If you receive this document from an attorney or private individual/entity, a copy of the underlying order containing a provision authorizing income withholding must be attached.

COMPLETED BY SENDER:

- 1g. **State/Tribe/Territory.** Name of state or tribe sending this form. This must be a governmental entity of the state or a tribal organization authorized by a tribal government to operate a CSE program. If you are a tribe submitting this form on behalf of another tribe, complete line 1i.
- 1h. **Remittance ID (include w/payment).** Identifier that employers must include when sending payments for this IWO. The Remittance ID is entered as the case identifier on the electronic funds transfer/electronic data interchange (EFT/EDI) record.

NOTE TO EMPLOYER/INCOME WITHHOLDER:

The employer/income withholder must use the Remittance ID when remitting payments so the SDU or tribe can identify and apply the payment correctly. The Remittance ID is entered as the case identifier on the EFT/EDI record.

COMPLETED BY SENDER:

- 1i. **City/County/Dist./Tribe.** Name of the city, county, or district sending this form. This must be a government entity of the state or the name of the tribe authorized by a tribal government to operate a CSE program for which this form is being sent. (A tribe should leave this field blank unless submitting this form on behalf of another tribe.)
- 1j. **Order ID.** Unique identifier associated with a specific child support obligation. It could be a court case number, docket number, or other identifier designated by the sender.
- 1k. **Private Individual/Entity.** Name of the private individual/entity or non-IV-D tribal CSE organization sending this form.
- 1l. **CSE Agency Case ID.** Unique identifier assigned to a state or tribal CSE case. In a state IV-D case as defined at 45 Code of Federal Regulations (CFR) 305.1, this is the identifier reported to the Federal Case Registry (FCR). One IWO must be issued for each IV-D case and must use the unique CSE Agency Case ID. For tribes, this would be either the FCR identifier or other applicable identifier.

Fields 2 and 3 refer to the employee/obligor's employer/income withholder and specific case information.

- 2a. **Employer/Income Withholder's Name.** Name of employer or income withholder.
- 2b. **Employer/Income Withholder's Address.** Employer/income withholder's mailing address including street/PO box, city, state, and zip code. (This may differ from the employee/obligor's work site.) If the employer/income withholder is a federal government agency, the IWO should be sent to the address listed under Federal Agency Income Withholding Contacts and Program Information at www.acf.hhs.gov/programs/css/resource/federal-agency-income-withholding-contact-information.
- 2c. **Employer/Income Withholder's FEIN.** Employer/income withholder's nine-digit Federal Employer Identification Number (if available).
- 3a. **Employee/Obligor's Name.** Employee/obligor's last name, first name, middle name.
- 3b. **Employee/Obligor's Social Security Number.** Employee/obligor's Social Security number or

other taxpayer identification number.

- 3c. **Custodial Party/Obligee's Name.** Custodial party/obligee's last name, first name, middle name. Enter one custodial party/obligee's name on each IWO form. Multiple custodial parties/obligees are not to be entered on a single IWO. Issue one IWO per state IV-D case as defined at 45 CFR 305.1
- 3d. **Child(ren)'s Name(s).** Child(ren)'s last name(s), first name(s), middle name(s). (Note: If there are more than six children for this IWO, list additional children's names and birth dates in field 33 - Supplemental Information). Enter the child(ren) associated with the custodial party/obligee and employee/obligor only. Child(ren) of multiple custodial parties/obligees is not to be entered on an IWO.
- 3e. **Child(ren)'s Birth Date(s).** Date of birth for each child named.
- 3f. **Blank box.** Space for court stamps, bar codes, or other information.

ORDER INFORMATION – Field 4 identifies which state or tribe issued the order. Fields 5 through 12 identify the dollar amount to withhold for a specific kind of support (taken directly from the support order) for a specific time period.

4. **State/Tribe.** Name of the state or tribe that issued the order.
- 5a-b. **Current Child Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 6a-b. **Past-due Child Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 6c. **Arrears Greater Than 12 Weeks?** The appropriate box (Yes/No) must be checked indicating whether arrears are greater than 12 weeks so the employer/income withholder can determine the withholding limit.
- 7a-b. **Current Cash Medical Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 8a-b. **Past-due Cash Medical Support.** Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 9a-b. **Current Spousal Support.** (Alimony) Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 10a-b. **Past-due Spousal Support.** (Alimony) Dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order.
- 11a-c. **Other.** Miscellaneous obligations dollar amount to be withheld **per** the time period (for example, week, month) specified in the underlying order. **Must specify** a description of the obligation (for example, court fees).
- 12a-b. **Total Amount to Withhold.** The total amount of the deductions **per** the corresponding time period. Fields 5a, 6a, 7a, 8a, 9a, 10a, and 11a should total the amount in 12a.

NOTE TO EMPLOYER/INCOME WITHHOLDER:

An acceptable method of determining the amount to be paid on a weekly or biweekly basis is to multiply the monthly amount due by 12 and divide that result by the number of pay periods in a year.

AMOUNTS TO WITHHOLD - Fields 13a through 13d specify the dollar amount to be withheld for this IWO if the employer/income withholder's pay cycle does not correspond with field 12b.

- 13a. **Per Weekly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid weekly.
- 13b. **Per Semimonthly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid twice a month.
- 13c. **Per Biweekly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid every two weeks.
- 13d. **Per Monthly Pay Period.** Total amount an employer/income withholder should withhold if the employee/obligor is paid once a month.
- 14. **Lump Sum Payment.** Dollar amount withheld when the IWO is used to attach a lump sum payment. This field should be used when field 1c is checked.

REMITTANCE INFORMATION - Payments are forwarded to the SDU in each state, unless the order was issued by a tribal CSE agency. If the order was issued by a tribal CSE agency, the employer/income withholder must follow the remittance instructions on the form.

- 15. **State/Tribe.** Name of the state or tribe sending this document.
- 16. **Days.** Number of days after the effective date noted in field 17 in which withholding must begin according to the state or tribal laws/procedures for the employee/obligor's principal place of employment.
- 17. **Date.** Effective date of this IWO.
- 18. **Working Days.** Number of working days within which an employer/income withholder must remit amounts withheld pursuant to the state or tribal laws/procedures of the principal place of employment.
- 19. **% of Disposable Income.** The percentage of disposable income that may be withheld from the employee/obligor's paycheck.

NOTE TO EMPLOYER/INCOME WITHHOLDER:

For state orders, the employer/income withholder may not withhold more than the lesser of: 1) the amounts allowed by the Federal Consumer Credit Protection Act (15 USC §1673(b)); or 2) the amounts allowed by the state of the employee/obligor's principal place of employment.

For tribal orders, the employer/income withholder may not withhold more than the amounts allowed under the law of the issuing tribe. For tribal employers/income withholders who receive a state order, the employer/income withholder may not withhold more than the limit set by the law of the jurisdiction in which the employer/income withholder is located or the maximum amount permitted under section 303 (b) of the Federal Consumer Credit Protection Act (15 USC §1673(b)).

A federal government agency may withhold from a variety of incomes and forms of payment, including voluntary separation incentive payments (buy-out payments), incentive pay, and cash awards. For a more complete list, see 5 CFR 581.103.

COMPLETED BY SENDER:

20. **State/Tribe.** Name of the state or tribe sending this document.
21. **Document Tracking ID.** Optional unique identifier for this form assigned by the sender.

Please Note: Employer's Name, FEIN, Employee/Obligor's Name and SSN, Remittance ID, CSE Agency Case ID, and Order ID must appear in the header on pages two and subsequent pages.

22. **FIPS Code.** Federal Information Processing Standards code.
23. **SDU/Tribal Order Payee.** Name of SDU (or payee specified in the underlying tribal support order) to which payments must be sent. Federal law requires payments made by IWO to be sent to the SDU except for payments in which the initial child support order was entered before January 1, 1994 or payments in tribal CSE orders.
24. **SDU/Tribal Payee Address.** Address of the SDU (or payee specified in the underlying tribal support order) to which payments must be sent. Federal law requires payments made by IWO to be sent to the SDU except for payments in which the initial child support order was entered before January 1, 1994 or payments in tribal CSE orders.

COMPLETED BY EMPLOYER/INCOME WITHHOLDER:

25. **Return to Sender Checkbox.** The employer/income withholder should check this box and return the IWO to the sender if this IWO is not payable to an SDU or tribal payee or this IWO is not regular on its face. Federal law requires payments made by IWO to be sent to the SDU except for payments in which the initial child support order was entered before January 1, 1994 or payments in tribal CSE orders.

COMPLETED BY SENDER:

26. **Signature of Judge/Issuing Official.** Signature (if required by state or tribal law) of the official authorizing this IWO.
27. **Print Name of Judge/Issuing Official.** Name of the official authorizing this IWO.
28. **Title of Judge/Issuing Official.** Title of the official authorizing this IWO.
29. **Date of Signature.** Optional date the judge/issuing official signs this IWO.
30. **Copy of IWO checkbox.** Check this box for all intergovernmental IWOs. If checked, the employer/income withholder is required to provide a copy of the IWO to the employee/obligor.

ADDITIONAL INFORMATION FOR EMPLOYERS/INCOME WITHHOLDERS

The following fields refer to federal, state, or tribal laws that apply to issuing an IWO to an employer/income withholder. State-or tribal-specific information may be included only in the fields below.

COMPLETED BY SENDER:

31. **Liability.** Additional information on the penalty and/or citation of the penalty for an employer/income withholder who fails to comply with the IWO. The state or tribal law/procedures of the employee/obligor's principal place of employment govern the penalty.
32. **Anti-discrimination.** Additional information on the penalty and/or citation of the penalty for an employer/income withholder who discharges, refuses to employ, or disciplines an

employee/obligor as a result of the IWO. The state or tribal law/procedures of the employee/obligor's principal place of employment govern the penalty.

33. **Supplemental Information.** Any state-specific information needed, such as maximum withholding percentage for non-employees, fees the employer/income withholder may charge the obligor for income withholding, or children's names and DOBs if there are more than six children on this IWO. Additional information must be consistent with the requirements of the form and the instructions.

COMPLETED BY EMPLOYER/INCOME WITHHOLDER:

NOTIFICATION OF EMPLOYMENT TERMINATION OR INCOME STATUS

The employer must complete this section when the employee/obligor's employment is terminated, income withholding ceases, or if the employee/obligor has never worked for the employer.

- 34a-b. **Employment/Income Status Checkbox.** Check the employment/income status of the employee/obligor.
35. **Termination Date.** If applicable, date employee/obligor was terminated.
36. **Last Known Phone Number.** Last known (home/cell/other) phone number of the employee/obligor.
37. **Last Known Address.** Last known home/mailling address of the employee/obligor.
38. **Final Payment Date.** Date employer sent final payment to SDU/tribal payee.
39. **Final Payment Amount.** Amount of final payment sent to SDU/tribal payee.
40. **New Employer's Name.** Name of employee's/obligor's new employer (if known).
41. **New Employer's Address.** Address of employee's/obligor's new employer (if known).

COMPLETED BY SENDER:

CONTACT INFORMATION

42. **Issuer Name (Employer/Income Withholder Contact).** Name of the contact person that the employer/income withholder can call for information regarding this IWO.
43. **Issuer Phone Number.** Phone number of the contact person.
44. **Issuer Fax Number.** Fax number of the contact person.
45. **Issuer E-mail/Website.** E-mail or website of the contact person.
46. **Termination/Income Status and Correspondence Address.** Address to which the employer should return the Employment Termination or Income Status notice. It is also the address that the employer should use to correspond with the issuing entity.
47. **Issuer Name (Employee/Obligor Contact).** Name of the contact person that the employee/obligor can call for information.
48. **Issuer Phone Number.** Phone number of the contact person.

49. **Issuer Fax Number.** Fax number of the contact person.
50. **Issuer E-mail/Website.** E-mail or website of the contact person.

The Paperwork Reduction Act of 1995

This information collection and associated responses are conducted in accordance with 45 CFR 303.100 of the Child Support Enforcement Program. This form is designed to provide uniformity and standardization. Public reporting burden for this collection of information is estimated to average 5 minutes per response for Non-IV-D CPs; 2 minutes per response for employers; 3 seconds for e-IWO employers, including the time for reviewing instructions, gathering and maintaining the data needed, and reviewing the collection of information.

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OFFICE OF CHILD SUPPORT ENFORCEMENT

An Office of the Administration for Children & Families

2014 Revisions to the Income Withholding for Support (IWO) Form and Instructions AT-14-05

Published: July 15, 2014

Information About: State/Local Child Support Agencies, Tribal Child Support Agencies, Employers, Courts
Topics: Employer Responsibilities, Income/Wage Withholding
Types: Policy, Action Transmittals (AT)

ACTION TRANSMITTAL

AT-14-05

DATE: July 15, 2014

ATTACHMENTS: OMB 0970-0154 IWO Form (https://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154.pdf) and Instructions (https://www.acf.hhs.gov/sites/default/files/ocse/omb_0970_0154_instructions.pdf)

TO: State and Tribal Agencies Administering Child Support Enforcement Plans under Title IV-D of the Social Security Act and Other Interested Individuals

SUBJECT: 2014 Revisions to the Income Withholding for Support (IWO) Form and Instructions

BACKGROUND: Statutory requirements under sections 466(a)(1), (a)(8), and 466(b)(6) (http://www.ssa.gov/OP_Home/ssact/title04/0466.htm) of the Social Security Act (the Act) require the use of the Income Withholding for Support (IWO) form in all IV-D cases, and in non-IV-D cases with orders initially issued in the state on or after January 1, 1994. Private firms, attorneys, and courts authorized under state law to issue IWOs must use the OMB-approved IWO form for all child support income withholding by employers.

Tribes that operate IV-D programs (i.e., child support programs established in accordance with Title IV-D of the Act) are required to use the IWO form. This requirement was established with the publication of the Final Rule for Tribal Child Support Enforcement Programs on March 30, 2004 [Volume 69, Number 61 on page 16638 (<http://www.gpo.gov/fdsys/pkg/FR-2004-03-30/pdf/04-6457.pdf>)].

Changes to the IWO Form

The federal Office of Child Support Enforcement (OCSE) solicited comments for revisions to the IWO form via the Federal Register on July 9, 2013 [Volume 78, Number 139 on page 43208 (<http://www.gpo.gov/fdsys/pkg/FR-2013-07-19/pdf/2013-17331.pdf>)]. OCSE updated the IWO form and instructions for clarity and consistency. Key changes include:

- **Updated hyperlinks:** We updated hyperlinks to provide the current OCSE web pages.
- **Standard references:** We made terms standard, such as "Remittance ID" for "remittance identifier", and legal citations all appear in similar fashion.
- **Larger font and more lines for state-specific information:** We accommodated states' requests by increasing the number of lines for state-specific information. Font was enlarged to improve readability. These and other changes resulted in the addition of 1 page in the total number of pages of the IWO form.
- **Non-employee withholding limits:** We added language to the *Remittance information* section on page 2 that directs employers/income withholders to Supplemental Information on page 3 for withholding limits for non-employees. This information also appears on the **State Income Withholding Contacts and Program Information** (<http://www.acf.hhs.gov/programs/css/resource/state-income-withholding-contacts-and-program-information>) matrix on the OCSE website.
- **Standard headers:** We updated the headers on pages 2 – 4 so they contain all of the same information, which includes employer name and FEIN, employee name and SSN, child support agency case identifier, and order identifier.
- **Withholding Limits on Tribal Orders:** We clarified that tribal law governs withholding limits for tribal orders.
- **Instructions to issue one IWO form for each IV-D case:** We provided guidance in the instructions to the form that one IWO form must be issued for each IV-D case as defined in 45 CFR 305.1.

SUPERSEDED MATERIAL: AT-11-05 (<http://www.acf.hhs.gov/programs/css/resource/revised-income-withholding-for-support-iwo-form>), AT-07-07 (<http://www.acf.hhs.gov/programs/css/resource/revised-federal-income-withholding-for-support-form>), AT-04-05 (<http://www.acf.hhs.gov/programs/css/resource/revised-income-withholding-order-and-notice-of-order-to-withhold-income>), AT-01-07 (<http://www.acf.hhs.gov/programs/css/resource/revised-federal-order-notice-to-withhold-income-for-child-support>), AT-98-03 (<http://www.acf.hhs.gov/programs/css/resource/distribution-federally-approved-standardized-income-withholding-form>)

REFERENCES: AT-97-12 (<http://www.acf.hhs.gov/programs/css/resource/title-iv-d-state-plan-preprint-state-directory-of-new-hires>), AT-97-04 (<http://www.acf.hhs.gov/programs/css/resource/policy-ndnh-state-directory-of-new-hires-prwora>)

EFFECTIVE DATE: States, tribes, and others should begin using this form immediately; however, OCSE recognizes that some may need programming time. Employers and other income withholders are directed to continue to honor previous forms for new income withholdings until July 31, 2015. The new expiration date is 07/31/2017.

INQUIRIES: ACF/OCSE Regional Program Managers

Sincerely,

Vicki Turetsky

Commissioner
Office of Child Support Enforcement

Listen

TAB 3

Plenary Session/DCSS Update

Ms. Alisha Griffin

No materials distributed

TAB 3

Plenary Session/Legislative Update

Mr. Alan Herzfeld

**Additional materials were distributed
in the class, not available online.**

2014 AB 1058 Conference Legislative Update

Listed below are the custody, parentage, child support, and other family law related bills that were passed the Legislature in 2014. Seven of these bills have been signed by the Governor and have a Chapter number assigned. The rest were enrolled and considered by the Governor. The status of the bills is as of Tuesday, September 9th. The Governor had until September 30th to sign or veto these bills. With the exception of AB 414, the effective date of any of these bills that the Governor signs is January 1, 2015. To obtain the text, status, history, or analyses of any bill listed below, go to leginfo.legislature.ca.gov, and use the Bill Information button to locate the bill. If you have further questions, please contact Alan Herzfeld at (916) 323-3121, or alan.herzfeld@jud.ca.gov.

AB 414 (Fox) Spousal support: modifications

Status: Signed by the Governor (Chapter 202, Statutes of 2014)

Summary: Reinstates, and removes the sunset provision from, Family Code §4326, which expired on January 1, 2014, stating that the termination of a child support order may constitute a “change of circumstances” for the purposes of requesting a modification of spousal support. Took effect immediately when signed on August 15, 2014.

AB 1498 (Campos) Protective orders

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Expands the provision in existing law that requires the court to consider issuing a protective order in a domestic violence case to include the additional crimes of rape, statutory rape, spousal rape, or any other offense for which the defendant would have to register as a sex offender.

AB 1525 (Lowenthal) Marriage: solemnization

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Allows a marriage to be solemnized a city clerk, in addition to those individuals already authorized to perform marriages.

AB 1628 (Fox) Visitation rights: grandparent rights

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Adds as a basis to grant standing for a grandparent to file a petition for visitation with a grandchild if one of the parents is incarcerated or involuntarily institutionalized.

AB 1701 (Patterson) Family law: adoption

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Among other things:

1. Clarifies who can bring an action to declare the existence or nonexistence of a presumed parents-child relationship, specifying that the child's natural mother, rather than natural parent, may do so.
2. Allows a single consolidated petition to terminate the parental rights to multiple children.
3. Allows a court to permit prospective adoptive parents to appear in adoption proceedings by telephone, videoconference, or other remote electronic means.
4. Clarifies that a minor parent's relinquishment of parental rights is not subject to revocation solely because the parent or guardian of the minor parent was not served with notice.
5. Allows a parent to relinquish parental rights to a licensed private adoption agency while a child is found to be a dependent of the court, and requires the juvenile court to approve or reject the relinquishment within a specified time.

AB 1761 (Hall) Dependent children: placement

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Among other things, expands the time periods during which a County Department of Social Services must conduct a suitability assessment of a relative or nonrelative extended family member who requests temporary placement of a child who has been taken into temporary custody based on allegations of abuse or neglect, if the child is not released to a parent or guardian.

AB 1843 (Jones) Child custody evaluations: confidentiality

Status: Signed by the Governor (Chapter 283, Statutes of 2014)

Summary: Authorizes the disclosure of otherwise confidential information to the licensing entity of a child custody evaluator for the purposes of conducting an investigation into allegations of the evaluator's unprofessional conduct.

AB 1850 (Waldron) Restraining orders

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Provides that a minor who was not a victim, but who was physically present at the time of an act of domestic violence, is deemed to have suffered harm for the purpose of issuing a protective order in a pending criminal case.

AB 2089 (Quirk) Domestic violence: protective orders

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Amends numerous sections of the Domestic Violence Protection Act. Among other things, allows a court to issue a domestic violence restraining order solely on the basis of the affidavit or testimony of the party requesting such an order, states that the length of time between

an act of abuse and the request for an order is not alone determinative, clarifies when mutual restraining orders are issued, and requires the court to state its reasons for denying an order either in writing or on the record.

AB 2154 (Jones) Appeals in civil actions: stay of enforcement

Status: Signed by the Governor (Chapter 95, Statutes of 2014)

Summary: Provides that an order for attorney's fees, costs, or both, awarded in a proceeding under the Family Code, shall not be stayed when an appeal is perfected, unless an undertaking is given.

AB 2252 (John A. Pérez) Child support payments: electronic fund transfer: qualifying accounts

Status: Signed by the Governor (Chapter 180, Statutes of 2014)

Summary: Specifies that only accounts that qualify under specified circumstances may receive direct deposits of child support payments, as authorized under the federal Electronic Fund Transfer Act (EFTA) (15 U.S.C. Sec. 1693 et seq.).

AB 2344 (Ammiano) Family law: parentage

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Among other things, creates a statutory form to establish the intent to be a legal parent or not when donating genetic material, and establishes the procedure for stepparent adoptions involving a spouse or partner who gave birth during the marriage or partnership, including exempting such adoptions from home visit and home study requirements.

AB 2586 (Bloom) Family law proceedings

Status: Signed by the Governor (Chapter 169, Statutes of 2014)

Summary: Automatically reopens discovery on issues raised in postjudgment pleadings in family law proceedings, and sets the "trial date" for discovery purposes.

SB 910 (Pavley) Domestic violence: restraining orders

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Expands the definition of domestic violence to include abuse perpetrated against a child of a party to the domestic violence proceedings or a child who is the subject of an action under the Uniform Parentage Act, as specified, or against any other person related to the defendant by consanguinity or affinity within the 2nd degree.

SB 977 (Lieu) Juveniles

Status: Signed by the Governor (Chapter 219, Statutes of 2014)

Summary: Among other things, authorizes a court to place a child with a parent who is enrolled in a certified substance abuse treatment facility that allows a dependent child to reside with his or her parent.

SB 1099 (Steinberg) Dependent children: wards of the juvenile court: sibling visitation

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Among other things, requires a court to review the reasons for any suspension of sibling visitation with a minor or nonminor dependent.

SB 1306 (Leno) Marriage

Status: Signed by the Governor (Chapter 82, Statutes of 2014)

Summary: Repeals statutory provisions that declare that only marriage between a man and a woman is valid or recognized in California. Recognizes marriages of same-sex couples performed in other states, and replaces the terms "husband" and "wife" in the Family Code with the terms "spouse," "spouses," or "married persons."

SB 1460 (Committee on Human Services) Child welfare

Status: approved by the Senate and the Assembly, enrolled and to the Governor

Summary: Among other things, requires a juvenile court to transfer a case file to a tribe having jurisdiction over a juvenile court case, and requires both the juvenile court and the tribe to document the finding of facts supporting jurisdiction over the child by the tribal court. Requires that a transfer order shall have precedence in scheduling, "and shall be heard by the court at the earliest possible moment after the order is filed." Further allows a child who has been removed from the custody of his or her parents to be placed with a resource family.

TAB 4

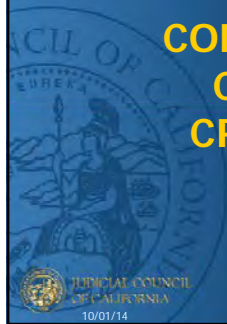
**Contempt Proceedings Related to
Child Support Orders**

Mr. Stephen A. Kolodny

Contempt Proceedings Related to Child Support Orders

18th Annual AB 1058 Child Support
Training Conference
September 30-October 3, 2014

CONTEMPTS... CIVIL OR CRIMINAL?



JUDICIAL COUNCIL
OF CALIFORNIA
10/01/14

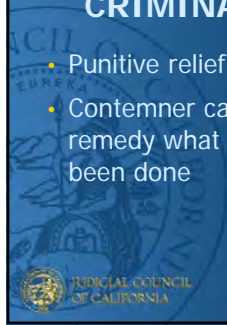
FAMILY LAW CONTEMPTS

CRIMINAL

- Punitive relief
- Contemner cannot remedy what has been done

CIVIL

- Remunerative relief
- Remedial and for the benefit of the complainant



2014 Contempt Article, pp. 1-3

FAMILY LAW CONTEMPTS

QUASI-CRIMINAL

- Valid only before 1988
- No longer valid concept in family law contempts
- *Hicks v. Feiock* – Now contempts either civil or criminal



2014 Contempt Article, p. 1

IS THE CONTEMPT ORDER ENFORCEABLE?



STATUTORY AUTHORITY

- Statute of limitations for filing a contempt:
 - 3 years for support orders
 - All others are 2 years
 - *CCP § 1218.5(b)*



2014 Contempt Article, p. 22

STATUTORY AUTHORITY

- Orders made within scope of *FC § 290* (for support)
 - Enforceable by contempt
- Unless the remedy violates the 8th Amendment
 - No imprisonment for debt
- Discovery orders



2014 Contempt Article, p. 15, 22

STATUTORY AUTHORITY

- “Family support” orders
- Enforceable same as child support order
 - *FC § 4501* (formerly *CC § 4811(d)*)
 - *In re Ivey*
 - *Moss v. Sup. Ct.*



2014 Contempt Article, p. 8

STATUTORY AUTHORITY

- Discovery orders
- Court may impose contempt sanction by order
- Treating misuse of discovery process as contempt of court
 - *CCP § 2023.030(e)*



2014 Contempt Article, p. 21

STATUTORY AUTHORITY

- Civil contempt proceedings authorized
 - *CCP §§ 1209-1222*
- Most used to initiate family law contempt
 - *CCP § 1209(a)(5)* – disobedience of lawful order



2014 Contempt Article, p. 22

STATUTORY AUTHORITY

- Order must be written to be contempt enforceable
 - *IRMO Pearce*
- Good Practice: Always prepare written order to be signed by judge



2014 Contempt Article, p. 43

ORDERS FOR PAYMENT TO THIRD PERSONS

- Payment directly to creditor
- Payment directly to supplier of goods and services
- Order must state that payment will benefit other party or child
- For whom support is ordered
 - *FC §2023*



2014 Contempt Article, p. 8

PROOF ISSUES FOR 2023 ORDERS

- Order must contain required finding
- Third party will be a required witness



2014 Contempt Article, p. 8

ORDERS BASED ON SETTLEMENT AGREEMENTS


- Pre 1/1/1970 orders based on "severable" agreement IS
- Proper subject of contempt
- If based on "integrated" agreement
- Date controls issue of contempt



2014 Contempt Article, p. 8

WHO CAN ENFORCE?






AGGRIEVED PARTY

- Affidavit setting forth contemptuous conduct
- Frames the issues before the court
- Jurisdictional prerequisite for court to punish for contempt

JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 23-25

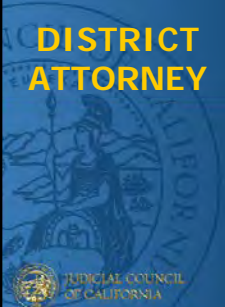


COUNTY

- May enforce the same as custodial parent
- If entitled to be reimbursed for public assistance
 - *Monterey Co. v. Banuelos*

JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 16




DISTRICT ATTORNEY

- No authority to intervene in private civil matter
 - *Safer v. Sup. Ct.*
- No standing to enforce unless application made
 - *Codoni v. Codoni*

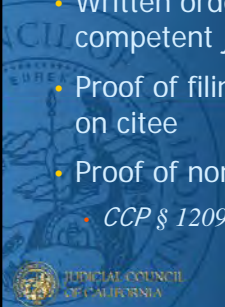
JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 26



WHAT ARE THE ELEMENTS?

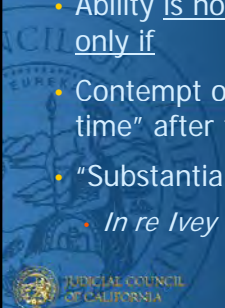
JUDICIAL COUNCIL OF CALIFORNIA



PRIMA FACIE CASE

- Written order from court of competent jurisdiction
- Proof of filing and service of order on citee
- Proof of non compliance
 - *CCP § 1209.5*

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 8



PRIMA FACIE CASE

- Ability is now element of contempt only if
- Contempt occurs a “substantial time” after the order
- “Substantial time” is discretionary
 - *In re Ivey*

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 8, 53-36

PRIMA FACIE CASE

- If court recently made the support order
- Ability to pay is not an element
 - But, it is an affirmative defense
 - *In re Ivey; In re Koehler*



2014 Contempt Article, p. 8, 53-56

BURDEN SHIFT AFTER IVEY...

- To rebut "ability,"
- Contemnor must now prove "inability"
- Preponderance of evidence



2014 Contempt Article, p. 11

CORPUS DELICTI

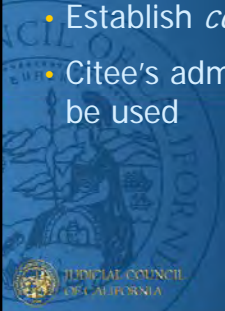
- The *corpus delicti* of a crime consists of:
 - The fact of the injury and
 - The existence of criminal agency as its cause
- *People v. Sapein*



2014 Contempt Article, p. 51

CORPUS DELICTI


- Establish *corpus delicti* and
- Citee's admission to witness can be used



JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 51

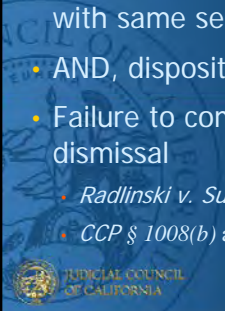
PLEADING THE CONTEMPT



JUDICIAL COUNCIL OF CALIFORNIA

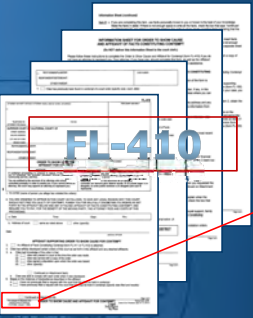
PRIOR ORDERS

- FL-410 - show all prior applications with same set of facts
- AND, disposition of same
- Failure to comply may result in dismissal
 - *Radlinski v. Sup. Ct.*
 - CCP § 1008(b) and (c)



JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 26



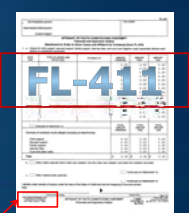
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT

“Form Adopted for Mandatory Use Judicial Council of California”

JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 23-24

AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT Financial and Injunctive Orders



“Form Adopted for Mandatory Use Judicial Council of California”

JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 23-24

AFFIDAVIT

- Serves as “the contempt pleading”
- Cannot constitute evidence
- Unless offered and received into evidence
- *Collins v. Sup. Ct.*

JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 23

AFFIDAVIT

- It has long been the rule
- That the filing of a sufficient affidavit
- Is jurisdictional prerequisite
- To contempt proceeding
- *Fabricant v. Sup. Ct.*



2014 Contempt Article, p. 23

"Form Adopted for
Mandatory Use
Judicial Council of
California"

AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT Domestic Violence / Custody and Visitation



2014 Contempt Article, pp. 23-24

PLEADING MULTIPLE COUNTS

No.	Date of Order	Terms of Order	Date Violated	Violation
Count 1				
Count 2				
Count 3				
Etc.				



2014 Contempt Article, p. 24

ONLY ONE COUNT PER MONTH

- If support payments are due:
 - One-half on 1st
 - One-half on 15th
- Only one count for both payments
- CCP § 1218.5(a)



2014 Contempt Article, p. 25

NO PIECEMEAL CONTEMPTS

- May have Double Jeopardy problems
- Where same act or course of conduct is the basis
 - *Kellett v. Sup. Ct.*
 - *Rice and Eaton*




2014 Contempt Article, p. 25

SERVING THE CONTEMPT



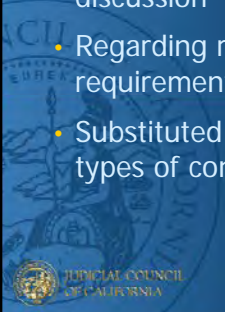
- Personal service is required
 - *Cedars-Sinai v. Sup. Ct.*
 - *Ex Parte Meyer*
 - *Kronenberger v. Sup. Ct.*
- Service by mail insufficient
 - *In re Koehler*



JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 24, 26-27


- *In re Abrams* provides extensive discussion
- Regarding reasons and requirements for personal or
- Substituted service in different types of contempts



JUDICIAL COUNCIL OF CALIFORNIA

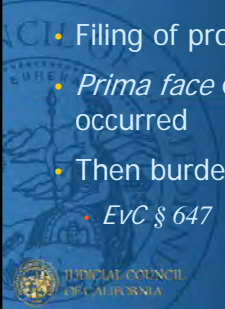
2014 Contempt Article, p. 27

**REGISTERED OR
REGULAR PROCESS
SERVER?**



JUDICIAL COUNCIL OF CALIFORNIA

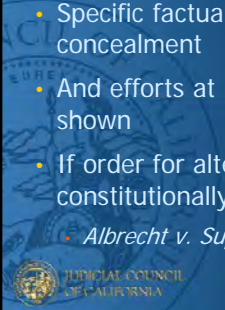
- If served by registered process server
- Filing of proper Proof of Service
- *Prima face* evidence that service occurred
- Then burden of proof shifts
 - *EvC § 647*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 27

ALTERNATIVE METHODS OF SERVICE

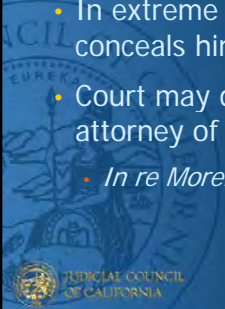
- Specific factual allegations showing concealment
- And efforts at personal service must be shown
- If order for alternate service is constitutionally valid
 - *Albrecht v. Sup. Ct.*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 27

SERVICE ON ATTORNEY

- In extreme cases where citee conceals himself
- Court may direct service on citee's attorney of record
 - *In re Morelli*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 27

CONCEALMENT

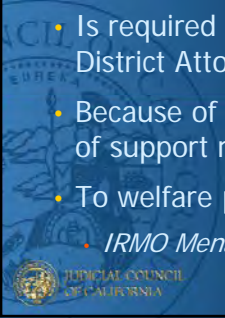
- The fundamental concept behind concealment cases
- Is that party cannot defeat jurisdiction
- By hiding out and evading service
 - *Smith v. Smith*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 27

REQUIRED NOTICE

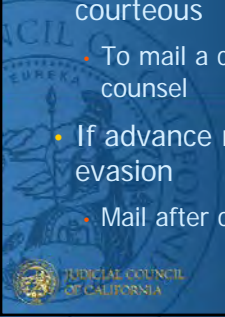
- If either party on welfare
- Is required that notice be given to District Attorney's office
- Because of automatic assignment of support rights
- To welfare paying entity
 - *IRMO Mena*



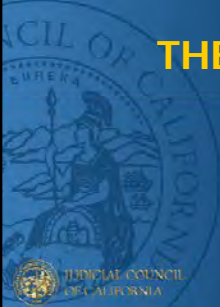
JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 26

COURTESY NOTICE

- It is professionally appropriate and courteous
- To mail a copy of contempt to citee counsel
- If advance notice will result in evasion
 - Mail after citee was served

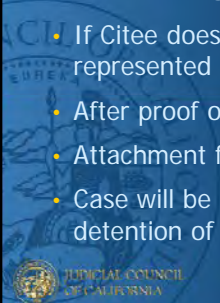


JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 27



THE HEARING

JUDICIAL COUNCIL OF CALIFORNIA

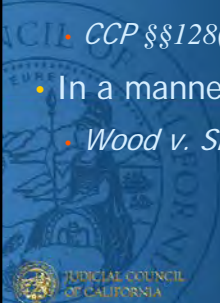


MUST THE CITEE APPEAR?

AT LASC... GENERALLY

- If Citee does not appear, and is not represented
- After proof of personal service
- Attachment for defaulter is issued
- Case will be cont'd or held pending detention of Citee

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, pp. 30-31



- The court can compel witnesses
- *CCP §§128(a)(6) and 177*
- In a manner provided by law
- *Wood v. Silvers*

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 31

CITEE

<p>FIFTH AMENDMENT</p> <ul style="list-style-type: none"> • Has the right to remain silent 	<p>SIXTH AMENDMENT</p> <ul style="list-style-type: none"> • Has the right to be represented by counsel • <i>County of Santa Clara v. Sup. Ct. (Rodriguez)</i> <p>2014 Contempt Article, pp. 32-35</p>
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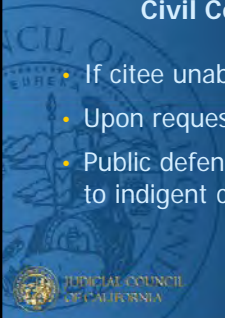


CITEE

**NOTE: LA PUBLIC DEFENDER
Civil Contempt Division**

- If citee unable to obtain counsel
- Upon request, if qualifies financially,
- Public defender will provide counsel to indigent citee

2014 Contempt Article, p. 32



CITEE

- Has the right to a speedy trial
- When defendant not brought to trial within 45 days
- Case may be dismissed
- *PenC § 1382(a)(3)*

2014 Contempt Article, pp. 35-36



CITEE

- Has the right to a stay of proceedings
- If a criminal filing is possible
- A Fifth Amendment right against self-incrimination



2014 Contempt Article, p. 36

INITIATING PARTY

- Must establish their *prima facie* case
- Without calling citee to testify
 - *Ex Parte Gould*



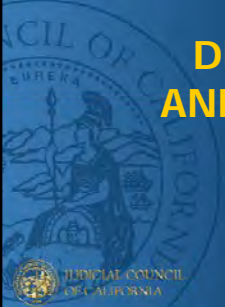
2014 Contempt Article, pp. 37-39

INITIATING PARTY

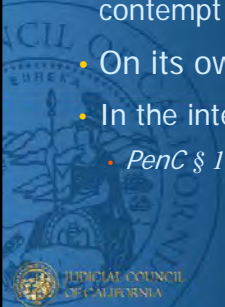
- May call citee's current spouse as witness
- In action brought by Citee's former spouse
 - *EvC § 970* modified by *EvC § 972(g)*



2014 Contempt Article, p. 39

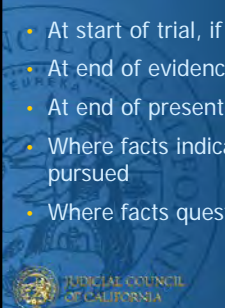


DEFENSES AND TACTICS



- The Court may dismiss a contempt
- On its own motion
- In the interests of justice
 - *PenC § 1385*

2014 Contempt Article, p. 40




- Best Practice: Make a motion for the court to dismiss
- At start of trial, if not done before
- At end of evidence in support of contempt
- At end of presentation of defense
- Where facts indicate prosecution should not be pursued
- Where facts questionably support guilty verdict

2014 Contempt Article, p. 40

- *Ex parte* temporary order not made into permanent order
 - May not support contempt
- *Ex parte* order based on hearsay or objectionable declarations
 - May be attacked at contempt hearing


2014 Contempt Article, p. 41

- Before allowing your contempt to be defeated
 - By any of the above defenses:
 - Read *Rosin v. Sup. Ct.*
 - Also *IRMO Hartmann*


2014 Contempt Article, p. 44

PATERNITY ACTIONS

- Stipulated orders for support
- Voidable if party not advised of right and potential for contempt
- And to trial on paternity and child support
 - *Solberg v. Wenker*


2014 Contempt Article, p. 41

PATERNITY ACTIONS

- Check to be sure file reflects proper waivers
- If not, move to vacate order
- Or simply challenge order
- Move to dismiss the contempt



2014 Contempt Article, p. 41

ORDERS ON APPEAL

- Most family law orders are not automatically stayed
- When notice of appeal filed
- Posting bond required to stay enforcement / contempt



2014 Contempt Article, pp. 42-43

PENDENTE LITE ORDERS

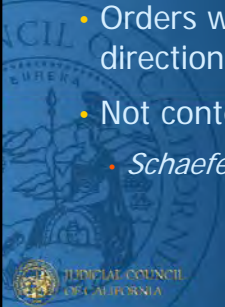
- Although probably effective upon pronouncement for writ purposes
- No longer contempt enforceable without written order
 - *Marriage of Pearce*



2014 Contempt Article, pp. 42-43

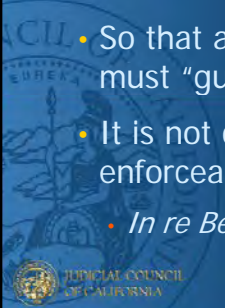
NO DIRECTION

- Orders with no mandatory direction to “perform”
- Not contempt enforceable
 - *Schaefer v. Sup. Ct.*

 JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 44


VAGUE

- If an order is so vague...
- So that an intelligent man must “guess” at its meaning
- It is not contempt enforceable
 - *In re Berry*

 JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 44

AMBIGUOUS

- Orders that are ambiguous
- Are not contempt enforceable
 - *Gottlieb v. Sup. Ct.*

 JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 44

UNCLEAR

- Orders must be clear and specifically state
 - The prohibited act(s)
- Or, they are not contempt enforceable
 - *Brunton v. Sup. Ct.*



2014 Contempt Article, p. 44

NON-DEFENSES

- Offsets due to Citee
- Are not a defense for failure to pay child support
 - *Keck v. Keck*



2014 Contempt Article, p. 51

- Late payment is argument for mitigation of a sentence
- Not a defense to contempt charges



2014 Contempt Article, p. 52

OTHER UNENFORCEABLE ORDERS

- Insufficient factual basis
- Based on statute that requires findings, but no findings are done
- Constitutionally overbroad



2014 Contempt Article, p. 45

NO VISITATION -- NO SUPPORT BAD IDEA

- Failure to allow visitation
- Not justification for failure to pay child support
- *FC § 3556*



2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

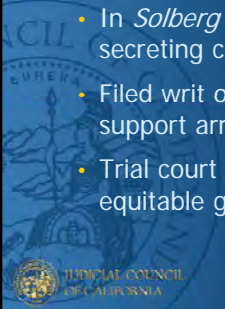
- May be defense to "willfulness" element
- But a weak one
- Two cases provide reasoning
- But neither is strong



2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

- In *Solberg* mother who was secreting children
- Filed writ of execution to collect support arrears
- Trial court quashed the writ on equitable grounds

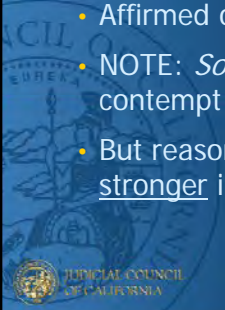


JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

- Affirmed on appeal
- NOTE: *Solberg* was not contempt case
- But reasoning should apply stronger in contempt case

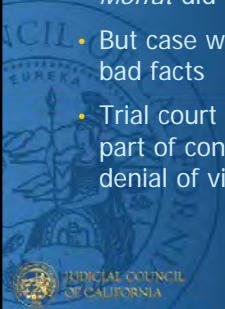


JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

- *Moffat* did involve contempt action
- But case was unusual with very bad facts
- Trial court suspended support as part of contempt for mother's denial of visitation



JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

- This order was contrary to *CCP § 1218*
- Trial court later reversed its own order suspending support
- On appeal, Supreme Court said original order was wrong
- But was *res judicata*

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, pp. 47-48

WAIVER OR ESTOPPEL

- *FC § 3556* says denial of visitation
- Does not justify nonpayment of support
- But *Solberg* and *Moffat* may provide basis
- To cite denial of visitation as defense to “willfulness”

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, pp. 47-48


NO DOUBLE JEOPARDY

- If earlier contempt was unsuccessful
- Subsequent contempt may lie, if defendant now has the ability to pay
- *Martin v. Sup. Ct. (1962)*

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, pp. 48-51

NO DOUBLE JEOPARDY


- If contempt was civil
- Subsequent criminal prosecution of defendant
- Does not constitute double jeopardy
 - *People v. Derner*

 JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, pp. 48-51

NO DOUBLE JEOPARDY

- If defense counsel concerned about subsequent criminal prosecution
- Ask family law court to make findings in sentencing portion of order

 JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 50

NO DOUBLE JEOPARDY

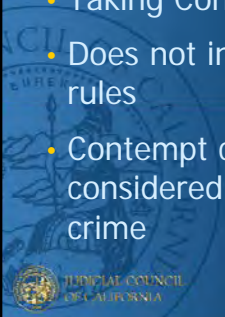
- As prosecuting counsel if criminal prosecution anticipated
- Ask family law court to use civil language in findings

 JUDICIAL COUNCIL OF CALIFORNIA

2014 Contempt Article, p. 50

NO DOUBLE JEOPARDY

- Taking Contempt off calendar
- Does not invoke double jeopardy rules
- Contempt conviction not considered prior prosecution for crime



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 50

NO ABUSE OF PROCESS

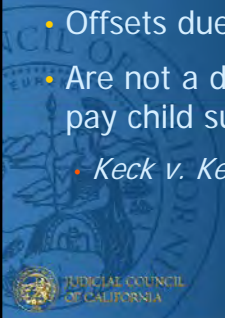
- No abuse of process or malicious prosecution
- For dismissing contempt
- Or losing contempt trial
 - *Green v. Uccelli (Green I)*



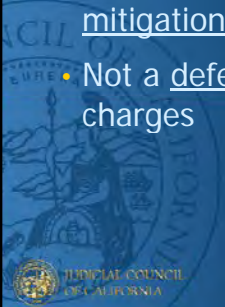
JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 50

NON-DEFENSES

- Offsets due to Citee
- Are not a defense for failure to pay child support
 - *Keck v. Keck*



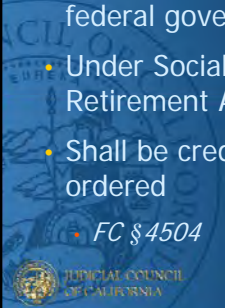
JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 51



- Late payment is argument for mitigation of a sentence
- Not a defense to contempt charges

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 52

LITTLE KNOWN ISSUES



- Payment for support of a child by federal government
- Under Social Security Act or Railroad Retirement Act
- Shall be credited toward amount ordered
- *FC §4504*

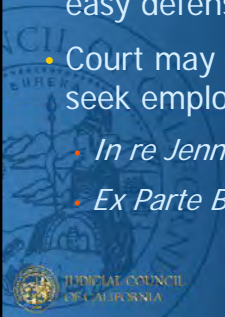
JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 52



- Bankruptcy automatically stays enforcement
- For support due prior to filing date
- Does not apply to support that accrues after filing

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 53


- Unemployment is no longer an easy defense
- Court may now compel citee to seek employment
 - *In re Jennings*
 - *Ex Parte Brown*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 53

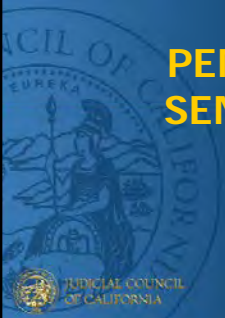
EFFECT OF GUILTY

- Court of Appeal may dismiss an appeal
- By a party who has refused to comply
- With orders of trial court
 - *TMS, Inc. v. Aihara*



JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 53

PENALTIES / SENTENCING



JUDICIAL COUNCIL OF CALIFORNIA

STATUTORY PENALTIES

- Law now permits prison at 1st contempt.
- *CCP §1218(a)* : \$1,000 and/or 5 days each count.
- *CCP1218(c)*:
 - 1st ≤ 120 hours community service, or prison time;



2014 Contempt Article, p. 64

STATUTORY PENALTIES

- *CCP1218(c) (cont'd)*:
- 2nd ≤ 120 hours community service plus prison
- 3rd ≤ 240 hours community service plus ≤ 240 hours of prison



2014 Contempt Article, p. 64

MULTIPLE CONVICTIONS

- Commitment for multiple convictions may run concurrently or consecutively.
- *Powers v. Sup. Ct.*



2014 Contempt Article, p. 65

CHILD SUPPORT REDUCTION?

- The Court has no power to reduce child support as part of the contempt adjudication or sentencing.
- *Smith v. Sup. Ct.*


2014 Contempt Article, p. 65-66



CUSTODY CHANGE NOT A PERMISSIBLE PENALTY

- The Court cannot take custody from a Contemner
- When that issue was not raised by the pleadings
- A separate RFO seeking to change custody is proper to seek remedy
- *Clarke v. Clarke*


2014 Contempt Article, p. 66



VISITATION CONDITIONS NOT A PERMISSIBLE PENALTY

- Visitation cannot be conditioned on timely payment of child support in modification proceeding
- Such a provision could be valid condition of probation
- If accepted by contemner in lieu of another sentence
- *Camacho v. Camacho*


2014 Contempt Article, p. 66



**SPOUSAL SUPPORT
TERMINATION
A PERMISSIBLE PENALTY**

- The Court may terminate spousal support because of the wrongful conduct of the Contemner
 - *Clarke v. Clarke*, citing *Williams v. Williams*


2014 Contempt Article, p. 66



**INCARCERATION UNTIL
PERFORMANCE
A CIVIL, NOT CRIMINAL, REMEDY**

- With certain exceptions when contempt consists of nonperformance
- Of act within their power they may be imprisoned until performance
- In that case the act shall be specified in warrant of commitment
 - *CCP § 1219(a)*


2014 Contempt Article, p. 66



**SUMMARY CONTEMPT AGAINST
COUNSEL**

- U.S. Supreme Court upheld use of summary contempt against counsel
 - *Watson v. Block*
- Three judicial days provided for testing lawfulness of order
- An attorney can no longer be taken away from the courtroom into custody
 - *CCP § 128(b) and 1209(c)*

2014 Contempt Article, p. 67



PAYMENT SCHEDULE AS CONDITION OF PROBATION

- Unless aggrieved party stipulates to payment program
- In lieu of other collection rights
- Court does not have power to retroactively modify manner former judgment is paid
 - *Tripp v. Sup. Ct.*



2014 Contempt Article, p. 67-68

PROCEDURE WHEN CHILD (UNDER 16) REFUSES TO TESTIFY OR TAKE OATH

- When sentencing court refers to probation officer for report and recommendation
- Probation officer prepares and files (considering maturity, reasons for refusal, impact on minor and litigation)
- Court considers report/ recommendation
 - *CCP § 1219.5*



2014 Contempt Article, p. 68

WRITS AND APPEALS



NO APPEAL FROM CONTEMPT

- An adjudication of contempt is final and conclusive
- Neither a trial court nor an appellate court may amend an order adjudicating contempt
 - CCP § 1222



2014 Contempt Article, p. 72

ONLY RELIEF BY WRIT

- Contempts may be reviewed by a petition for writ of *Habeas Corpus* or *Certiorari*
 - *Gue v. Dennis*
 - *Kyne v. Eustice*
 - *Heller v. Heller*



2014 Contempt Article, p. 73

APPELLATE COURT

- Ascertains if trial court acted within jurisdiction
- Determines if evidence exists
 - To sustain trial court's jurisdiction and manner it exercised discretion
 - *In re Coleman; In re Bongfeldt; Bd. of Supervisors v. Sup. Ct.*



2014 Contempt Article, p. 73

PRESUMPTIONS?

- Unlike ordinary civil proceedings
- No presumption as to the regularity
- Or validity of trial court proceedings
- Where judgment of contempt has resulted
 - *Ex Parte Scroggin*



2014 Contempt Article, p. 73

FINDINGS

- In contempt trial court required to make findings
- With particularity and specificity
 - *Petition of Mancini*



2014 Contempt Article, p. 73

FINDINGS AND ORDER REGARDING CONTEMPT

Using this form should result in proper enforceable order

Form Approved for Optional Use Judicial Council of California



2014 Contempt Article, p. 73

REPRESENTING THE MOVING PARTY

- Don't let too many counts accumulate before filing
- Court will get impression it isn't important
- Courts are reluctant to impose long sentences
- You reinforce importance of compliance to the other side



2014 Contempt Article, p. 80

- If there is any question or ambiguity in the order clean up sooner rather than later
- Be sure separate counts are numbered
- Identify whether criminal or civil filing
- If nothing said, it will be treated as a criminal matter



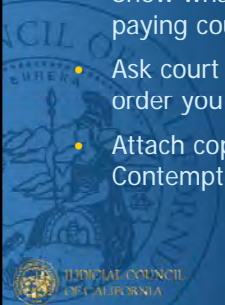
2014 Contempt Article, p. 80

PREPARE COURT FILE FOR HEARING

- Mark the order
- Mark minute order from hearing, showing presence of parties
- Showing when the order was made
- Subpoena bank/credit cards of citee



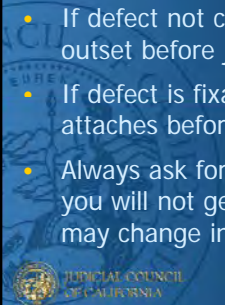
2014 Contempt Article, p. 81-82



- Show what citee spends while not paying court's support order
- Ask court to take judicial notice of order you are seeking to enforce
- Attach copy of order to OSC re Contempt

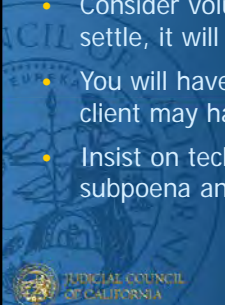
JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 81-82

REPRESENTING THE CITEE



- Make appropriate motions to dismiss
- If defect not curable, make motion at outset before jeopardy attaches
 - If defect is fixable, wait until jeopardy attaches before making motion
- Always ask for jury trial at arraignment – you will not get under current law, but law may change in this area

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 81-82



- Be wary of stipulations
- Consider voluntary wage assignment to settle, it will happen anyway
 - You will have affirmative defenses, client may have to testify
 - Insist on technical compliance with subpoena and consumer notice statutes

JUDICIAL COUNCIL OF CALIFORNIA 2014 Contempt Article, p. 81-82



ATTORNEY OR PARTY WITHOUT ATTORNEY (<i>Name, state bar number, and address</i>): TELEPHONE NO.: _____ FAX NO.: _____ ATTORNEY FOR (<i>Name</i>): _____	FOR COURT USE ONLY
SUPERIOR COURT OF CALIFORNIA, COUNTY OF STREET ADDRESS: MAILING ADDRESS: CITY AND ZIP CODE: BRANCH NAME:	
PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	
ORDER TO SHOW CAUSE AND AFFIDAVIT FOR CONTEMPT	CASE NUMBER:
<p style="text-align: center;">NOTICE!</p> A contempt proceeding is criminal in nature. If the court finds you in contempt, the possible penalties include jail sentence, community service, and fine. You are entitled to the services of an attorney who should be consulted promptly in order to assist you. If you cannot afford an attorney, the court may appoint an attorney to represent you.	<p style="text-align: center;">¡AVISO!</p> Un proceso judicial por desacato es de índole criminal. Si la corte le declara a usted en desacato, las sanciones posibles incluyen penas de prisión y de servicio a la comunidad, y multas. Usted tiene derecho a los servicios de un abogado, a quien debe consultar sin demora para obtener ayuda. Si no puede pagar a un abogado, la corte podrá nombrar a un abogado para que le represente.

1. TO CITEE (*name of person you allege has violated the orders*):

2. YOU ARE ORDERED TO APPEAR IN THIS COURT AS FOLLOWS, TO GIVE ANY LEGAL REASON WHY THIS COURT SHOULD NOT FIND YOU GUILTY OF CONTEMPT, PUNISH YOU FOR WILLFULLY DISOBEYING ITS ORDERS AS SET FORTH IN THE AFFIDAVIT BELOW AND ANY ATTACHED *AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT*; AND REQUIRE YOU TO PAY, FOR THE BENEFIT OF THE MOVING PARTY, THE ATTORNEY FEES AND COSTS OF THIS PROCEEDING.

a. Date:	Time:	Dept.:	Rm.:
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b. Address of court: same as noted above other (*specify*):

Date: _____
JUDICIAL OFFICER

AFFIDAVIT SUPPORTING ORDER TO SHOW CAUSE FOR CONTEMPT

3. An *Affidavit of Facts Constituting Contempt* (form FL-411 or FL-412) is attached.
4. Citee has willfully disobeyed certain orders of this court as set forth in this affidavit and any attached affidavits.
5. a. Citee had knowledge of the order in that
 - (1) citee was present in court at the time the order was made.
 - (2) citee was served with a copy of the order.
 - (3) citee signed a stipulation upon which the order was based.
 - (4) other (*specify*):
- Continued on Attachment 5a(4).
- b. Citee was able to comply with each order when it was disobeyed.
6. Based on the instances of disobedience described in this affidavit
 - a. I have not previously filed a request with the court that the citee be held in contempt.
 - b. I have previously filed a request with the court that the citee be held in contempt (*specify date filed and results*):

Continued on Attachment 6b.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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7. Citee has previously been found in contempt of a court order (*specify case, court, date*):

Continued on Attachment 7.

8. Each order disobeyed and each instance of disobedience is described as follows:

- a. Orders for child support, spousal support, family support, attorney fees, and court or other litigation costs (see attached *Affidavit of Facts Constituting Contempt* (form FL-411))
- b. Domestic violence restraining orders and child custody and visitation orders (see attached *Affidavit of Facts Constituting Contempt* (form FL-412))
- c. Injunctive or other order (*specify which order was violated, how the order was violated, and when the order was violated*):

Continued on Attachment 8c.

- d. Other material facts, including facts indicating that the violation of the orders was without justification or excuse (*specify*):

Continued on Attachment 8d.

- e. I am requesting that attorney fees and costs be awarded to me for the costs of pursuing this contempt action. (A copy of my *Income and Expense Declaration* (form FL-150) is attached.)

WARNING: IF YOU PURSUE THIS CONTEMPT ACTION, IT MAY AFFECT THE ABILITY OF THE DISTRICT ATTORNEY TO PROSECUTE THE CITEE CRIMINALLY FOR THE SAME VIOLATIONS.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

(TYPE OR PRINT NAME)

▶

(SIGNATURE)

INFORMATION SHEET FOR ORDER TO SHOW CAUSE AND AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT

(Do NOT deliver this Information Sheet to the court clerk.)

Please follow these instructions to complete the *Order to Show Cause and Affidavit for Contempt* (form FL-410) if you do not have an attorney to represent you. Your attorney, if you have one, should complete this form, as well as the *Affidavit of Facts Constituting Contempt* (form FL-411 or form FL-412). You may wish to consult an attorney for assistance. Contempt actions are very difficult to prove. An attorney may be appointed for the citee.

INSTRUCTIONS FOR COMPLETING THE ORDER TO SHOW CAUSE AND AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT (TYPE OR PRINT FORM IN INK):

If the top section of the form has already been filled out, skip down to number 1 below. If the top section of the form is blank, you must provide this information.

Front page, first box, top of form, left side: Print your name, address, telephone number, and fax number, if any, in this box. If you have a restraining order and wish to keep your address confidential, you may use any address where you can receive mail. **You can be legally served court papers at this address.**

Front page, second box, left side: Print the name of the county where the court is located and insert the address and any branch name of the court building where you are seeking to obtain a contempt order. You may get this information from the court clerk. This should be the same court in which the original order was issued.

Front page, third box, left side: Print the names of the Petitioner, Respondent, and Other Parent (if any) in this box. Use the same names as appear on the most recent court order disobeyed.

Front page, first box, top of form, right side: Leave this box blank for the court's use.

Front page, second box, right side: Print the court case number in this box. This number is also shown on the most recent court order disobeyed.

Item 1: Insert the name of the party who disobeyed the order ("the citee").

Item 2: The court clerk will provide the hearing date and location.

Item 3: Either check the box in item 3 and attach an *Affidavit of Facts Constituting Contempt* (form FL-411 for financial orders or form FL-412 for domestic violence, or custody and visitation orders), or leave the box in item 3 blank but check and complete item 8.

Item 5: Check the box that describes how the citee knew about the order that has been disobeyed.

Item 6: a. Check this box if you have not previously applied for a contempt order.

b. Check this box if you have previously applied for a contempt order and briefly explain when you requested the order and results of your request. If you need more space, check the box that says "continued on Attachment 6b" and attach a separate sheet to this order to show cause.

Item 7: Check this box if the citee has previously been found in contempt by a court of law. Briefly explain when the citee was found in contempt and for what. If there is not enough space to write all the facts, check the box that says "continued on Attachment 7" and attach a separate sheet to this order to show cause.

Item 8: a. Check this box if the citee has disobeyed orders for child support, custody, visitation, spousal support, family support, attorney fees, and court or litigation costs. Refer to item 1a on *Affidavit of Facts Constituting Contempt* (form FL-411).

b. Check this box if the citee has disobeyed domestic violence orders or child custody and visitation orders. Refer to *Affidavit of Facts Constituting Contempt* (form FL-412).

Information Sheet (continued)

- Item 8:** c. If you are completing this item, use facts personally known to you or known to the best of your knowledge. State the facts in detail. If there is not enough space to write all the facts, check the box that says "continued on Attachment 8c" and attach a separate sheet to this order to show cause, including facts indicating that the violation of the orders was without justification or excuse.
- d. Use this item to write other facts that are important to this order. If you are completing this item, insert facts personally known to you, or known to the best of your knowledge. State facts in detail. If there is not enough space to write all the facts, check the box that says "Continued on Attachment 8d" and attach a separate sheet to the order to show cause.
- e. If you request attorney fees and/or costs for pursuing this contempt action, check this box. Attach a copy of your *Income and Expense Declaration* (form FL-150).

Type or print and sign your name at the bottom of page 2.

If you checked the boxes in item 3 and item 8a or 8b, complete the appropriate *Affidavit of Facts Constituting Contempt* (form FL-411), following the instructions for the affidavit above.

Make at least three copies of the *Order to Show Cause and Affidavit for Contempt* (form FL-410) and any supporting *Affidavit of Facts Constituting Contempt* (form FL-411 or FL-412) and the *Income and Expense Declaration* (form FL-150) for the court clerk, the citee, and yourself. If the district attorney or local child support agency is involved in your case, you must provide a copy to the district attorney or local child support agency.

Take the completed form(s) to the court clerk's office. The clerk will provide hearing date and location in item 2, obtain the judicial officer's signature, file the originals, and return the copies to you.

Have someone who is at least 18 years of age, who is not a party, serve the order and any attached papers on the disobedient party. For example, a process server or someone you know may serve the papers. **You may not serve the papers yourself. Service must be personal; service by mail is insufficient.** The papers must be served at least 21 calendar days before the court hearing. The person serving papers must complete a *Proof of Personal Service* (form FL-330) and give the original to you. Keep a copy for yourself and file the original *Proof of Personal Service* (form FL-330) with the court.

If you need assistance with these forms, contact an attorney or the Family Law Facilitator in your county.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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**AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT
Financial and Injunctive Orders**

Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

1. a. Orders for child support, spousal support, family support, attorney fees, and court and litigation costs (*separately itemize each default on installment payments*):

DATE DUE	TYPE OF ORDER AND DATE FILED	PAYABLE TO	AMOUNT ORDERED	AMOUNT PAID	AMOUNT DUE
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
			0.00	0.00	0.00
<input type="checkbox"/> Continued on Attachment 1a.			TOTAL AMOUNT ORDERED	TOTAL AMOUNT PAID	TOTAL AMOUNT DUE
Summary of contempt counts alleged (including all attachments):					
Child support:			0.00	0.00	0.00
Spousal support:			0.00	0.00	0.00
Family support:			0.00	0.00	0.00
Attorney fees:			0.00	0.00	0.00
Court and other costs:			0.00	0.00	0.00
Total			\$ 0.00	\$ 0.00	\$ 0.00

b. Other orders (*specify which order was violated, how the order was violated, and when the violation occurred*):

Continued on Attachment 1b.

c. Other material facts (*specify*):

Continued on Attachment 1c.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Date:

	▶	
(TYPE OR PRINT NAME)		(SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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AFFIDAVIT OF FACTS CONSTITUTING CONTEMPT
Domestic Violence/Custody and Visitation
Attachment to Order to Show Cause and Affidavit for Contempt (form FL-410)

1. The Citee has violated the restraining order issued on *(date)*: _____ by contacting, molesting, harassing, attacking, striking, threatening, sexually assaulting, battering, telephoning, sending any messages to, following, stalking, destroying the personal property of, disturbing the peace of, keeping under surveillance, or blocking movements in public places and thoroughfares of me or any other person protected by the restraining order. *(Specify which order was violated, how the order was violated, and when the violation occurred):* _____

Continued on Attachment 1.
2. The Citee has violated the restraining order issued on *(date)*: _____ by not moving from and staying away from the residence as ordered by the court. *(Specify how the order was violated and when the violation occurred):* _____

Continued on Attachment 2.
3. The Citee has violated the restraining order issued on *(date)*: _____ by not staying *(specify)*: _____ yards away from me, the other protected persons, my residence, my place of work, the children's school or place of child care, my vehicle, or other *(specify)*: _____
(Specify which order was violated, how the order was violated, and when the violation occurred): _____

Continued on Attachment 3.
4. The Citee has violated the restraining order issued on *(date)*: _____ by not relinquishing his or her firearm(s) as ordered by the court. *(Specify which order was violated, how the order was violated, and when the violation occurred):* _____

Continued on Attachment 4.
5. The Citee has violated the restraining order issued on *(date)*: _____ by failure to complete court-ordered batterer's treatment/anger management class *(specify how the order was violated)*: _____

Continued on Attachment 5.
6. The Citee has violated order issued on *(date)*: _____ by violating the following custody or visitation order *(specify which order was violated, how the order was violated, and when the violation occurred)*: _____

Continued on Attachment 6.
7. The Citee has violated the order issued on *(date)*: _____ by violating other orders *(specify which order was violated and how the order was violated)*: _____

Continued on Attachment 7.

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.
 Date: _____

(TYPE OR PRINT NAME)
(SIGNATURE)

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
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7. a. Citee is not guilty of contempt of court for the following counts (defaults/violations) alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*):
- b. Citee has a previous finding of contempt (*specify*):
8. Citee waived time for sentencing.
9. Citee waived time for trial.
10. Citee failed to appear as ordered.
11. Other (*specify*):



THE COURT ORDERS

12. a. That the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*):
- are dismissed with prejudice without prejudice.
- b. That the request to dismiss the following counts alleged in the *Order to Show Cause and Affidavit for Contempt* (form FL-410) (*specify*): is denied.
13. Citee must perform _____ hours of community service for counts (*specify*):
- a. To commence on (*date*): _____ to be completed by (*date*): _____
- Citee must report to (*specify*): _____ on (*date*): _____ at (*time*): _____
- b. Citee must pay an administrative fee of \$ 0.00 as determined by the community service agency
14. Citee must serve _____ hours in the county jail for counts (*specify*):
- To commence on (*date*): _____ to be completed by (*date*): _____
- Citee must report to (*specify*): _____ on (*date*): _____ at (*time*): _____
15. Citee must pay:
- a. attorney fees in the total amount of \$ 0.00 payable to (*specify name*): _____
- b. fines in the total amount of \$ 0.00
16. a. The contempt proceedings are suspended on condition that citee comply with all terms and conditions of this order.
- b. Imposition of sentence is suspended on condition that citee comply with all terms and conditions of this order.
17. Execution of sentence for hours of community service hours in county jail will be suspended for a period of _____ and citee is placed on court probation on condition that citee comply with all terms and conditions of this order, and
- a. Comply with current support order.
- b. Pay at least \$ 0.00 per month on current support order, payable to (*specify name*): _____ commencing (*date*): _____
- c. Pay at least \$ 0.00 per month on arrears commencing (*date*): _____
- d. Serve any remaining hours not suspended as specified in items 13 and 14.
18. Citee must seek and maintain employment and must keep written records, copies of which must be forwarded by the 5th day of each month as follows to the Local Child Support Agency court other (*specify*):
- a. Records of efforts to gain employment must include the name, address, and telephone numbers of individuals and firms contacted regarding employment, the dates of such contact and the anticipated results.
- b. Records of all actual employment must include the name of the employer, dates, and hours worked and the gross and net amounts of income from each employer.

PETITIONER/PLAINTIFF: RESPONDENT/DEFENDANT: OTHER PARENT:	CASE NUMBER:
---	--------------

19. Orders for payments required to be made as conditions of probation or suspension of sentence in this order do not modify a court ordered support obligation.
20. Citee must provide written notification to the superior court clerk of any change in residence and to
 the local child support agency the other party
 of any change of residence, income, or employment within 10 days of the change.
21. A wage and earnings assignment will issue.
22. This matter is continued to (date): _____ at (specify time): _____
 in court department (specify): _____ room (specify): _____ of this court for further hearing
 compliance review. Citee is ordered to personally appear in court on that date and time.
WARNING: Failure to appear may result in issuance of a bench warrant for citee's arrest.
23. A *Warrant of Attachment* will issue for citee's arrest. Bail is set in the sum of: \$ 0.00
 Execution of the *Warrant of Attachment* is stayed until (date): _____
 at (specify court name): _____
24. Other (specify): _____

25. Number of pages attached: _____

<input type="checkbox"/> Approved as conforming to court order and findings: Date: _____  _____ (SIGNATURE OF ATTORNEY FOR CITEE)
<input type="checkbox"/> The citee agrees to the above terms: Date: _____  _____ (SIGNATURE OF CITEE)

Date: _____

 (JUDICIAL OFFICER OF THE SUPERIOR COURT)

Signature follows last attachment

TAB 5

**Moving Forward While the World Is
Standing Still: Advancing the Court's
Self Help Program in Times of
Economic Uncertainty**

*Ms. Diane Bras, Ms. Lollie A. Roberts &
Ms. Fariba R. Soroosh*

Moving Forward While the World is Standing Still

Advancing The Family Law Facilitator
Program in Times of Economic
Uncertainty

Presenters

- Diane Bras, Family Law Facilitator, Placer County Superior Court
- Lollie Roberts, Supervising Family Law Facilitator, Sacramento Superior Court
- Fariba Soroosh, Supervising Attorney, Self Help Center/Family Law Facilitator's Office, Santa Clara County Superior Court

Keys to Success

- A successful Family Law Facilitator Program has each of these elements:
 - Strong Support from Court Administration
 - Strong Support from Judicial Officers
 - Highly Motivated Staff
 - Positive Image among Self-Represented Litigants

Court Administrators

- Know your audience
- What makes your administrator tick?
 - Efficiency? Customer Service? Accomplishments?
- What is your Administrator's relationship with the Bench?
- Be aware of the political winds of your court.
- Administration is more than just the CEO.

Court Administrators: Needs

- Information
 - What does your FLFO do?
 - What do your customers (court customers) need?
 - How might customers respond to possible changes in court process or policy?
 - Statewide trends in customers, cases

Court Administrators: Needs

- Assistance, Resources
 - Making the courthouse user-friendly
 - Understanding SRLs (AKA court customers)
 - Insight into both administrative and bench/courtroom needs and processes
 - Knowledge of the law
 - What local agencies (gov't and NGO) can offer
 - Connection with other courts' FLF programs
 - What are other courts doing?
 - Connection to local legal community

Court Administrators: Values

- What does your CEO value?
 - Connections? Knowledge? Support? Efficiency? Progress? Accomplishments?
- Know your audience
- Who do you know?
 - AOC/CFCC; Local Bar; Other SRL programs; Your Bench; other judges
 - Your clerk's office
 - The value of networking

Court Administrators: Values

- How do FLF services benefit the court?
 - Public perception of court
 - Efficiency
- Are you making things better?
- How can you support the CEO's goals for the court?

Judicial Officers: Pop Quiz

True/False

- 1. My bench officers know why I'm not in the office today.
- 2. In the last 30 days I've communicated with all the bench officers who benefit from the services of the FLFO.
- 3. The last time the FLFO was mentioned on the record in court was when a litigant complained about the lack of services there.
- 4. The last time I felt positive about my relationship with the bench was the day I was hired.
- 5. My bench officers will fight in budget meetings with administration to keep the FLFO fully funded.

Answers

- 1. True
- 2. True
- 3. False
- 4. False
- 5. True
 - 5 Correct – take a 15 minute nap
 - 4 Correct – review other materials while listening
 - 3 or less Correct – Pay Attention!

Judicial Officers: Needs

- Information – “Who are you and what do you do?”
 - Keep communication lines open
 - Keep expectations realistic
 - Make sure rotating bench officers are educated about your services
 - Meet often with assigned bench officers
 - Make sure they encounter your “good” work daily

Judicial Officers: Needs

- Resources – “What have you done for me lately?”
 - Evaluate each courtroom to determine the individual needs of that bench officer
 - Distribute your assets wisely
 - The only flexibility you control is your own
 - Make sure bench officers are educated about outside resources/referrals for litigants

Judicial Officers: Values

- Efficiency – Make time to make them happy
 - As demand increases, so must your creativity
 - As resources dwindle, make sure your staff is efficient and indispensable
- Respect – Be politely political
 - Know the personality of your bench officers
 - Learn to educate the bench discreetly
 - Train your staff not to offer opinions on bench officers to patrons

Judicial Officers: Values

- Organization – Constantly be consistent
 - Never leave the bench wondering how you spend your day
 - Seek judicial input on the organization of your staff time and resources
 - Avoid disruptions to services or unexpected changes to schedules
- Accomplishments – Be a positive reflection
 - Promote the work of the entire division in the community
 - When your work is recognized, share the credit

Self Help Staff: Needs

- Information
- Support
- Ownership

Self Help Staff: Values

Recognition

- Catching the good
- Personality matching
- Backing them up
- Sharing the perks



Self Help Staff: Values



Communication

- Positive meetings
- "Staff Good News"
- Training (or venting)
- Backing up staff

Learning Opportunities

- Delegate creativity
- Volunteer training

Self-Represented Litigants: Values

- Honesty
- Respect
- Understanding
- Fairness

Self-Represented Litigants: Success

- Consistency
- Reasonable Expectations
- Transparent Complexity
- Efficiency
- Set the Tone for Success

Closing Thoughts

- Your Program Can Grow Stronger at Any Time If You Remember to Focus on the Essentials:
 - Support
 - Communication
 - Innovation

TAB 6

New Family Law Facilitators' Orientation

(For family law facilitators only)

*Ms. Tia Wallach, Mr. Michael L. Wright
& Judicial Council AB 1058
Program Staff*

**Materials were distributed in the class,
not available online.**

TAB 7

**Affordable Care Act: Impact on
Title IV-D Practices in the Court**

Mr. Michael L. Wright

Affordable Care Act: Impact on Title IV-D Practices in the Court

Michael Wright/Program Manager & Supervising Attorney
Judicial Council
Center for Families, Children & the Courts
October 1, 2014

1

Overview of Covered Topics

- What is ACA?
- Exemptions
- Options to Meet the Requirement
- Individual Mandate Penalties
- Premium Subsidies & Cost Sharing
- Summary of the Role of Dependency Exemptions
- Intersections with Existing California Family Law
- Hypothetical Scenarios

2

ACA: What Is It and Who Is Required To Meet It

- Effective January 1, 2014, the Affordable Care Act (ACA) provides that most individuals and their dependents who are U.S. citizens, U.S. nationals, or "lawfully present immigrants" must have minimum, essential health insurance coverage or pay a tax penalty.
 - The adult or married couple who may claim a child or dependent or another individual as a dependent for federal income tax purposes is responsible for paying the penalty if the dependent does not have coverage or an exemption
 - This provision of the ACA is called the "Individual Mandate"

3

Who is Exempt from the ACA Individual Mandate?

- Not Affordable (more than 8% of HH income)
- Incarceration
- Not lawfully present
- Federally recognized tribal member
- Income below the federal income tax filing limit
- Hardship
- Other

4

ACA Affordability Exemption

- Affordability: insurance premiums are more than 8% of your HH income (Line 37 of Form 1040)
- Test:
- Step 1: Is self-coverage affordable? Yes or No
- Step 2: Is dependent coverage affordable? Yes or No

5

ACA Affordability Test Example

- Single father
- 2 dependent children
- Annual HH Income \$40,000
- Self-only Coverage \$200
- Family Coverage \$300
- Is coverage affordable?
 - $(8\% \times \$40,000 = \$3200)$
- Father: Yes
 - Self only contribution = \$2400
 - 2 dependent Children: No
 - \$3600 additional. Father is subject to individual mandate for self but is exempt for the 2 dependent children

6

“Hardship” Defined Under ACA

- Financial or domestic circumstances, including an unexpected natural or human-caused event such that individual had a significant, unexpected increase in essential expenses that prevented him/her from obtaining coverage;
- Expense of coverage would have resulted individual to experience serious deprivation of food, shelter, clothing or other necessities;
- Other circumstances that prevented the individual from obtaining coverage

7

ACA Special Medical Support Order Exemption

“You expect to claim a child as a tax dependent who’s been denied coverage in Medicaid and CHIP, and another person is required by court order to give medical support to the child. In this case, you don’t have to pay the penalty for the child.”

-Taken from OMB Form No. 0938-1190

8

Steps for Obtaining ACA Medical Support Exemption

1. The CP has primary custody of the child;
2. The CP claims the child as a dependent for income tax purposes;
3. The NCP has been ordered to provide health insurance for the child;
4. The NCP is NOT providing the ordered coverage

9

Steps for Obtaining ACA Medical Support Exemption

5. The CP may be determined by the IRS to be exempt from obtaining health insurance for the dependent
6. The CP must have applied for MediCal/CHIP for the dependent and have been denied
7. The CP must make application to the IRS and provide factual support for the exemption claim

10

Other ACA Coverage Options

- The ACA seeks to expand health insurance coverage through *shared responsibility* areas:
 - Medicaid (MediCal) Expansion
 - Employer /Mandates
 - Health Insurance Exchanges/Marketplaces

11

Medicaid Expansion (MediCal)

- Non-disabled, non-elderly childless adults with income up to 138% of federal poverty level (FPL) may now be eligible for MediCal coverage
- Why do we care? Non-custodial parents may now be eligible and would not have any cost for their own coverage and not subject to ACA penalties
- Household of 1 at 138% FPL = \$15,856 or less qualifies
- If parent ordered to provide medical insurance under FC§ 3751(a)(2) and is entitled to low income adjustment on the child support order, under FC 3751(a)(2) creates a presumption that insurance is not available at reasonable cost and court can make finding so there is no medical support enforcement

12

Employer Mandates

- Employers with 50 or more full-time equivalent employees must provide minimal essential coverage for full-time employees and offers coverage to dependents
- At affordable cost for employee's self-only coverage defined as no more than 9.5% of household. Dependent coverage is not subject to affordability test.
- Employers face substantial penalty (employer shared responsibility) if offer no insurance or deemed not at an affordable rate

13

Health Insurance Marketplace

- State's can run own Marketplace (Covered California) or you can use the federal Marketplace (Healthcare.gov)
- Single streamlined application for enrollment in qualified health care plans, Medicaid and CHIP.
- Child only plans available
- Premium tax credits/subsidies available

14

Covered California TM

<https://www.coveredca.com/>

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Individual Mandate Penalty

Tax Year	
2014	1% of annual income or \$95, whichever is higher \$47.50 per uninsured child Maximum = \$285
2015	2% of annual income or \$325, whichever is higher \$162.50 per uninsured child Maximum = \$975
2016 & thereafter	2.5% of annual income or \$695, whichever is higher \$347.50 per uninsured child Maximum = \$2,085

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Individual Penalty

- Penalty must be paid when an individual's tax return is due
- Penalty is assessed & collected like most other taxes except that taxpayers who fail to pay the penalty are subject to neither criminal penalties nor liens nor levies
- The IRS may reduce the amount of the individual's tax refund in the future

17

Health Insurance Premium Subsidies

- Premium Subsidies , Premium Assistance and Tax Credit are interchangeable terms
- Premium Subsidies reduce the cost of premiums for health insurance purchased through the Exchange.
- Applicant is advised of the eligibility for premium assistance at the time of enrollment in the plan.

18

Three Options for Receiving Premium Subsidies

1. Pay full unsubsidized price of premium payment each month & receive tax credit in full as part of tax return in form of a tax refund
2. Have all of the premium assistance sent directly to health plan provider, thus lowering monthly premium payments
3. Have part of the premium assistance sent directly to the plan provider to lower monthly payments with balance as a tax refund – would use if have fluctuating income

19

Health Insurance Premium Subsidies

- Premium assistance is a federal subsidy based upon projected household income for the current year of coverage and administered by the IRS.
- Subsidy amount is “trued up” when filing taxes for year of coverage. Could result in additional amount owed or a “tax refund” especially if income or other circumstances vary through the year.

20

Health Insurance Premium Subsidies

- Premium subsidies only apply if coverage is obtained through the Exchange
- Generally, you must apply through the exchange that is your state of residence. However, if the dependent child lives in another state, parent with dependency exemption can apply for child only policy through exchange in child’s state of residence and still get a premium subsidy if otherwise eligible
- Only if income is between 100-400% of FPL (sliding scale subsidy)

21

Health Insurance Premium Subsidies

- Applies only to US Citizens or lawfully present in the US
- Impact if employer offers family plan—if employer offers family plan at any cost & employer self-coverage is affordable = dependents are not eligible for premium subsidies but can still apply through the exchange
- If employer offers no family plan dependents may be eligible for premium subsidy through the exchange

22

Advanced Premium Subsidy

HOUSEHOLD INCOME	SUBSIDY
100-200% of FPL	66.666%
200-300% of FPL	50%
300-400%	33%

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Premium Subsidy Eligibility is Based On:

Number of People in Your Household	Annual Household Income
1	\$15,860-\$45,960
2	\$21,400-\$62,040
3	\$26,950-\$78,120
4	\$32,500-\$94,200
5	\$38,050-\$119,280
If your income is less than \$15,860 (for an individual), or \$32,500 (family of four) you may qualify for Medi-Cal.	

Example of Subsidy Levels

- Household: 2
- Income: \$31,200 per year (\$15 full-time)
- California Region IV
- 1 Adult Age 32 & 1 child
- Silver Plan (5 options)
- Unsubsidized Premium Range: \$330-\$416
- Premium Subsidy: \$202
- Net Monthly Premium Range: \$127-213

25

Example of Subsidy Levels

- Same scenario but now HH of 4
- 2 adults Age 32 and 2 minor children
- Family Unit is eligible for MediCal
- Same scenario but subtract one minor child
- Silver Plan
- Unsubsidized Premium Range: \$659-\$831 p.m.
- Subsidy: \$615 p.m.
- Net Monthly Premium Range: \$44-\$216

26

Cost sharing assistance or subsidies

- What are cost sharing subsidies? Protect lower income individuals with out of pocket costs & paid at the time of medical care.
- Who is eligible? Up to 250% of FPL.
 - (Center on Budget & Policy Priorities)

27

Cost sharing assistance or subsidies

- Up to 250% of FPL:
 - Single Individual = \$27,936
 - Family of 4 = \$57,636 annual HH income
 - Choice of 4 plans through the exchange; premium cost vary but the cheaper the monthly premiums the higher the deductible and co-pays
 - Only those who purchase the “Silver” plan are eligible for cost sharing subsidies.
 - Note: Deductible varies greatly from metal plan to metal plan. Example: Bronze can be as high as \$10,000 per year; for family: Silver deductible \$1000 (slide 26 scenario)

28

Role of the Dependency Exemption

ACA	Child Support
Person with the dependency exemption is responsible for providing health insurance unless exempt. Possible penalty if non-compliance	Allocation of dependency exemption as part determining child support orders
Allocation of the dependency exemption can change household size for purposes of calculating household income and income based eligibility for subsidies, cost sharing, etc.	Possible increase in available pre-support net disposable income of paying parent and thus, an increase in the amount of guideline child support
Person with the dependency exemption is eligible to receive premium subsidy for the dependent, if otherwise qualified	Possible increase in paying parent's post-child support net disposable income leading to increased ability to pay
Change in allocation of dependency exemption could impact dependent's existing or future eligibility for MediCal	Current practice of alternating dependency exemption between the parents from year to year to equalize the tax benefit of the exemption

29

Intersections of ACA and Existing California Family Law

- Assignment of responsibility to provide health insurance between the parent
- Consideration of tax penalty in calculating support

30

Intersections of ACA and Existing California Family Law

- Calculating the cost of health insurance coverage including ACA premium subsidies
 - Applied to calculating support
 - Applied to determination of which parent to order to provide dependent health insurance coverage
 - Multiple impacts of allocation of dependency exemption

31

What's up in the coming year?

- Federal Office of Child Support Enforcement Fact Sheets
- Roll out of the ACA Employer Mandate
- IRS initiates individual mandate penalty notice and enforcement
- National and state policy discussions on the child support program's future role in medical support

32

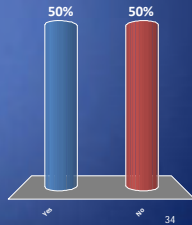
Group Hypothetical #1

- Brenda and George are divorced and have one child together, George, Jr., who lives with Brenda. Brenda is remarried to Jaime and she and her husband have one other child together. Brenda and Jaime's combined adjusted gross income is \$80,000. The commissioner in Brenda and George's child support case has allocated the dependency deduction for George Jr. to George and ordered him to provide medical coverage. George lives alone and has adjusted gross income of \$80,000.
- No one has employer-provided insurance and all will apply for insurance through the exchange. Use the chart to assist you in answering the following questions.

33

1. Prior to the court allocating the dependency exemption to George, would Brenda and Jaime have been eligible for ACA premium subsidies for themselves and all children their household?

- 1. Yes
- 2. No



2. After the court allocates the dependency exemption to George, will he be eligible for an ACA premium deduction for himself and George, Jr.?

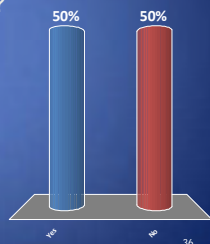
- 1. Yes
- 2. No



35

3. After the court allocates the dependency deduction to George, will Brenda, her new husband Jaime or their mutual child be eligible for any ACA premiums when they apply through the exchange?

- 1. Yes
- 2. No



36

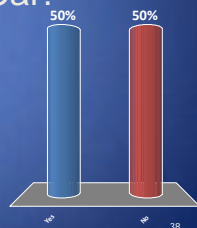
Group Hypothetical #2

- Judy and Mickey were never married and do not live together. They have one child together, Liza, who lives with Judy. Judy works part-time and makes annual adjusted gross income of \$12,000 per year. The child, Liza, is covered by MediCal. Mickey lives alone and has \$36,000 annual adjusted gross income. Neither parent has employer offered insurance available.

37

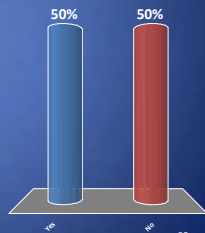
1. Will either parent be subject to an ACA individual mandate penalty if Liza's only coverage continues to be MediCal?

- Yes
- No



2. Under existing California state law, does the court need to order one or both parents to provide medical insurance coverage for Liza?

- Yes
- No



3. If the court orders either parent to provide medical insurance for Liza, will either parent be eligible for an ACA premium subsidy if they apply through the exchange?

- 1. Yes
- 2. No

50%

50%

40

Table Exercise Hypothetical Scenarios

- Each table has been assigned a number.
- As a group you will discuss the corresponding numbered hypothetical below. Several tables will have the same hypothetical
- Each group should try to reach a consensus answer to the questions following the hypothetical
- You should refer to the power point handouts for guidance and some minor math calculations may be needed
- You will report back your results via Turning Point but one member should be assigned to explain the rationale for your answer if called on

41

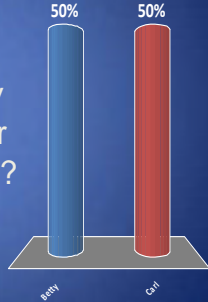
Hypothetical #1

- Betty is divorced and has primary custody of her son, John and is entitled to take him as a dependent on her federal tax return. Betty does not have insurance available through her employment. In the dissolution, the court has ordered Carl, Betty's ex-husband, to pay child support and provide medical insurance coverage for their son, John. Betty, in reliance on the court order, does not obtain any medical insurance for John. Carl fails to follow through and provide the coverage for their son, John.

42

1. Under ACA who is required to provide insurance for John assuming that neither parent qualifies for any ACA exemptions under the individual mandate?

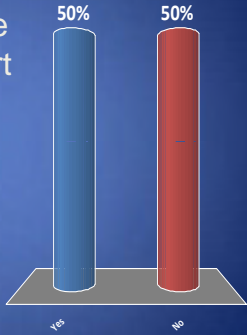
- 1. Betty
- 2. Carl



43

2. Is Betty automatically eligible for a medical support order exemption under the ACA?

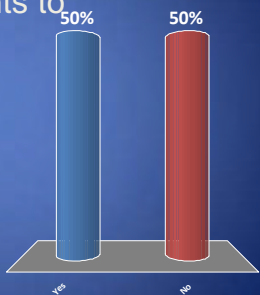
- 1. Yes
- 2. No



44

3. Would the results be different if the court had ordered both parents to provide medical insurance?

- 1. Yes
- 2. No



45

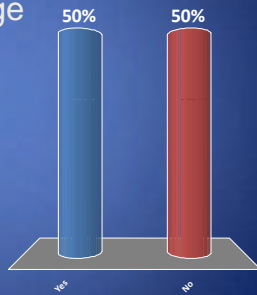
Hypothetical #2

- NCP Larry is employed and has health insurance for his self available through his employer. Larry, who lives alone, makes \$2000 per month gross income and the cost for his insurance is \$150 per month. The cost to add both of his children to his employer family plan is an additional \$300. Larry is court ordered to provide coverage for the children but CP maintains the dependency exemption.

46

1. Can Larry apply for less expensive subsidized coverage for his children through the Exchange?

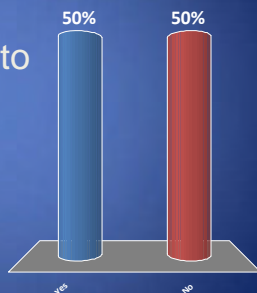
1. Yes
2. No



47

2. Is Larry subject to the ACA tax penalty if he fails to insure himself?

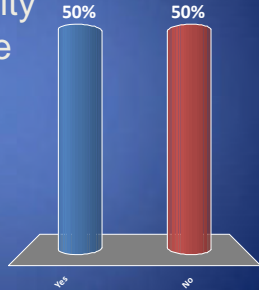
1. Yes
2. No



48

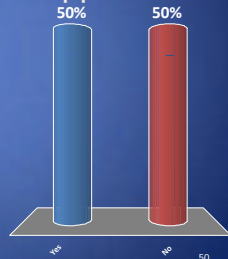
3. Is Larry subject to the ACA tax penalty if he fails to insure the children?

- 1. Yes
- 2. No



4. Would a National Medical Support Notice on Larry's employer be an effective way to enforce the court order for medical support?

- 1. Yes
- 2. No

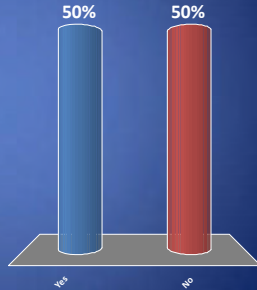


Hypothetical #3

- NCP John is an undocumented alien who lives in California. John's income fluctuates and in setting child support, the court found his income to be \$1400 gross per month. The court did enter a standard medical support order against John. CP Mary lives with her two minor children by John. Mary is undocumented but both children were born in California. Mary would be eligible to claim both children as dependents on her federal tax return. Neither John nor Mary has insurance available through their employers. Mary's adjusted gross household income is 300% of the federal poverty level (FPL).

1. Can John apply for coverage for himself through the exchange?

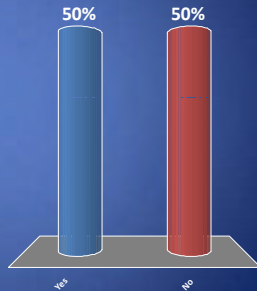
- 1. Yes
- 2. No



52

2. Can John apply for health insurance for the children through the Exchange?

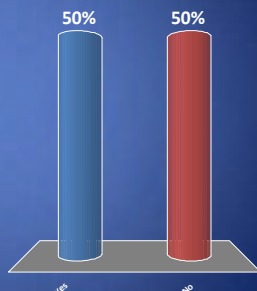
- 1. Yes
- 2. No



53

3. Can Mary apply for health insurance for the children through the Exchange?

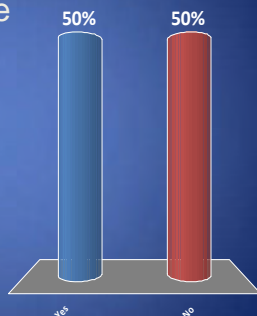
- 1. Yes
- 2. No



54

4. Assuming Mary can apply for the children through the exchange will the children qualify for the premium tax credit?

1. Yes
2. No



55

5. Should the state medical support order against John be enforced?



1. Yes
2. No

56

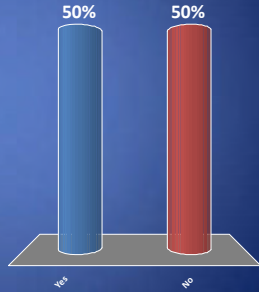
Hypothetical #4

- CP Melinda lives alone with her two children. She is employed part-time and grosses \$1000 per month which is less than 138% of the Federal Poverty Level. Her employer does not provide health insurance coverage and the children are currently uninsured.
- NCP David lives alone and has gross adjusted income of \$24,000 per year. His employer provides employee coverage but the premium is over \$230 per month.
- NCP David has been court ordered to provide health insurance coverage for the children but his employer does not offer a family plan. The court order is silent about the dependency exemption.

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1. Can David apply for himself through the exchange?

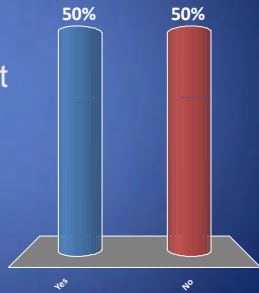
- 1. Yes
- 2. No



58

2. Can David apply for the children through the exchange to meet his medical support order?

- 1. Yes
- 2. No



59

3. Will David be eligible for an ACA premium tax subsidy if he applies for the children through the exchange?

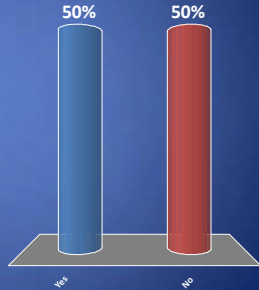


- 1. Yes
- 2. No

60

4. Can Melinda apply for herself and the children through the exchange?

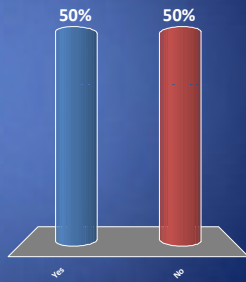
- 1. Yes
- 2. No



61

5. Will Melinda be eligible for an ACA premium tax subsidy if she applies for the children through the exchange?

- 1. Yes
- 2. No



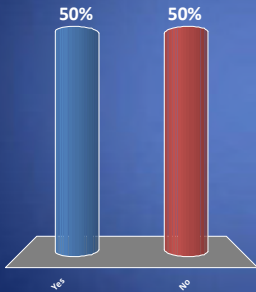
62

Hypothetical #5

- CP Mary is receiving TANF benefits and is not employed. Her two children also receive MediCal benefits. NCP Tom is employed and makes \$3000 per month. The court has awarded Tom the dependency exemption for the two children and CP Mary has executed the necessary IRS form relinquishing the exemption. The court has ordered Tom to provide health insurance for the children. Tom has insurance available for himself through employment that is affordable under ACA but there is no family plan offering.

63

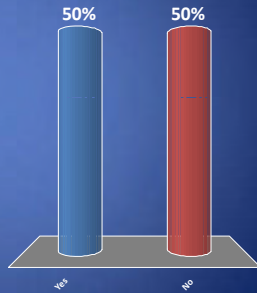
1. Can Tom apply through the Exchange for the children only?



- 1. Yes
- 2. No

64

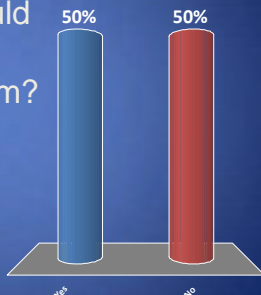
2. Is Tom subject to ACA tax penalty if he fails to cover the children?



- 1. Yes
- 2. No

65

3. Tom could apply for the children through the exchange, would he be eligible for a subsidized premium?

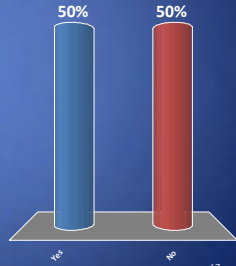


- 1. Yes
- 2. No

66

4. Can the local child support agency serve a National Medical Support Notice on the exchange to enforce Tom's court order to provide medical support for his children?

- 1. Yes
- 2. No



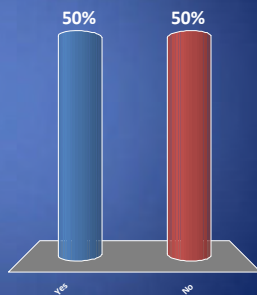
Hypothetical #6

Clyde lives in California but has two children who live in Oregon with their mother, Bonnie. Clyde has ACA affordable insurance for himself through his employment through a health maintenance organization type-plan. The employer does not offer a family plan option. Also, this plan does not cover medical services in Oregon. The court has entered a standard California medical support order and has also allocated the dependency exemption to Clyde. Clyde's income would not disqualify him for a subsidized premium for the children. The California child support order did not take into account any premium cost for the children as they were uninsured at the time the child support order entered. However, there is a review hearing coming up on the child support provision. Clyde and Bonnie have talked and they are willing to split the cost of the premium.

68

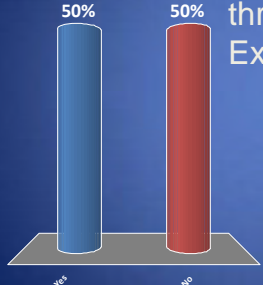
1. Can Clyde apply for subsidized coverage for his two children through Covered California?

- 1. Yes
- 2. No



69

2. Can Clyde apply for subsidized coverage for his two children through the Oregon Exchange?

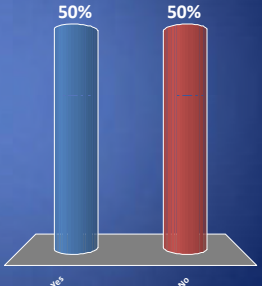


Response	Percentage
Yes	50%
No	50%

1. Yes
2. No

70

3. Can the court enter an order that Clyde and Bonnie split the premium cost?

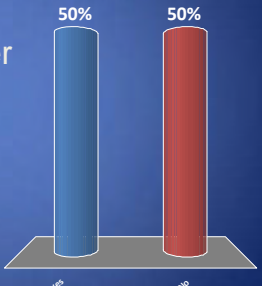


Response	Percentage
Yes	50%
No	50%

1. Yes
2. No

71

4. If there was no agreement to split the premium cost, could the court order the premium split?



Response	Percentage
Yes	50%
No	50%

1. Yes
2. No

72

FAMILY CODE – 3750-3751

DIVISION 9. SUPPORT [3500 - 5616]

(Division 9 enacted by Stats. 1992, Ch. 162, Sec. 10.)

PART 1. DEFINITIONS AND GENERAL PROVISIONS [3500 - 3830]

(Part 1 enacted by Stats. 1992, Ch. 162, Sec. 10.)

CHAPTER 7. Health Insurance [3750 - 3773]

(Chapter 7 enacted by Stats. 1992, Ch. 162, Sec. 10.)

ARTICLE 1. Health Insurance Coverage for Supported Child [3750 - 3753]

(Article 1 enacted by Stats. 1992, Ch. 162, Sec. 10.)

3750.

“Health insurance coverage” as used in this article includes all of the following:

(a) Vision care and dental care coverage whether the vision care or dental care coverage is part of existing health insurance coverage or is issued as a separate policy or plan.

(b) Provision for the delivery of health care services by a fee for service, health maintenance organization, preferred provider organization, or any other type of health care delivery system under which medical services could be provided to a dependent child of an absent parent.

(Amended by Stats. 1996, Ch. 1062, Sec. 1. Effective January 1, 1997.)

3751.

(a) (1) Support orders issued or modified pursuant to this chapter shall include a provision requiring the child support obligor to keep the agency designated under Title IV-D of the Social Security Act (42 U.S.C. Sec. 651 et seq.) informed of whether the obligor has health insurance coverage at a reasonable cost and, if so, the health insurance policy information.

(2) In any case in which an amount is set for current support, the court shall require that health insurance coverage for a supported child shall be maintained by either or both parents if that insurance is available at no cost or at a reasonable cost to the parent. Health insurance coverage shall be rebuttably presumed to be reasonable in cost if the cost to the responsible parent providing medical support does not exceed 5 percent of his or her gross income. In applying the 5 percent for the cost of health insurance, the cost is the difference between self-only and family coverage. If the obligor is entitled to a low-income adjustment as provided in paragraph (7) of subdivision (b) of Section 4055, medical support shall be deemed not reasonable, unless the court determines that not requiring medical support would be unjust and inappropriate in the particular case. If the court determines that the cost of health insurance coverage is not reasonable, the court shall state its reasons on the record. If the court determines that, although the obligor is entitled to a low-income adjustment, not requiring medical support would be unjust and inappropriate, the court shall state its reasons on the record.

(b) If the court determines that health insurance coverage is not available at no cost or at a reasonable cost, the court’s order for support shall contain a provision that specifies that health insurance coverage shall be obtained if it becomes available at no cost or at a reasonable cost. Upon health insurance coverage at no cost or at a reasonable cost becoming available to a parent, the parent shall apply for that coverage.

(c) The court’s order for support shall require the parent who, at the time of the order or subsequently, provides health insurance coverage for a supported child to seek continuation of coverage for the child upon attainment of the limiting age for a dependent child under the health insurance coverage if the child meets the criteria specified under Section 1373 of the Health and Safety Code or Section 10277 or 10278 of the Insurance Code and that health insurance coverage is available at no cost or at a reasonable cost to the parent or parents, as applicable.

(Amended by Stats. 2010, Ch. 103, Sec. 1. Effective January 1, 2011.)



Home > Special Enrollment > Qualifying Life Events

[Apply Now](#)

Qualifying Life Events for Special Enrollment

To enroll in coverage outside of Covered California's open enrollment period, you must experience a "qualifying life event." Many different types of qualifying life events are described in the chart below. If you experience a qualifying life event, you will be allowed to enroll in a Covered California health insurance plan outside of the normal open enrollment period. All special enrollment periods last 60 days from the date of the qualifying life event.

You must report changes and select a plan within 60 days of the qualifying life event to purchase a Covered California health insurance plan outside of open enrollment. Medi-Cal is available all year, and no qualifying life event or special enrollment period is required to enroll in Medi-Cal.

How to Apply Online

When you apply for coverage, you will need to select a qualifying life event from a drop-down menu and will be asked the date of the event. The chart below will help you answer those questions. If you have additional questions about whether you qualify for a special enrollment period, you can call the Covered California Service Center at (800) 300-1506 and speak to a Service Center representative.

Special Enrollment Resources

Frequently Asked Questions

How can I get coverage outside of open enrollment?
(from HealthCare.gov)

What Is Special Enrollment?
(from HealthCare.gov)

Ongoing Special Enrollment Periods

What Qualifying Life Event to Select from the Drop-Down Menu	Examples	How to Enter the Date of the Event
Lost my health insurance including Medi-Cal	<ul style="list-style-type: none"> You lose Medi-Cal coverage. You lose your employer-sponsored coverage. Your COBRA coverage is exhausted. Note: Not paying your COBRA premium is <u>not</u> considered loss of coverage. You are no longer eligible for student health coverage. You turn 26 years old and are no longer eligible for a family plan. You turn 19 years old and are no longer eligible for a child-only plan. 	Enter the date of the loss of coverage
Permanently moved to/within California	<ul style="list-style-type: none"> You move to California from out of state. You move within California and gain access to at least one new Covered California health insurance plan. 	Enter the date of the permanent move

<p>Had a baby or adopted a child (If you receive a child in foster care, you will also qualify for a special enrollment period but will need to indicate "adopted a child" in the drop-down menu.)</p>	<ul style="list-style-type: none"> A child is born, adopted or received into foster care. The entire family can use the special enrollment period to enroll in coverage. If you place your child for adoption or foster care, you can use a special enrollment period to enroll in coverage. 	<p>Enter the date of birth, adoption or foster placement</p>
<p>Got married or entered into domestic partnership</p>	<ul style="list-style-type: none"> One or both members of the new couple can use the special enrollment period to enroll in coverage. 	<p>Enter the date on the marriage or domestic partnership license</p>
<p>Returned from active duty military service</p>	<ul style="list-style-type: none"> You have lost coverage after leaving active duty, reserve duty, or the California National Guard. 	<p>Enter the date you returned from active duty</p>
<p>Released from incarceration</p>	<ul style="list-style-type: none"> You are released from jail or prison. 	<p>Enter the date you apply for Covered California</p>
<p>Gained citizenship/lawful presence</p>	<ul style="list-style-type: none"> You become a citizen, national, or permanent legal resident. 	<p>Enter the date on the immigration document</p>
<p>American Indian/Alaskan Native</p>	<ul style="list-style-type: none"> If you are a member of a federally recognized American Indian tribe, you can enroll at any time and change plans once per month. 	<p>Enter the date you apply for Covered California</p>
<p>Other qualifying life event</p>	<ul style="list-style-type: none"> You are already enrolled in a Covered California plan and become newly eligible or ineligible for tax credits or cost-sharing reductions. Misconduct or misinformation occurred during your enrollment, including: An agent, enrollment counselor, Service Center representative or other authorized representative enrolled you in a plan that you did not want to enroll in, failed to enroll you in any plan or failed to calculate premium assistance for which you were eligible. Eligibility for COBRA coverage: If you become eligible for COBRA coverage due to the loss of employer-sponsored insurance, you can choose coverage under COBRA, or you can use a special enrollment period to enroll in a Covered California plan. Misrepresentation or erroneous enrollment, including: Incorrect eligibility determination. This includes if you applied during open enrollment and were 	<p>Enter the date you apply for Covered California</p>

	<p>initially told you were eligible for Medi-Cal and then later determined not to be eligible for Medi-Cal.</p> <p>The health plan did not receive your information due to technical issues.</p> <p>An error in processing your immigration documents resulted in an incorrect eligibility result.</p> <p>Incorrect plan data were displayed when you selected a plan: Data errors on premiums, benefits or copay/deductibles were displayed; incorrect plans were displayed; or a family could not enroll together in a single plan.</p> <ul style="list-style-type: none"> • Your health plan violated its contract. • Exceptional circumstances occurred on or around plan selection deadlines, including natural disasters and medical emergencies. • You received a certificate of exemption for hardship from Health and Human Services for a month or months during the coverage year but lost eligibility for the hardship exemption outside of an open enrollment period. • You are required by court order to provide health insurance for a child who was been determined ineligible for Medi-Cal and CHIP, even if you are not the party who expects to claim the child as a tax dependent. • You are a member of AmeriCorps/VISTA/ National Civilian Community Corps: <ul style="list-style-type: none"> • If you entered AmeriCorps or one of the other organizations listed above outside of open enrollment. • If you ended your service with one of the organizations listed above. • You have a "grandfathered" health insurance plan outside of Covered California, and you would like to switch to a Covered California health insurance plan instead of renewing your current plan. • Your provider left the health plan network while you were receiving care for one of the following conditions: <ul style="list-style-type: none"> - Pregnancy. - Terminal illness. - An acute condition. - A serious chronic condition. - The care of a newborn child between birth and age 36 months. - A surgery or other procedure that will occur within 180 days of the termination or start date. 	
<p>None of the above</p>	<p>If none of these qualifying life events apply, you should still apply using "None of the above," because you may be eligible for Medi-Cal or California's Access for Infants and Mothers (AIM) program for pregnant women based on your income. Regardless of which life event you</p>	<p>Enter the date you apply for Covered California</p>

select, your application will still be reviewed for coverage through Medi-Cal and AIM.



Programs & Partners

- Certified Insurance Agents
- California Indian Tribes
- Enrollment Assistance Program
- Health Insurance Companies
- Outreach & Education
- SHOP Health Insurance Companies

The Board

- Board Members
- Board Meetings

Resources

- Reference Guide: Plan Names, Provider Directory and ID Card
- Verify a certified enrollment counselor
- Regulations
- Federal Guidance
- Notice of Privacy Practices
- Programs Toolkit
- Link to Us
- Fact Sheets
- Register to Vote

Connect with Us

- CONTACT US
- Speaker Requests
- Request for a Hearing to Appeal an Eligibility Determination (CCFR901)
- Covered CA Complaint Form
- Public Records Request
- California Health Benefit Exchange
- Job Opportunities



CoveredCA.com is a joint partnership of Covered California and the Department of Health Care Services

18th Annual AB 1058 Child Support Training Conference

ACA Hypothetical Scenarios and Questions

Session Name: Affordable Care Act: Impact on Title IV-D Practices in the Court

Date: Wednesday, October 1, 2014

Time: 1:30 p.m. – 3:00 p.m.

Michael L. Wright, AB 1058 Program Manager/Supervising Attorney
Presenter

Affordable Care Act: Impact on Title IV-D Practices in the Court

Group Hypothetical #1

Brenda and George are divorced and have one child together, George, Jr., who lives with Brenda. Brenda is remarried to Jaime and she and her husband have one other child together. Brenda and Jaime's combined adjusted gross income is \$80,000. The commissioner in Brenda and George's child support case has allocated the dependency deduction for George Jr. to George and ordered him to provide medical coverage. George lives alone and has adjusted gross income of \$80,000. No one has employer-provided insurance and all will apply for insurance through the exchange. Use the chart below to assist you in answering the following questions:

1. Prior to the court allocating the dependency exemption to George, would Brenda and Jaime have been eligible for ACA premium subsidies for themselves and all children their household? (Y or N?)
2. After the court allocates the dependency exemption to George, will he be eligible for an ACA premium deduction for himself and George, Jr.? (Y or N?)
3. After the court allocates the dependency deduction to George, will Brenda, her new husband Jaime or their mutual child be eligible for any ACA premiums when they apply through the exchange? (Y or N?)

Number of People in Your Household	Annual Household Income
1	\$15,860-\$45,960
2	\$21,400-\$62,040
3	\$26,950-\$78,120
4	\$32,500-\$94,200
5	\$38,050-119m280
If your income is less than \$15,860 (for an individual), or \$32,500 (family of four) you may qualify for Medi-Cal.	

Group Hypothetical #2

Judy and Mickey were never married and do not live together. They have one child together, Liza, who lives with Judy. Judy works part-time and makes annual adjusted gross income of \$12,000 per year. The child, Liza, is covered by MediCal. Mickey lives alone and has \$36,000 annual adjusted gross income. Neither parent has employer offered insurance available.

1. Will either parent be subject to an ACA individual mandate penalty if Liza's only coverage continues to be MediCal? (Y or N?)
2. Under existing California state law, does the court need to order one or both parents to provide medical insurance coverage for Liza? (Y or N?)
3. If the court orders either parent to provide medical insurance for Liza, will either parent be eligible for an ACA premium subsidy if they apply through the exchange? (Y or N?)

Table Exercise Hypothetical Scenarios

- Each table has been assigned a number.
- As a group you will discuss the corresponding numbered hypothetical below. Several tables will have the same hypothetical.
- Each group should try to reach a consensus answer to the questions following the hypothetical.
- You should refer to the power point handouts for guidance and some minor math calculations may be needed.
- You will report back your results via Turning Point but one member should be assigned to explain the rationale for your answer if called on.

Hypothetical #1

Betty is divorced and has primary custody of her son, John and is entitled to take him as a dependent on her federal tax return. Betty does not have insurance available through her employment. In the dissolution, the court has ordered Carl, Betty's ex-husband, to pay child support and provide medical insurance coverage for their son, John. Betty, in reliance on the court order, does not obtain any medical insurance for John. Carl fails to follow through and provide the coverage for their son, John.

1. Under ACA who is required to provide insurance for John assuming that neither parent qualifies for any ACA exemptions under the individual mandate? (Betty = 1 **or** Carl = 2]
2. Is Betty automatically eligible for a medical support order exemption under the ACA? (Y/N)
3. Would the results be different if the court had ordered both parents to provide medical insurance? (Y/N)

Hypothetical #2

NCP Larry is employed and has health insurance for his self available through his employer. Larry, who lives alone, makes \$2000 per month gross income and the cost for his insurance is \$150 per month. The cost to add both of his children to his employer family plan is an additional \$300. Larry is court ordered to provide coverage for the children but CP maintains the dependency exemption.

1. Can Larry apply for less expensive subsidized coverage for his children through the Exchange? (Y/N)
2. Is Larry subject to the ACA tax penalty if he fails to insure himself? (Y/N)
3. Is Larry subject to the ACA tax penalty if he fails to insure the children? (Y/N)
4. Would a National Medical Support Notice on Larry's employer be an effective way to enforce the court order for medical support? (Y/N)

Hypothetical #3

NCP John is an undocumented alien who lives in California. John's income fluctuates and in setting child support, the court found his income to be \$1400 gross per month. The court did enter a standard medical support order against John. CP Mary lives with her two minor children by John. Mary is undocumented but both children were born in California. Mary would be eligible to claim both children as dependents on her federal tax return. Neither John nor Mary has insurance available through their employers. Mary's adjusted gross household income is 300% of the federal poverty level (FPL).

1. Can John apply for coverage for himself through the exchange? (Y/N)
2. Can John apply for health insurance for the children through the Exchange? (Y/N)
3. Can Mary apply for health insurance for the children through the Exchange? (Y/N)
4. Assuming Mary can apply for the children through the exchange will the children qualify for the premium tax credit? (Y/N)
5. Should the state medical support order against John be enforced? (Y/N)

Hypothetical #4

CP Melinda lives alone with her two children. She is employed part-time and grosses \$1000 per month which is less than 138% of the Federal Poverty Level. Her employer does not provide health insurance coverage and the children are currently uninsured. NCP David lives alone and has gross adjusted income of \$24,000 per year. His employer provides employee coverage but the premium is over \$230 per month. NCP David has been court ordered to provide health insurance coverage for the children but his employer does not offer a family plan. The court order is silent about the dependency exemption.

1. Can David apply for himself through the exchange? (Y/N)
2. Can David apply for the children through the exchange to meet his medical support order? (Y/N)
3. Will David be eligible for an ACA premium tax subsidy if he applies for the children through the exchange? (Y/N)
4. Can Melinda apply for herself and the children through the exchange? (Y/N)
5. Will Melinda be eligible for an ACA premium tax subsidy if she applies for the children through the exchange? (Y/N)

Hypothetical #5

CP Mary is receiving TANF benefits and is not employed. Her two children also receive MediCal benefits. NCP Tom is employed and makes \$3000 per month. The court has awarded Tom the dependency exemption for the two children and CP Mary has executed the necessary IRS form relinquishing the exemption. The court has ordered Tom to provide health insurance for the children. Tom has insurance available for himself through employment that is affordable under ACA but there is no family plan offering.

1. Can Tom apply through the Exchange for the children only? (Y/N)
2. Is Tom subject to ACA tax penalty if he fails to cover the children? (Y/N)
3. If Tom could apply for the children through the exchange, would he be eligible for a subsidized premium? (Y/N)
4. Can the local child support agency serve a National Medical Support Notice on the exchange to enforce Tom's court order to provide medical support for his children? (Y/N)

Hypothetical #6

Clyde lives in California but has two children who live in Oregon with their mother, Bonnie. Clyde has ACA affordable insurance for himself through his employment through a health maintenance organization type-plan. The employer does not offer a family plan option. The court has entered a standard California medical support order and has also allocated the dependency exemption to Clyde. Clyde's income would not disqualify him for a subsidized premium for the children. The California child support order did not take into account any premium cost for the children as they were uninsured at the time the child support order entered. However, there is a review hearing coming up on the child support provision. Clyde and Bonnie have talked and they are willing to split the cost of the premium.

1. Can Clyde apply for subsidized coverage for his two children through Covered California? (Y/N)
2. Can Clyde apply for subsidized coverage for his two children through the Oregon Exchange? (Y/N)
3. Can the court enter an order that Clyde and Bonnie split the premium cost? (Y/N)
4. If there was no agreement to split the premium cost, could the court order the premium split? (Y/N)

TAB 8

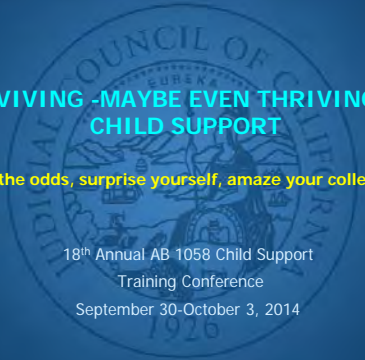
**Surviving – Maybe Even Thriving – in
Child Support Enforcement**

Hon. Jeffrey S. Bostwick

SURVIVING -MAYBE EVEN THRIVING- IN CHILD SUPPORT


Beat the odds, surprise yourself, amaze your colleagues

18th Annual AB 1058 Child Support Training Conference
September 30-October 3, 2014





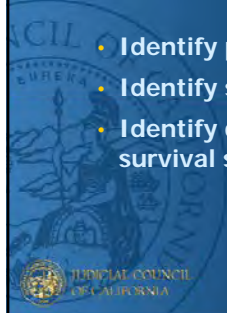
I'M JUST HAPPY TO BE HERE...



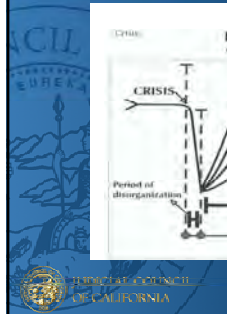
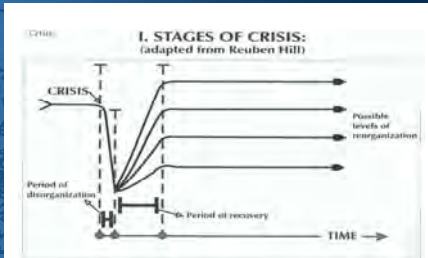
JUDICIAL COUNCIL OF CALIFORNIA

Objectives

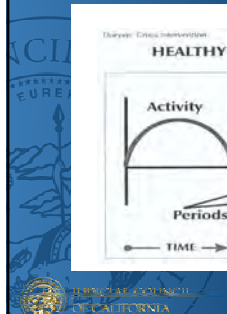
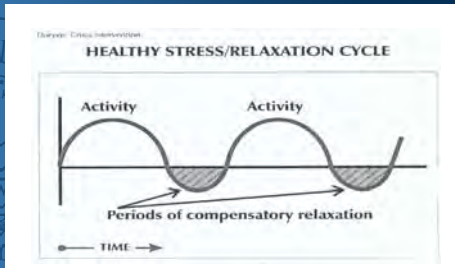
- Identify problem
- Identify signs of stress / burn out
- Identify coping mechanisms & survival strategies



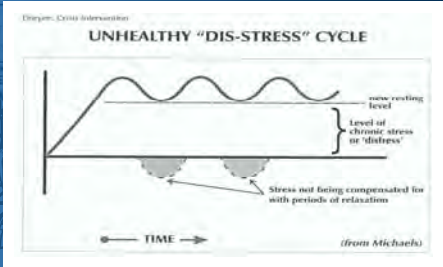
Critical incident stress



Healthy stress



Cumulative stress



What is stress?

CRITICAL INCIDENT STRESS

- Incident specific
- Usually decreases over time; relaxation cycle follows.
- Talking helps
- Rest/change has little effect
- Sudden change in reactions & behavior

CUMULATIVE STRESS

- Complex etiology
- Usually increases over time
- Talking not enough, venting makes it worse (the problem with war-stories)
- Rest/change of scene may help
- Gradual change, especially a negative attitude towards employees, attorneys, parties, and colleagues.

Burn out = end game of cumulative stress

• STAGES

- Stress Arousal -- "ouch"
- Attempts at energy conservation
 - calling in sick
- Exhaustion-- "I quit"

Why professionals burn out

- Idealistic expectations are frustrated (**wonder if improving lives of the children**)
- Difficulty measuring accomplishment (**observe no change in high conflict behavior**)
- Lack of closure (**modifications**)
- Lack of recognition, appreciation (**system not appreciate hard work; lack of respect**)
- Misery is no fun (**negative, narcissistic, unrealistic, hostile parents**)
- Advancement conflicts with original career goals
- Difficult working conditions (**lay-offs, furloughs, lack of staff, no pay raises**)
- Overload, especially paperwork (**declarations, crushing caseloads**)
- Dealing with realities of triage (**Too many cases, too little time**)

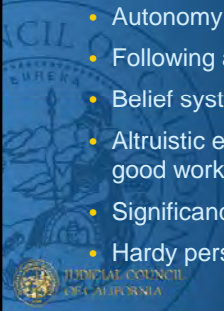






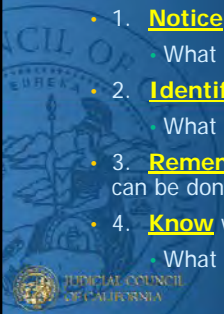
WHY PROFESSIONALS DON'T BURN OUT

- Autonomy and camaraderie
- Following a dream
- Belief system
- Altruistic egoism: the two-way street of good works
- Significance of work
- Hardy personality (the four C's)



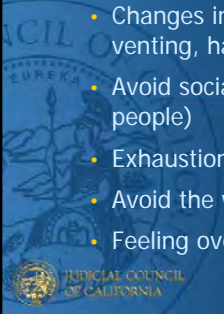
What to do?

1. **Notice** the stress
 - What are your signs?
2. **Identify** the source
 - What are your triggers?
3. **Remember** that there is something that can be done about it. (this is not a 'given')
4. **Know** what helps you.
 - What are your remedies?



1. Know your own Signs

- Changes in behavior (short temper, venting, harsh to others)
- Avoid social gatherings (burn out on people)
- Exhaustion before end of day
- Avoid the work
- Feeling overwhelmed



2. Identify the sources for you.... Examples of personal triggers...

- "With all due respect..."
- Disrespectful litigants
- Too much, too little time
- Lack of appreciation/recognition for work
- Judges who know little about your work
- Assembly line mentality
- Disrespectful, unprepared lawyers



3. Remember something can be done about it...

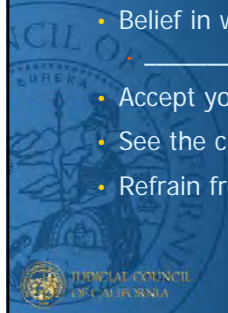


4. Remedies....three pillars



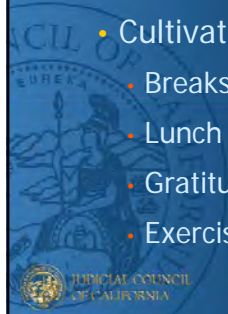
Inspiration -- positive attitude

- Belief in work
- _____
- Accept your limits
- See the challenge
- Refrain from the negative



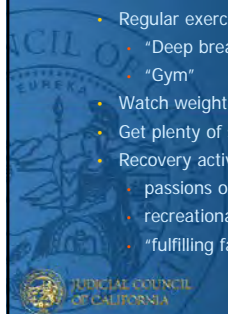
Inspiration -- positive attitude can be developed, nurtured...

- Cultivate a daily practice
 - Breaks
 - Lunch
 - Gratitude checklist
 - Exercise



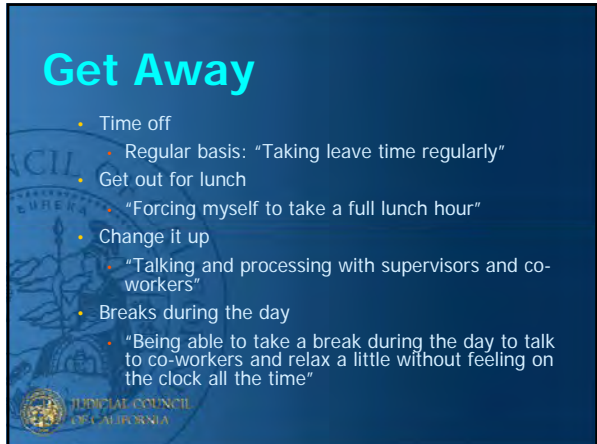
Self care

- Regular exercise
 - "Deep breathing, exercise walking"
 - "Gym"
- Watch weight
- Get plenty of sleep
- Recovery activities built into life
 - passions outside of work: "Work out, travel, reading"
 - recreational interests: "Outdoor activities"
 - "fulfilling family relationships"



Get Away

- Time off
 - Regular basis: "Taking leave time regularly"
- Get out for lunch
 - "Forcing myself to take a full lunch hour"
- Change it up
 - "Talking and processing with supervisors and co-workers"
- Breaks during the day
 - "Being able to take a break during the day to talk to co-workers and relax a little without feeling on the clock all the time"



Community -- Associations

- Professional organizations
- Attend conferences/education programs
- Associate with colleagues
 - Meet and have lunch
 - "Dive Fridays"
- Mentoring projects?
- Group activities



Develop tricks of the trade: Manage Calendar

- Control work day
 - "Don't run cases into lunch or after 4:30. Your staff will thank you and your mental health requires it."
- Coverage during vacation
 - "Breaking the tasks down into smaller increments"
- Boundaries
 - "Having healthy boundaries with negative people"
- Easy/hard schedule



FOUR "Cs" of Coping

- **CONTROL:** Distinguish between things you can control and things you cannot control
- **CHALLENGE:** View life & change as something you can learn from and about (spend as little time in the "victimhood" stance as possible)
- **COMMUNITY:** Have a network of close people to talk to—a support system (Community: tend it, and use it)
- **COMMITMENT:** Be committed to taking action in your own lives (don't sit back and wait)



Pick one remedy you will implement next week....



CLOSING THOUGHTS...

- "GIVING HOPE TO FAMILIES..."
- "HELPING THEM [CHILDREN] HAVE A VOICE..."

THANK YOU FOR ALL YOU DO!



TAB 9

Child Support Commissioners' Roundtable

(For child support commissioners only)

*Facilitated by
Hon. David E. Gunn*

**Materials were distributed in the class,
not available online.**

TAB 10

Family Law Facilitators' Roundtable
(For family law facilitators only)

Facilitated by
Ms. Lollie A. Roberts &
Ms. Fariba R. Soroosh

**Materials were distributed in the class,
not available online.**

TAB 11

General Roundtable

*Facilitated by
Ms. Anna L. Maves*


**Materials were distributed in the class,
not available online.**

TAB 12

Paralegals' Roundtable
(For paralegals only)

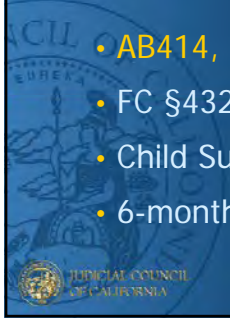
Facilitated by
Ms. Debra Spatafore

**Additional materials were distributed
in the class, not available online.**



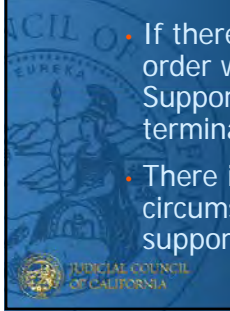
Paralegal Roundtable

18th Annual AB 1058 Child Support Training Conference
September 30-October 3, 2014
Prepared and Presented by
Debra Spatafore, Paralegal LA County



Changes in Support

- AB414, Fox
- FC §4326 (sunset date 1/1/14)
- Child Support companion order
- 6-month deadline.

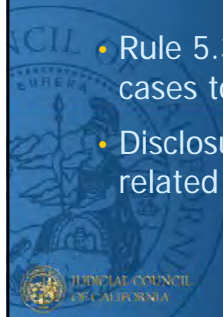


Family Code § 4326 et seq.

- If there is a Spousal Support order with a Companion Child Support order and child support terminates
- There is your change of circumstance to modify spousal support.

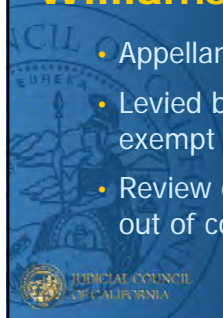
2014 Rules of Court

- Rule 5.372 Transfer of IV-D cases to a tribal court.
- Disclosure to Superior Court of related action in Tribal court.



In Re Marriage of Williamson

- Appellant Kern County DCSS
- Levied bank account; Danny exempt from levy FC §17450(c)(2)
- Review of Arrears and interest; not out of compliance.



TAB 13

AB 1058 Court Clerks' Training

*Ms. Marisol C. Alcantar, Ms. Heather
Barajas, Mr. Barry J. Brooks,
Ms. Kari Korreng, Ms. Anna L. Maves,
Ms. Kathryn Whitney &
Mr. Michael L. Wright*

**Additional materials were distributed
in the class, not available online.**

Calculating Guideline Child Support in California

2014 Court Clerk Training
AB 1058 Conference

Why Have a Statewide Uniform Guideline for Child Support

- ▶ It is required by federal regulation that each state develop a child support guideline.
- ▶ Ensures consistency throughout the state where parents cannot agree to a support order.
- ▶ Ensures children receive fair, timely and sufficient support consistent with the state's high standard of living and high cost of raising children compared to other states.

Principal Objectives of a Statewide Uniform Guideline

- ▶ Parents first and principal obligation is to support child according to circumstances and station in life.
- ▶ Both parents mutually responsible for support.
- ▶ Considers each parents income and level of responsibility for children.
- ▶ Considers the ability of each parent to pay support

Principal Objectives of a Statewide Uniform Guideline

- ▶ Incorporates the state's interest of children as the top priority.
- ▶ Children share the standard of living of both parents. Support may improve the standard of living of custodial household to improve the lives of children.
- ▶ The needs of the children should be met by the parents rather than by public assistance.
- ▶ Encourages fair and efficient settlements of conflicts between parents and minimize the need for litigation.

Is "Guideline Child Support" Required?

- ▶ Although it is Called "Guideline Child Support" It is Not a Guideline
 - Adherence is mandatory by the court!
- ▶ Presumptively correct
 - Although the presumption can be rebutted
 - Parents can reach an agreement to something other than the guideline

Courts Can "Deviate" From Guideline in Some Limited Circumstances

- ▶ Guideline unjust or inappropriate because:
 - Parents freely stipulate to different amount
 - Deferred sale of residence
 - Payor has extraordinary high income & guideline amount exceeds needs of child
 - Party not contributing to needs of child consistent with custodial time
 - Application unjust or inappropriate due to special circumstances
- ▶ If deviating, the court must state findings, guideline child support, and state reasons for deviation on record.

What Are Special Circumstances?

- ▶ These Circumstances Include but Are Not Limited to:
 - Parents have different time-sharing arrangements for different children
 - Both parents have substantially equal time-sharing of the children and one parent has higher or lower percentage of income used for housing than the other
 - Children have special medical or other needs
 - Child is found to have more than two parents

How is Child Support Calculated



- ▶ The child support formula is found at Family Code Section 4055
- ▶ $CS = K[HN - (H\%)(TN)]$
- ▶ Huh?!?!?!?

What Is In the Formula?

- ▶ Components of Formula:
 - K = Amount of each parents income allocated for child support
 - HN = High wage earners net monthly disposable income
 - H% = Approximate % of time high earner has child in their care
 - TN = Total net monthly disposable income of both parents

Determining Income..



- ▶ Family Code says “..income from whatever source derived” This includes:
 - Commissions, salary, wages, bonuses
 - Royalties, rents, dividends, interest, gifts maybe if recurring
 - Pensions, annuities, social security benefits
 - Workers’ comp., unemployment, disability
 - Spousal support from another relationship
 - Tribal payments paid directly to member

Calculating Gross and Net Income

- Calculation of “Net Disposable Income” considers appropriate deductions including:
 - Taxes
 - Health Insurance (Pre or Post tax)
 - Mandatory Retirement Plans (Pre or Post tax)
 - Mortgage Interest, Property Taxes, Charitable contributions
 - Necessary job related expenses
 - Union dues
 - Child support paid or Spousal support paid and receives
 - Hardship

Earning Capacity



- In its discretion, the court may consider the earning capacity of a parent in lieu of actual income if consistent with best interests.
- The burden is on party seeking to impute to show ability (age, experience, health), and opportunity to work (job availability).
- The court will need to take testimony on the issue and make findings.

Child Support Add-Ons

- ▶ In addition to basic child support, the court may order child support add-ons
 - Mandatory Add-Ons
 - Child Care for employment or education
 - Uninsured health care costs. Generally split equally, may also be proportional to net disposable income.
 - Discretionary Add-Ons
 - Education/Special Needs (i.e. Extra curricular activities)
 - Visitation travel expenses

Hardship Deductions

- ▶ Hardships – If a parent is experiencing extreme financial hardship due to justifiable expenses, the court may allow income that may be necessary to accommodate those circumstances. Those hardships are limited to:
 - Extraordinary health expenses and uninsured catastrophic losses
 - Minimum basic living expenses for children residing with a parent for whom the parent has an obligation to support
 - Does not apply to step-children as there is no 'legal' duty of support owed.

Percentage of Custodial Time

- ▶ Timeshare does not have to be exact–
 - Close approximation of timeshare is okay.
 - Courts look to responsibility for care even when the child is not physically with a parent.
 - Based upon what is actual arrangement, not necessarily what order says.


Real World- How calculated



- ▶ Certified computer programs:
 - Guideline Calculator, Dissomaster, X-Spouse, Support-Tax, Nolo Press Program


- ▶ If calculating child support in a case involving the Department of Child Support Services, the court must use:
 - Child Support Guideline Calculator-

WELCOME TO...



CLERK PROCESSING

PLEASE TAKE A SEAT 😊






Court Clerk Training
**18TH ANNUAL AB 1058 TRAINING
CONFERENCE**

MEET YOUR INSTRUCTORS:

HEATHER BARAJAS
4th year Training at AB 1058 Conference
Yuba County Superior Court
2009-Present (5 years)

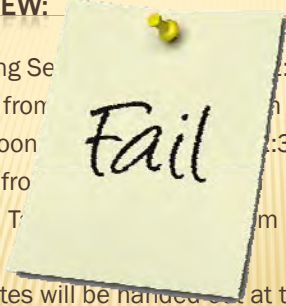
MARISOL C. ALCANTAR
1st year Training at AB 1058 Conference
Kern County Superior Court
1999-Present (15 years)

CLASSROOM ETIQUETTE:

- ✗ Please turn cell phones on vibrate. 
- ✗ If you have a question, please raise your hand and wait to be called on. 
- ✗ There are no "dumb" questions. 

OVERVIEW:

- ✗ Morning Session 8:00am
- ✗ Lunch from 12:00pm to 1:00pm 
- ✗ Afternoon Session 1:30pm
- ✗ Break from 3:00pm to 3:30pm 
- ✗ Round Table 4:00pm



Certificates will be handed out at the end of the Round Table at 4:00pm. If you are not present, you will not receive a certificate.



Don't Get Mad, Get Mad Libs!

ICE BREAKER

INDEX CARDS

Name and Court

Question or topic you would like to have addressed. All cards will be reviewed and discussed during the Round Table at the end of the training session.



TITLE IV-D vs. AB 1058

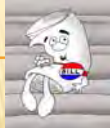
TITLE IV-D

- ✘ Title IV-D is part of the Social Security Act (Federal Law)
 - + Requires each State to provide services to the public to establish parentage and obtain and enforce child support orders
 - + Provides federal funding to States to assist with the cost of the program

PROBLEMS WITH TITLE IV-D

- ✘ Title IV-D Performance Problems in California
 - + Current system of establishing child support was inadequate
 - + Cases were getting backlogged
 - + Lack of uniformity of policies and procedures among courts/child support agencies
 - + No guarantee the judge hearing the matter would be educated on the subject

AB 1058



- ✘ AB 1058 Assembly Bill
 - + Enacted in 1996 to address the problems
 - + Provided the courts with direction on how to develop an effective program
 - + Provided the courts with funding

AB 1058 OBJECTIVES

- ✘ Establish a simple, speedy, and cost-effective system that was accessible to families
- ✘ Mandate uniform and simplified procedures
- ✘ Create specialized Child Support Commissioners and Family Law Facilitators

AB 1058 REALIZED

We now have:

- ✦ Child Support Commissioners and Family Law Facilitators in each county
- ✦ Specialized court procedures that are streamlined and unique to Title IV-D
- ✦ Specialized rules & forms
- ✦ Minimum qualifications for staff and standard training requirements

WHY ARE YOU HERE?



- ✦ California Rule of Court §5.355:
Minimum standards of training for court clerk staff whose assignment includes Title IV-D child support cases

CALIFORNIA RULE OF COURT §5.355

- ✦ Who does this apply to?
 - + Court Clerks who's assignment includes Title IV-D child support cases
- ✦ How do we meet the requirement?
 - + **Minimum** of 6 hours annually
 - + Continuing education in federal & state laws concerning child support and related issues

TYPES OF SERVICE

- ✗ Personal Service
 - + Including Substituted Service
- ✗ Service by Mail
- ✗ Service by Mail (outside of California)
- ✗ Service by Publication

SUMMONS & COMPLAINT FL-600



SUMMONS AND COMPLAINT
 SUPPLEMENTAL COMPLAINT
 AMENDED COMPLAINT
 RECOVERED PARENTAL OBLIGATIONS

TO: JAMES STACY'S HEARS

I, the local child support agency, have filed this lawsuit against you. This lawsuit asks you and the other parent for the custody of each child named in this Complaint and that the obligor may be required to pay child support. The attached proposed judgment regarding Parental Obligations (Form FL-600) names you and the other parent as parties of such obligations. Please note: If there is an amended judgment, you must file the amended judgment (Form FL-600) with the court clerk within 30 days of the date that you were served with the Complaint. If you do not file an Amended Complaint and Judgment, the proposed judgment will be entered and you will be responsible for the amount. Even the attached judgment of your rights and responsibilities for these obligations.

Name	Share of Custody	Percentage of Support	Support	Monthly Child Care	Beginning Date
JOAN SMITH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/01/2013
JOEY SMITH	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	03/01/2013

SUMMONS & COMPLAINT (CONT'D)



SUMMONS AND COMPLAINT
 SUPPLEMENTAL COMPLAINT
 AMENDED COMPLAINT
 RECOVERED PARENTAL OBLIGATIONS

TO: JAMES STACY'S HEARS

I, the local child support agency, have filed this lawsuit against you. This lawsuit asks you and the other parent for the custody of each child named in this Complaint and that the obligor may be required to pay child support. The attached proposed judgment regarding Parental Obligations (Form FL-600) names you and the other parent as parties of such obligations. Please note: If there is an amended judgment, you must file the amended judgment (Form FL-600) with the court clerk within 30 days of the date that you were served with the Complaint. If you do not file an Amended Complaint and Judgment, the proposed judgment will be entered and you will be responsible for the amount. Even the attached judgment of your rights and responsibilities for these obligations.

NOTICE
 The court will order you to appear in court to answer the questions of Parental Obligations.

PROPOSED JUDGMENT (CONT'D)

Attached to Summons & Complaint

Child Name	Date of Birth	Establishment Date	Percentage	Support	Modify Order
SUSIE SMITH	08/21/2009				

SUMMONS & COMPLAINT FL-600

FL-600
 FOR COURT USE ONLY
OCT-2 2014
FILED
 YUBA COUNTY SUPERIOR COURT
 CLERK OF COURT
 COURT CLERK
 Signature
 CASE NUMBER: **CVFS 13-123**
 TO (name): STACY L SEARS
 The local child support agency has filed this lawsuit against you. This lawsuit says you and the other parent are the parents of each child named in this Complaint and that the obligor may be required to pay child support. The attached proposed Judgment Regarding Parental Obligations (Form FL-600) names you and the other parent as parents of each child listed below and, if there is an amount listed in Part B of the proposed Judgment, the amount to pay support for those children. If you disagree with the proposed

SUMMONS & COMPLAINT (CONT'D)

Clerk Processing

1. The local child support agency is asking the court to issue judgment or orders for the following children:

Name	Date of Birth	Establishment Percentage	Establishment Support	Modify Order	Beginning Date
SUSIE SMITH	08/21/2009			<input checked="" type="checkbox"/>	03/01/2015

Additional children are listed on a page (labeled Attachment 1) attached to this Complaint.
 Notice to person served: You are served
 1. as an individual defendant/respondent.
 2. on behalf of a minor child or children.
 3. other (specify):
 Date: **10/02/14** Clerk by: **H. STEPHEN KONISHI** (Signature)
 Deputy
SUMMONS AND COMPLAINT OR SUPPLEMENTAL COMPLAINT REGARDING PARENTAL OBLIGATIONS (Governmental)
 Form Adopted for Revision: 08/2013
 Form FL-600 (Rev. 03/11)

SUMMONS & COMPLAINT FL-600

FL-600
FOR COURT USE ONLY

GOVERNMENTAL AGENCY (Under Family Code §§ 1714 & 1714.6)
 JUDICIAL BRANCH/SECTION ATTORNEY AT LAW 08/18/11
 YUBA COUNTY DEPARTMENT OF CHILD SUPPORT SERVICES
 820 WASHINGTON ST 2ND FLOOR
 MARYSVILLE CA 95901
 TELEPHONE NO.: (916) 961-1212 FAX NO.: (916) 961-7608

ATTORNEY FOR (Plaintiff) Under Family Code §§ 1706 & 1708
SUPERIOR COURT OF CALIFORNIA, COUNTY OF YUBA
 STREET ADDRESS: 100 5TH ST
 MAILING ADDRESS: 100 5TH ST
 CITY AND ZIP CODE: MARYSVILLE 95901-4734
 JUDICIAL BRANCH: SUPERIOR COURT

PETITIONER/PLAINTIFF: COUNTY OF YUBA
 RESPONDENT/DEFENDANT: JOAN SMITH
 OTHER PARENT:

SUMMONS AND COMPLAINT SUPPLEMENTAL COMPLAINT
 AMENDED COMPLAINT REGARDING PARENTAL OBLIGATIONS

CASE NUMBER: **CVFS 13-123**

TO (Name): STACY L SEARS

The local child support agency has filed this lawsuit against you. This lawsuit says you and the other parent are the parents of each child named in this Complaint and that the obligor may be required to pay child support. The attached proposed Judgment Regarding Parental Obligations (form FL 630) names you and the other parent as parents of each child listed below and, if there is an amount attached to them, it is the amount of child support ordered under the obligation to pay child support for those children. If you disagree with the proposed



SUMMONS & COMPLAINT (CONT'D)

Clerk Processing

1. The local child support agency is asking the court to issue judgment or orders for the following children:

Name	Date of Birth	Establish Parentage	Establish Support	Modify Order	Beginning Date
SUSIE SMITH	08/21/2009	<input type="checkbox"/>	<input checked="" type="checkbox"/>	<input type="checkbox"/>	03/01/2013
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	
		<input type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>	

Additional children are listed on a page (labeled Attachment 1) attached to this Complaint.

Notice to person served: You are served
 1. as an individual defendant/respondent.
 2. on behalf of a minor child or children.
 3. other capacity.

H. STEPHEN KONISHI
 Date: 10/02/14 Clerk by: _____ Deputy

SEAL

SUMMONS AND COMPLAINT OR SUPPLEMENTAL COMPLAINT REGARDING PARENTAL OBLIGATIONS (Governmental)

Form 1008 (3) (10/01/11) (1408) (10/01/11) (1408)



SERVICE OF PROCESS TABLE

METHODS OF SERVICE	SERVICE REQUIREMENTS	SERVICE DEEMED COMPLETED
Personal Service (CFR 413.10)	Personally delivered to Respondent	Immediately upon delivery
Substituted Service (CFR 413.2008)	Delivers to a competent adult over 18 apparently in charge at the respondent's home, usual place of abode, business or mailing address (not a PO Box), who must be told of the contents delivered, AND a copy must be mailed to the respondent at the same address.	10 th day after the date of mailing
Service by mail (CFR 413.1)	Respondent must sign and date the Notice and Acknowledgement of Receipt. The original is returned to the court attached to the Proof of Service.	The date the Notice and Acknowledgement is signed by the Respondent
Notice & Acknowledgement of Receipt. Sender must complete date of mailing, sign and indicate what documents are being sent.		
Service by mail (CFR 413.40)	Delivery to respondent by certified mail, return receipt signed and dated by respondent, attached to proof of service prior to filing with court. Declaration of service by mail will also be completed.	10 th day after date of mailing
Certified mail outside of California only		
Service by Publication (CFR 413.50)	Application and Order for Publication of Summons must be submitted to the court. Upon proper review, the court can order Summons published in newspaper most likely to give actual notice.	20 th day after the first day of publication (Gov. Code 43064)



CALIFORNIA IN-COMING REGISTRATIONS

Additional documents:

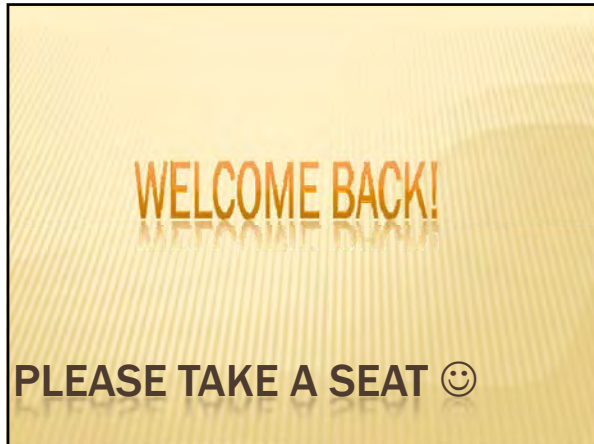
- ✘ Notice Regarding Payment of Support (FL-632) may be included but is not required
- ✘ Declaration of Payment History (FL-420) with a Payment History Attachment (FL-421) **is required** if indicated in the Statement for Registration that it is attached by checking item 3b.

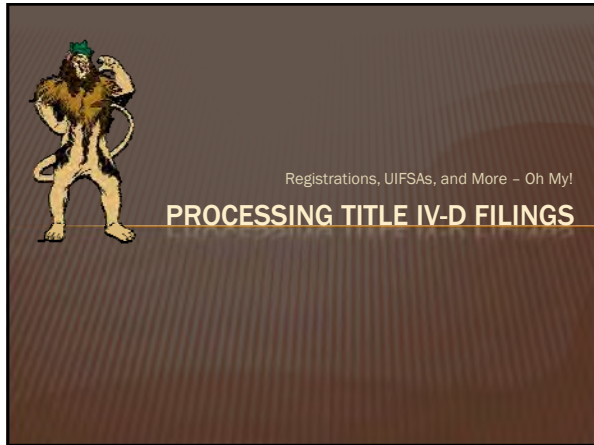
NOTICE OF REGISTRATION (FL-651)

The image shows a screenshot of the 'NOTICE OF REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR' form (FL-651). Red arrows point to the 'STATEMENT FOR REGISTRATION OF IN-COMING SUPPORT OBLIGOR' section, specifically to items 1, 2, 3, 4, and 5. The form includes fields for 'STATEMENT FOR REGISTRATION OF IN-COMING SUPPORT OBLIGOR', 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR', and 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR'.

STATEMENT FOR REGISTRATION (FL-650)

The image shows a screenshot of the 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR' form (FL-650). Red arrows point to the 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR' section, specifically to items 1, 2, 3, 4, 5, 6, 7, 8, 9, and 10. The form includes fields for 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR', 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR', and 'STATEMENT FOR REGISTRATION OF U.S. IN-COMING SUPPORT OBLIGOR'.





NOTICE RE PAYMENT OF SUPPORT

- ✘ Filed with Assignment of Support in Existing Cases as:
 - + Notice of Assigned Support
 - + Substitution of Payee
 - ✘ Substituting IN
 - ✘ Substituting OUT
- ✘ Completed and Filed by LCSA Assigned
 - Note Designation in Case Management Systems or Files

NOTICE RE PAYMENT OF SUPPORT

EX PARTE APPLICATION FOR ORDER FOR NONDISCLOSURE OF ADDRESS AND ORDER FL-511

UIFSA FILINGS

- ✘ Uniform Support Petition (UIFSA)
- ✘ Order to Show Cause (UIFSA) FL-515
- ✘ Ex Parte Application for Transfer and Order (UIFSA) FL-560
- ✘ Ex Parte Application for Non Disclosure of Address (UIFSA) FL-511

UIFSA-UNIFORM SUPPORT PETITIONS

- ✘ File:
 - + Summons (UIFSA) FL-510
 - + Uniform Support Petition-Notarized
 - + General Testimony-May not be complete
 - + Affidavit in Support of Establishing-Optional
 - + Birth Certificate of the Child
- ✘ Receive Stamp:
 - + Proposed Judgment (UIFSA) FL-530-Verify against Petition

UIFSA-EX PARTE APPLICATION FOR TRANSFER AND ORDER (UIFSA) FL-560

If it appears **Respondent** is not or is **NO longer a resident of the county** in which the action has been filed. . .

Upon Ex PARTE Application by the local child support agency or petitioner, the **Court shall TRANSFER** the action to the appropriate Court of this State. . .

and **shall NOTIFY** the petitioner, the respondent, the California Central Registry, and the local child support agency of the receiving county. . . Transfer of certified copies of documents shall meet the requirements of this section.

Family Code §5001.

UIFSA-EX PARTE APPLICATION FOR TRANSFER AND ORDER (UIFSA) FL-560

✘ Filing:

- + Ex Parte App for Transfer and Order FL-560
- + Parties to be Noticed (Provided Form)
- + Contents of File-Orders/Judgment, etc.
- + Receipt for Records-May not receive from all Counties
- + Copies/Envelopes for Mailings

✘ Check:

- + Completion
- + Dated and Signed

✘ Process:

- + Submit for Judicial Signature
- + File/Conform Copies
- + Prepare Clerks Certificate of Mailing
- + Mail out



NOTICE OF MOTIONS

✘ Check Caption

- + FL-680 Limited to LCSA

✘ Issues:

- + Judgment (Disposition)
- + Modification (OAH)
- + Intervene (Dispo/OAH)

✘ Dated/Signed

✘ Order (Optional)

✘ Attachments

✘ Service should be completed per CCP

✘ File & Calendar

TELEPHONIC APPEARANCES

- ✘ Mandatory Form FL-679
- ✘ Filing:
 - + Completion
 - + No Fee
 - + Time to File: No later than 12 Court Days before Hearing*
 - + File-Advise Court
- ✘ Service: After filing, to all interested parties (CCP)
- ✘ Some Court Call Vendors may charge/waive fee.



**Court Practices may vary*

PARTY OBJECTING

- ✘ NO Exclusive Form
- ✘ Declaration Form MC-030 may be used
- ✘ Must be signed "Under Penalty of Perjury"
- ✘ Filed at least 8 Court Days Before Hearing
- ✘ Served on All Parties by Next Day



COURT

- ✘ Remember: Flag to Court!
- ✘ Court Issues Decision on Objections
- ✘ At least 5 Court Days Before Hearing
- ✘ Parties Notified:
 - + Telephone
 - + In Person
 - + Fax
 - + Express Mail
 - + Email
 - + Other
- ✘ Certificate of Notice*

**Court Practices may vary*

OPPOSING TELEPHONIC APPEARANCES

CONSOLIDATION PRIORITY

RELEVANT CODE SECTIONS: CCP 1048(A), CRC 5.365, FC 17408

Cases

IV-D & Dissolution
 IV-D & Domestic Violence
 Dissolution & DV
 IV-D & Paternity
 Paternity & DV
 DV & Petition for Custody*
 IV-D & Petition for Custody*
 Dissolution & Petition for Custody*

Parent Case

Dissolution
 IV-D
 Dissolution
 Paternity
 Paternity
 Petition for Custody*
 Petition for Custody*
 Dissolution

*The Petition for Custody is generally filed when the parties are married (do not wish to file dissolution) and there is no other case involving the parties; the parties have signed a Voluntary Declaration of Paternity; or there is a DCSS matter with a paternity judgment on file. By its very nature, the Petition for Custody would be subordinate to any other action, except DV or IV-D Case, as it does not establish parentage or address dissolution issues.

OBJECTIONS TO COMMISSIONER FAM CODE §4251

- ✘ Pursuant to §4251 Party Objects to Commissioner at Hearing
 - + Separate Procedure-Covered in Courtroom Procedures
- ✘ Findings and Recommendation of Commissioner Filed FL-665
- ✘ Within 10 days, Party Objecting Completes/Files Notice of Objection FL-666



OBJECTION – TRIAL DE NOVO



- ✘ Objection Filed
- ✘ File to Designated Judicial Officer
- ✘ Judge issues a Temporary Order
- ✘ Court Schedules a Hearing de Novo within 10 Court Days
- ✘ Clerk Certificate of Mailing
- ✘ Party May Waive Appearance
- ✘ Orders Confirmed or New Orders Issued

RULE 5.125 IN DCSS

- ✘ Rule Designates, in relevant part:
 - + Contested Cases-OAH must be exchanged and reviewed for Form and Content Prior to Submission



- ✘ Court May Waive Requirement
- ✘ Problem area in DCSS
- ✘ Handling of Compliance
 - ✘ Varies from Court to Court
 - ✘ Commissioner Input should be obtained
 - ✘ Subject for Monthly Meetings
- ✘ Projects Related to the New Rule

2:30 - 3:00

BREAK TIME!



TAB 14

AB 1058 Administration and Accounting

*Mr. Paul Fontaine, Mr. Abutaha Shaheen
& Mr. Michael L. Wright*

**Additional materials were distributed
in the class, not available online.**

AB 1058 Administration & Accounting Training

18th Annual Child Support Training Conference
October 2, 2014

Michael Wright, AB 1058 Program Manager/Supervising Attorney
Paul Fontaine, Supervising Accountant
Abutaha Shaheen, Grant Accountant

Agenda

- Introductions
- Program Manager's Update
- Program Changes
- Discrepancy Rate and Impacts
- AB 1058 Accounting Forms
- Administrative and Grant Reporting Requirements
- Cost Treatments and Methods of Allocation
- Request for Program Modifications - Enhancements
- Invoicing Cycle
- General FAQ Session
- One on One FAQ Discussion

2

AB 1058 Program Manager Update

3

Agenda

- Child Support Program Overview
- Contractual Agreements and Deliverables
- Program Audits
- Program Activities and time reporting
- Program Funding Status and Updates
- Mid-Year Reallocation Process
- Program Budget Implications and Solutions

4

AB 1058 Program Overview

What is the AB 1058 Program?

- Legislative mandated IV-D program
- Enforce child support cases
- Collection and distribution of payments
- Provide health care coverage to support child

5

Title IV-D Program Services

- Locate noncustodial parents
- Establish paternity
- Establish child support orders
- Enforce child support orders
- Collection and distribution of support

6

AB 1058 Program Overview

Government Roles

- Federal (Office Of Child Support Enforcement, OCSE)
 - Funding to establish program
 - Policies & Regulations
- State Administer (DCSS & Judicial Council)
 - Child Support Commissioner (CSC)
 - Family Law Facilitator (FLF)
- Local services provided
 - Courts
 - LCSA

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AB 1058 Program Contracts

- Contract between DCSS and Judicial Council
- Contract between Judicial Council and Local Court
 - Block grant subject to expectation of a standard package of "services"
 - Court Deliverables

8

Standard Service Package

- Expectations
 - CSC calendar time, FTEs and support staff
 - Court reporters & interpreters
 - Security
 - Training Requirements

9

Court Deliverables

- Plan of Cooperation with Local Child Support Agency (LCSA)
- Disclosure of all funding sources
- Written contract between contracted FLF and CSC
- Quarterly FLF Data Report (customer service statistics)
- Written FLF Office Complaint resolution process

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AB 1058 Program Audits

AB 1058 Program Audits

- Historical Audits
 - Office of Child Support Enforcement (OCSE)
 - Judicial Council
- Current Audits
 - Department of Child Support Audit (DCSS)
 - Department of Finance

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AB 1058 Program Audits

- Department of Child Support Audit Update
 - Compliance of federal and state regulations
 - Completion of program deliverables
 - Proper accounting records and adequate documentation
 - Program cost efficiencies
 - Consistency of application of cost

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AB 1058 Program Audits

- Department of Finance Audit
 - Financial statements
 - Proper accounting records and adequate documentation
 - Internal control - Segregation of duties
 - Authorized approvals
- Judicial Council Audit
 - Operations/Internal Control
 - Contract Compliance

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AB 1058 Program IV-D Services

AB1058 Commissioner vs. Other Family Law Services

AB 1058 Services

- Child support cases opened at LCSA
- Child Support matters
- Paternity matters
- Companion Spousal support matters
- Health insurance matters

Other Family Law Services

- Non-LCSA parentage/child support cases heard by commissioner
- Domestic Violence
- Custody and Visitation
- Dissolution of marriage issues other than support
- Adoptions
- Juvenile Delinquency

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FLF Program Expansion

- Increase merge of Family Law Facilitator and Self-Help offices
- Separation of Funding
 - IV-D Program funds
 - Self Help funds
 - Other court program funds
- Understanding of activities between AB 1058 facilitator, self help and other family law functions

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AB 1058 Family Law Facilitator Functions

Title IV-D

- Child support cases opened at LCSA
 - Child Support matters
 - Paternity matters
 - Companion Spousal support matters
 - Health insurance matters

Outreach Activities

- Child support cases not yet filed at the LCSA.
 - Providing information & referral services
 - Distributing court forms
 - Brief Explanation of court process

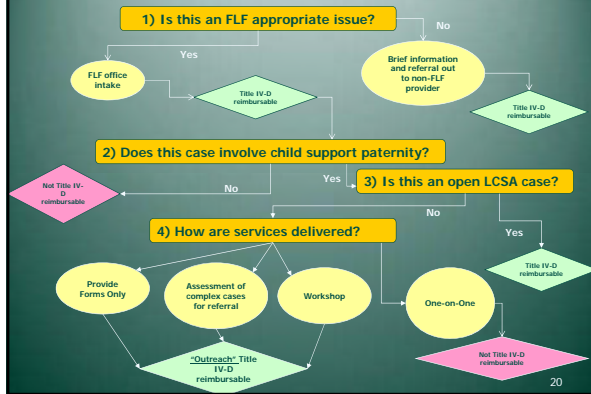
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Self-Help and other family Law Functions

- Domestic Violence
- Custody and Visitation
- Dissolution of marriage issues other than support
- Adoptions
- Juvenile Delinquency
- Non-Child Support Related Activities
- Other non-grant activities, i.e. General court administration

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FLF Reimbursability Decision Tree



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AB 1058 Program Funding & Spending Update

AB 1058 Program Funding

- Program Funding Sources:
 - Title IV-D Funding
 - 2/3 Feds & 1/3 State
 - Trial Court Trust Fund
 - Expanded Services (DV, Custody-Visitation-Dissolutions)
 - Self Help
 - Other grant and non-grant funds
 - Interpreter, security, court construction funds

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AB 1058 Program Funding

Federal Drawdown Option

- Short term alternative began FY 07-08
- Additional federal funds
- Requires court contribution
- Subject to a cap

23

Federal Drawdown Option

Mechanism for the courts to recover two-thirds of additional program costs beyond the base maximum

Example:

Court expenses exceed base allocation by \$300.

- Court Share (1/3) - \$100
- Federal Share (2/3) - \$200

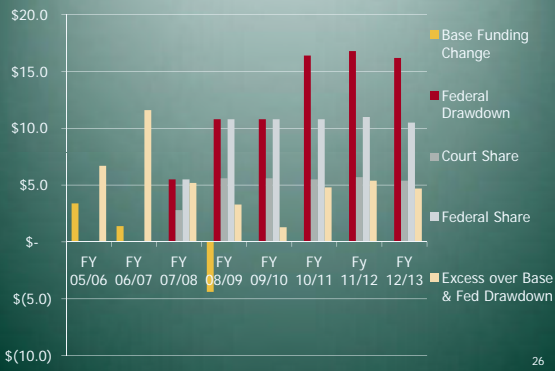
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AB 1058 Program Funding

- Flat funding in Child Support Program for FY 10-11 and FY 11-12
- Decrease in Child Support Program base funding for FY 08-09 + increase in federal draw down option
- Flat funded in Child Support Program for FY 07-08 + federal draw down option

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Program Funding History



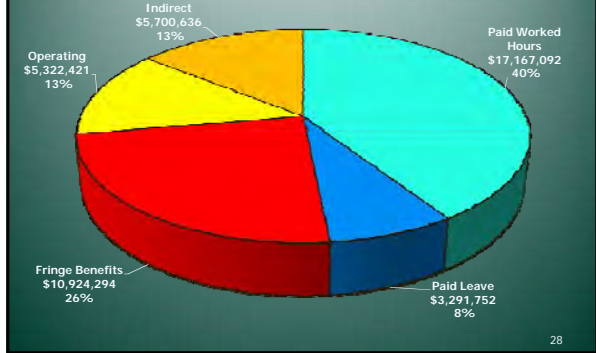
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Expenditure Categories

- Expenditure categories are consistent for both the CSC and FLF Programs
 - Salaries
 - Benefits
 - Operating Expenses
 - Indirect

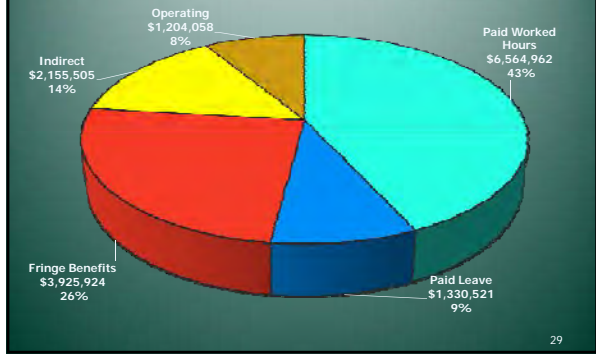
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CSC Program Expenditures by Category FY 12/13



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FLF Program Expenditures by Category FY 12/13



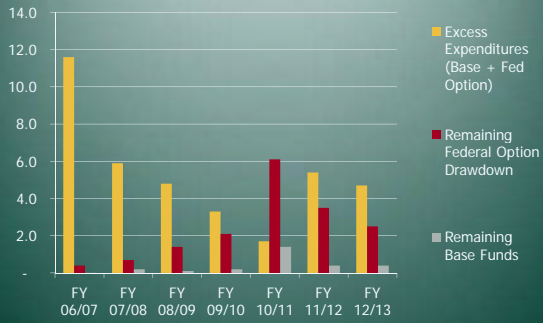
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AB 1058 Program Mid-Year Reallocation

- Annual Court Questionnaire
 - Assume current program level
 - Exclude program expansion
 - Exclude program enhancements and new facility leases
 - Expenditures to date (used to calculate funding for remainder of year)
- Review and evaluation by Judicial Council
- Judicial Council-Court contract amendment
- Continue reimbursement process using amended budget amounts

30

History of Remaining funds



31

AB 1058 Program Budget

- Budget Implications and Updates
 - Judicial branch budget reductions and impacts on the AB 1058 program
 - DCSS realignment
 - Cost saving strategies & best practices
 - **Assigned commissioners program**

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Significant Program Changes

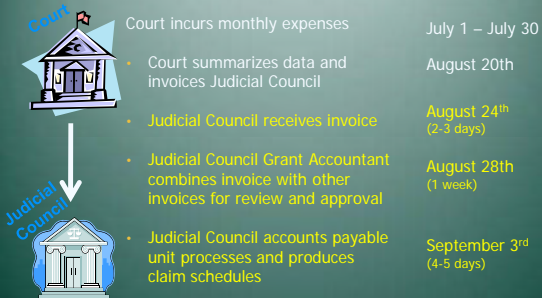
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Program Changes

- Prior Reimbursement Process
- New Reimbursement Process
- Contract Cycle
- AB1058 Funding Impacts
- Liquidation Period
- Mid-Year Reallocation

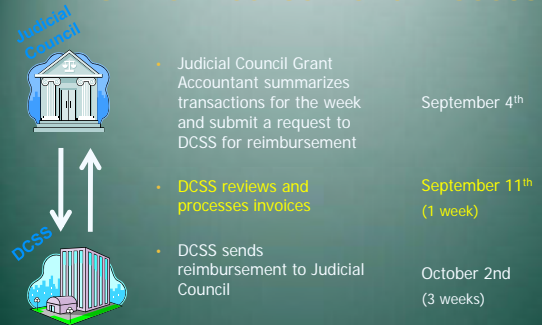
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Prior Reimbursement Process




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Prior Reimbursement Process




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Prior Reimbursement Process



Judicial Council

- Judicial Council releases claim schedules to State Controller's Office (SCO) October 3rd




SCO

- SCO receives claim schedules and combines with claims from other agencies October 7th
(2-3 days)


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Prior Reimbursement Process



SCO

- SCO reviews claim schedules October 14th
(1 week)
- SCO processes check payments October 21th
(1 week)
- SCO sends checks to courts October 23rd
(2-3 days)



Court

- Court receives payment October 28th
(2-3 days)

More than **THREE months** before court receives payment


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Prior Reimbursement Process

- Factors that may delay reimbursement:
 - Errors
 - Omissions
 - Late Submissions
 - Vacations
 - Monetary Thresholds
 - Budget Implications
 - Cash Implications
 - Contract Implications
 - Court Issues

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New Reimbursement Process





Court

- Court incurs monthly expenses
- Court summarizes data and invoices Judicial Council

July 1 – July 30

August 20th





Judicial Council

- Judicial Council summarizes all invoices received and notifies Grantor
- Grantor transfers funds to SCO
- Judicial Council processes and produces claim schedules

August 20th

September 1st

August 21st – September 15

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New Reimbursement Process



Judicial Council

- Judicial Council releases claim schedules to State Controller's Office (SCO)

September 15th






SCO

- SCO receives claim schedules and combines claims with other agencies

September 17th

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New Reimbursement Process




SCO


- SCO reviews claim schedules
- SCO processes check payments
- SCO sends checks to courts

September 10 - 24th (1 week)

September 17 - 30th (1 week)

September 19th - October 2nd (3 days)





Court

- Court receives payment

September 21th - October 4th (3 days)

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New Reimbursement Process

- Judicial Council advises Grantor of claims released from July cycle September 20th
- Judicial Council advises Grantor of claims received for August cycle September 20th
- Grantor transfers net funds to SCO October 1st

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New Reimbursement Process

Invoice Cycle Decreased by at least 60 days

* DSCC Allows 1 Billing per Month

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New Reimbursement Process

- Factors that may delay reimbursement:
 - All factors included in existing process
 - Missed deadlines
- All delayed claims revert to old processing method
- Advance funding is a one time opportunity

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New Reimbursement Process

- Priority given to complete accurate claims
- Claims with errors/ommissions reviewed after complete claims processed
- Priority given to claims submitted on time

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New Reimbursement Process

- Major Assumption With New Invoice Process
 - Audit of claims remains a Grantor requirement
 - Grantor will accommodate payments to claimants with history of no adjustments
 - New process only applies with Federal funds

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New Reimbursement Process

Process Treatment for Errors or Omissions

- Claims with simple and obvious errors will be adjusted and processed (Courts notified of adjustment by email at time of claim submission)
- Claims with missing or incomplete data will revert to standard process (Courts notified by email that claim is abayed until error or omission is cleared)

48

New Reimbursement Process

Process Treatment for Errors or Omissions

- Claims submitted for payment are deemed complete once received by SCO
- No further payments can be made on a submitted claim

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New Reimbursement Process

July 2013 Data

- Total number of Contracts (FLF and CSC) 109 \$ 55,171,367
- Total Contracts Not Received by August 20 36 33%
- Number of July Claims Received by August 20th 11 10%
- Claims Received with Outstanding Issues 2 2%
- Number of Claims Payable 2 8%

If deemed that JC/AOC retains unreimbursed funds, new reimbursement process will be discontinued

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New Reimbursement Process

- Estimated Overall July Expenses \$ 4,597,614
- Expenses Reflected on Claims Received \$ 265,816 6%
Amount Received from Grantor on Sept 5th
- Expenses Submitted to State Controller on Sept 9th \$ 136,780 3%
- Funds returned to Grantor \$ 129,036 49%

If deemed that JC/AOC retains unreimbursed funds, new reimbursement process will be discontinued

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New Reimbursement Timeline

Claims Received
On Time
Error Free

Funding Cycle Reduced
by 28 days

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New Reimbursement Timeline

Error Tracking and
Management

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AB 1058 Funding Impacts

Examples of claim deficiencies

- Payroll summary form
 - Wrong pay period
 - Pay period not matching time sheets
 - Reported hours not matching time sheets
 - Altered formulas
 - Manual entry over-ride on formulas
 - Missing approver title and signature
 - Certification clause missing
- Summary form
 - Changing budget line items
 - Moving categories without approval
 - Altered forms
 - Missing court name

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AB 1058 Funding Impacts

Examples of claim deficiencies

- AB1058 contract not active
- Invoice Form
 - Altered form
 - Contract number wrong or missing
 - Program period wrong
 - Court address wrong
 - Contact information wrong
- Timesheet Form
 - Not reporting 100% of time
 - Non program hours missing
 - Altered certification
 - Missing signatures
 - Program titles missing

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AB 1058 Funding Impacts

Examples of claim deficiencies

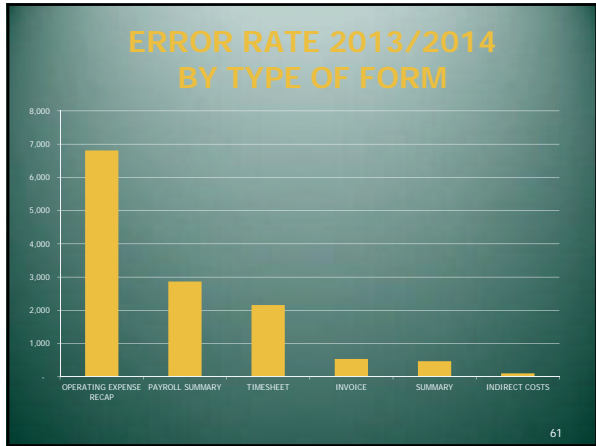
- Missing expenses on operating recap form
- Claims in excess of amount on summary
- Excessive Documents
- Electronically Submitted
 - Cannot be used to Substantiate Claims
 - Network cannot support claims (storing/transmitting)
 - Blocked on entry

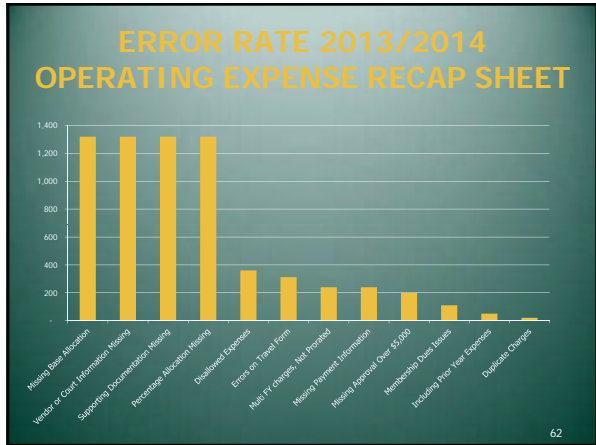
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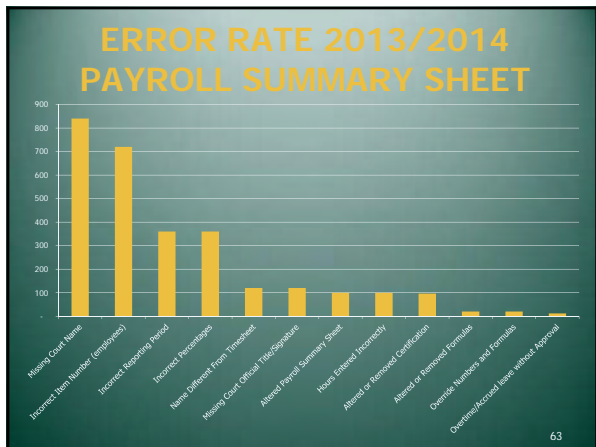
Examples of operating Expenses Errors

- Publications
- Membership dues
- Bar/dues donations
- Child Support calculator
- Missing documentation
- Missing contracts
- Contractor activity log
- Non program training
- Phoenix Printouts
- Calculations wrong
- Duplicate indirect cost
- Expenses over \$5k
- Missing Payment information
- No program benefit
- Avoidable Costs

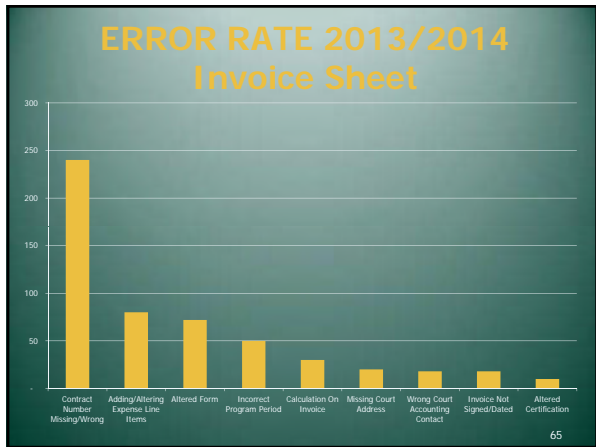
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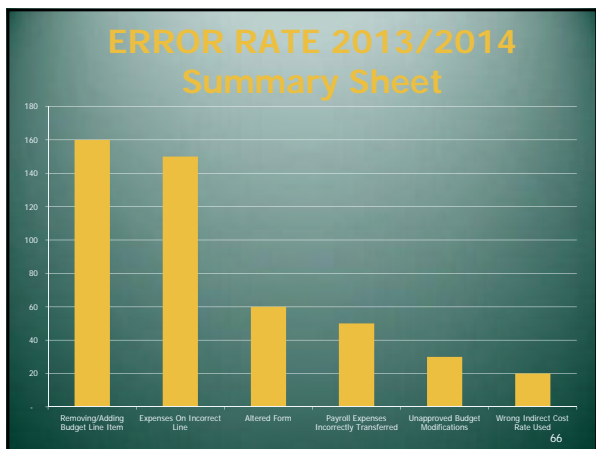


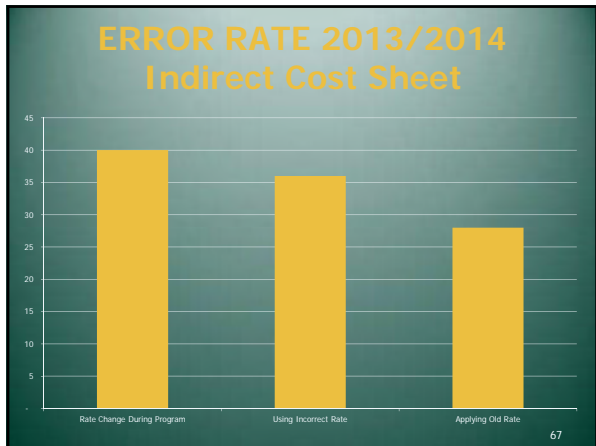












AB 1058 Funding Impacts

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- ### Grant Improvements 2013/2014
- Faster Funding from DCSS
 - Contract Cycle Decrease
 - Error Tracking / Management
- 69

**Proposed Grant
Improvements 2014/2015**

**Shorter Liquidation Period
90 Day vs. 180 Days**

- Consistent with Federal Standards
- Facilitated with Budget changes

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**Proposed Grant
Improvements 2014/2015**

**At Judicial Council's Request
Provide Data Necessary To:**

- Modified Mid-Year Reallocation
- Provides Additional Contract Options For Review

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**Proposed Grant
Improvements 2014/2015**

Modified Mid-Year Reallocation

**Contract to Allow for
Automatic Distribution of
Unspent Grant Funds**

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Proposed Grant Improvements 2014/2015

Modified Mid-Year Reallocation

- Existing Unpaid Claims Reprocessed
- No Requirement for Court Resubmission
- Reclamation Effective for Future Year

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Proposed Grant Improvements 2014/2015

Modified Mid-Year Reallocation

- No Requirement For Revised Contract
- No Requirement to Resubmit Claims
- No Future Mid-Year Reallocation

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Proposed Grant Improvements 2014/2015 FLF Unpaid Claims 2013/2014

Court	January	February	March	April	May	June	Total
1	5,302	13,945	14,219	-	14,308		47,775
2	10,468	15,575	13,411	13,383	14,384	19,744	86,966
3		4,604	11,541	11,441	17,208	14,085	58,880
4		9,595	9,826	10,123	21,307	10,496	61,347
5		10,459	14,644	15,526	14,919	6,918	62,467
6		47,200	75,252	61,342			183,794
7			27,766	24,755	25,338	22,937	100,796
8				6,232	12,620	11,929	30,781
9				9,169	23,392	149,689	182,250
10					3,760	7,674	11,434
11					4,155		4,155
12					10,562	13,675	24,237
13					11,149	7,590	18,739
14					11,434	14,575	26,009
15					52,490		52,490
16						5,344	5,344
Total	15,770	101,379	166,659	151,971	237,028	284,657	957,464
Cumulative Total	15,770	117,149	283,808	435,779	672,807	957,464	75

AB 1058 Funding Impacts

- General fund decreased significantly
 - Reduce costs
 - Close courts
 - Furloughs
 - Reduce hiring
 - Other cost cutting

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AB 1058 Funding Impacts

- Court reserves decrease significantly
 - Increase cash flow
 - Advance receipts
 - Defer expenses

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AB 1058 Funding Impacts

- Grant Funding Levels Decreased Slightly
 - Overall furloughs have decreased labor, benefits and IC charges (Matching overall court changes)
 - Other labor costs surface
 - Other non-labor costs surface

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AB 1058 Funding Impacts

Grant Reimbursement Impacts

	Past Years
Total Grant Funds	100%
Labor and Loadings	45%
Security	25%
Other Courtroom	25%
Miscellaneous	5%
Total Reimbursements	100%

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AB 1058 Funding Impacts

Grant Reimbursement Impacts

	Past Yrs	Current Yr
Total Grant Funds	100%	Decrease
Labor and Loadings	45%	Increase
Security	25%	Decrease
Other Courtroom	25%	Increase
Miscellaneous	5%	Increase
Total Reimbursements	100%	Decrease

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AB 1058 Funding Impacts

- Impacts to the Grant Processing
 - More frequent claims submissions
 - More new charges
 - More audit items

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AB 1058 Funding Impacts

- Impacts to the Courts
 - Program audit requirements
 - Federal audit requirements
 - State audit requirements
 - DCCS audit require
 - Increase in processing time

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AB 1058 Program Reporting Forms

AB 1058 Grant Forms

- Timesheet
- Contractor Activity Log
- Payroll Summary Sheet
- Operating Recap Sheet
- Summary Sheet
- Invoice Face Sheet

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AB 1058 Payroll Summary Sheet

- Salaries & Wages
 - Gross salary for the pay period
 - 100% of time distribution for the pay periods being reported
 - Proportional overtime wages related to Title IV-D matters
- Benefits Types
 - Fringe benefits: social security, employee insurance: life, health, unemployment, workers compensation, pension plan costs, and other similar benefits
 - Paid Leave: vacation, annual leave, sick leave, holidays, court leave, and military leave
 - Cannot bill more leave hours than earned while working on the program

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AB 1058 Payroll Summary Sheet

PAYROLL SUMMARY SHEET
 PROGRAM TITLE: **CHILD SUPPORT COMMISSIONER PROGRAM** FISCAL YEAR: **2009-2010**
 REPORTING PERIOD: FROM: [] TO: []

A	B	C	D	E	F	G	H	I	J	K	L	M	N	O	P	Q	R	S	T	U	V	W	X	Y	Z
Emp No.	Emp Title	Gross Pay	Gross Benefits	Program Hours	Max Program Hours	Total Hours	Benefit Hours	Total Paid Hours	Total Program Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours	Program Payable Hours
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CERTIFICATION: I hereby certify under penalty of perjury that the information provided here accurately represents official records and is in compliance with the program contract.

AUTHORIZED OFFICIAL: [] **TITLE:** []

SIGNATURE: [] **DATE:** []

650-3 PAYROLL SUMMARY SHEET (REV 07-03)

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AB 1058 Operating Recap Sheet

AB 105

100% Reimbursable Expenses

- Contracted Facilitators and Commissioners
- Contracted Temporary Employees
- Court Interpreter Expenses
- Bailiff Expenses (proportionate to Commissioner hrs)
- Travel expenses
- Pre-approved Training/Conferences (1 per year)
- Pre-approved memberships

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Partially Reimbursable Expenses

- Perimeter security
- Rent
- Office Supplies
- Equipment

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Pre-Approved Expenses

- Written prior approvals required:
 - Minor Remodeling
 - Equipment Purchases > \$5,000

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Grant Reporting Requirements

- Administrative Requirements
 - Financial and Accounting Records
 - Proper supporting documentation
 - Approval and Authorized signature
 - Recommended/Approved Forms
 - Record Retention and Access to Records
 - Access by Grantor & Auditors
 - Retained for 3 years

Electronic Files



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Costs Treatment

Direct vs. Indirect Costs

- **Direct Cost** are identified with a particular cost objective
- **Indirect Costs** are incurred for common or joint objectives of an organization and cannot be readily identified with a particular program objective

105

Direct/Indirect Determination

- Does the cost result in a direct benefit to a federal program?
- Can it be easily and accurately traced to the federal program?
- Does it benefit more than 1 federal program?
- Is it normally charged indirect?
- Have you calculated the proportional benefit?

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Costs Allowability Requirements

- Allocable
- Necessary and Reasonable
- Treated Consistently
- Determined according to GAAP
- Net of applicable credits
- Not used for cost sharing/matching on another federal award
- Adequately documented
- Authorized under state/local laws & regulations
- Conforms to limits & exclusions in costs principles, federal laws and award T&C
- Consistent with recipient policies for federally and non-federally funded activities

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Costs Allocability

- Must meet ONE of these criteria:
 - Incurred specifically for the program award
 - Benefits both program award and other work and can be distributed in reasonable proportion to benefits received
 - Necessary to organization's overall operation

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Methods of Allocation

- Allocation Methods:
 - Full Time Employee (FTE)
 - Number of Child Support Cases
 - # of Court Departments
 - Other Approved Methods

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Note:

A cost which is allocable to an award isn't necessarily allowable or reasonable

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Administrative/Grant Reporting

- Sell-back, Cash out, unproductive time charges, workers compensation, etc.
- Furlough Reporting
- Bailiff/Security costs plans
- Post employment benefits
 - Retirement benefits
 - Medical benefits
 - Unemployment benefits

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Miscellaneous Items

- Request for Program Modifications and Enhancements
- Invoicing Cycle
- Moodle
- General FAQ Session

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Request for Program Modifications and Enhancements

Program versus Finance

Program	Finance
<ul style="list-style-type: none">• Key Personnel changes• Facility changes: lease and relocation• Funding level changes• FLFED database reporting• Leave charges: buy backs and cash outs	<ul style="list-style-type: none">• Budget modifications• Finance reporting inquiries• Accounting Forms• Leave charges: buy backs and cash outs• Reimbursement inquiries

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Program Issues

- Creating new budget line item for material changes
- Moderate to high impact
- Affect other courts
- Changes not within funding level
- Approval process – long term
 - Program Manager
 - Finance Review
 - Committee Review
 - Judicial Review

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Finance Issues

- Creating new budget line item for minor changes
- Budget category change
- Low impact
- Affect only one court
- Changes within funding level
- Approval process – short term
 - Program Manager
 - Finance Review

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Grant Processing versus GL Accounting

Grant Processing

- AB 1058 Program Grant Accountant
- Allowability of program expenditures inquiries
- Program budget inquiries
- Reimbursement inquiries
- Reimbursements through SCO

GL Accounting

- SAP General Ledger Accountant
- Recording financial transactions
 - Accounts Receivable
 - Accounts Payable
 - General Ledger
- Payments through court specific accounts

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AB 1058 Moodle Training Site

- What is Moodle?
 - AB 1058 Program Reporting training website
 - <http://calcourts.moodle.com>
- Why do you want to use it?
 - Provides training on the concepts and requirements for submitting claims for reimbursement for CSC and FLF Programs
 - Allows court employees to interact and have discussions by posting on forum
 - Satisfies the California Rule of Court, Rule 10.452 court staff training requirement

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Q&A

TAB 15

Plenary Session/Case Law Update

*Hon. Monique S. Langhorne,
Hon. Thomas J. Nixon &
Ms. Fariba R. Soroosh*

CASE LAW UPDATE

Hon. Monique S. Langhorne, Napa Superior Court
Ms. Fariba R. Soroosh, Santa Clara Superior Court
Hon. Thomas J. Nixon, Alameda Superior Court

18th Annual AB 1058 Child Support
Training Conference
September 30-October 3, 2014

LAMOURE V. LAMOURE

- 221 Cal.App.4th 1463
- Dissolution re:
 - division of pension
 - Multiple complex enforcement issues



FACTS:

- 10 yr. marriage
- Husband solo practice lawyer
- Husband ordered to pay child & spousal support



FACTS:

- 4/09- DCSS issued order to withhold funds from IRA
- 4/20/09-Husband filed claim of exemption & motion to quash levy
- 5/09-Trial court denied claims, but granted stay until 7/31/09



FACTS:

- 7/23/09-Trial Court denied claim of exemption/quash levy IRA
- 7/30/09- Husband filed notice of appeal of 7/23/09 order
- 8/31/09- Husband filed petition for writ of supersedeas seeking stay of trial court proceedings



FACTS:

- 9/3/09- Appellate Court denied writ and request for stay
- 9/9/09- Trial Court granted stay pending resolution of support appeal
- 8/2/11- Appellate Court affirmed Trial Court order of 7/23/09



FACTS:

- During Proceedings 2003-2010
- Husband ordered to pay wife's attorney fees: \$99K
- 3/22/10- Court granted motion for writ of attachment sanctions, etc.
- 3/26/10- Trial Court issued writ against pension for attorney fees



FACTS:

- 4/21/10- Husband served claim of exemption
- 4/23/10- Trial court denied husband's oral motions to set aside March 2010 orders-no notice
- 6/10/10- Trial court denied claim of exemption



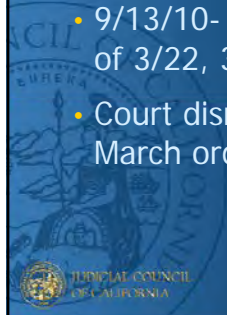
FACTS:

- 7/20/10- Wife requested temporary order restraining transfer of funds
- 7/23/10- Court granted wife's motion prohibiting transfer of pension funds
- 8/6/10- Husband transferred \$100K
- 8/17/10- Court added pension plan to writ
- 8/24/10- Writ of execution issued



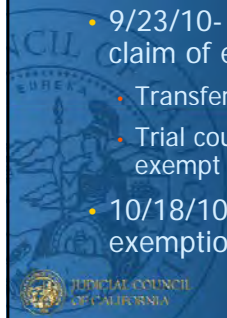
FACTS:

- 9/13/10- Husband filed appeal of 3/22, 3/26 & 7/23/10 orders
- Court dismissed appeal of March orders as untimely



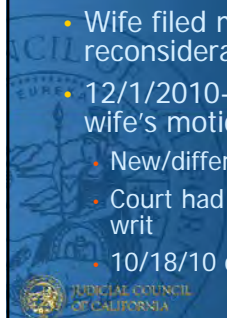
FACTS:

- 9/23/10- Wife filed opposition to claim of exemption to writ
 - Transfer of funds violated orders
 - Trial court already ruled funds not exempt (6/10/10)
- 10/18/10- Court granted claim of exemption



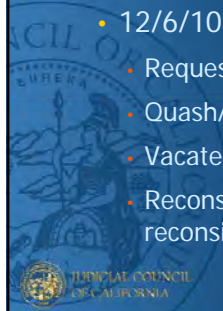
FACTS:

- Wife filed motion for reconsideration of 10/18/10 order
- 12/1/2010- Trial Court granted wife's motion
 - New/different facts
 - Court had legal authority to order writ
 - 10/18/10 order vacated



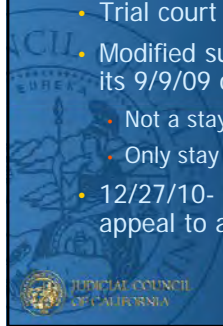
FACTS:

- 12/6/10- Husband filed ex parte:
 - Request stay 3/6 & 3/10 orders
 - Quash/recall writ of execution
 - Vacate levies
 - Reconsider ruling on motion for reconsideration



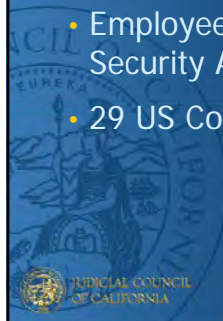
FACTS:

- Trial court denied request for stay
- Modified sua sponte & nunc pro tunc its 9/9/09 order granting stay
 - Not a stay of entire action
 - Only stay of issue re: IRA
- 12/27/10- Husband filed supplemental appeal to add 12/1/10 ruling



E.R.I.S.A.

- Employee Retirement Income Security Act 1974
- 29 US Code § 1001 et. seq.



Husband argues:

- ERISA preempts state law
- ERISA prohibits alienation of pension plan
- ERISA prohibits payments from pension
- Pension exempt from levy



Appellate Court affirms

- Transfer prohibition proper
- Husband violated automatic restraining orders (ATRO)
- Husband secreted community assets
- ERISA not applicable



LESLIE FALCON V. LONG BEACH GENETICS, INC.

- 224 Cal.App.4th 1263
- Mom, minor & alleged father sue lab for negligence



FACTS:

- 2003 lab DNA paternity test
- Excluding alleged father
- 2008 mom discovers lab error
- Lab used incorrect markers
- 2009 mom sues for negligence



FACTS:

- Lab requests summary judgment
- Lab owed no duty to mom/dad
- Complaint barred by statute of limitations
- Claim barred by litigation privilege (Civil Code 47(b))



CIVIL CODE §47(b)

- A "publication or broadcast" made as part of a "judicial proceeding" is privileged.



CIVIL CODE § 47(b)

- The privilege applies to any communication
- Made in judicial proceedings
- By litigants/participants
- To achieve objects of litigation
- Connection/relation to action



Appellate Court Affirms:

- Trial court did not err in granting summary judgment
- Substance of complaint communicative conduct
- Barred by CC §47(b)



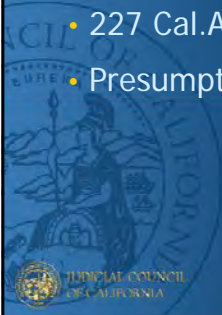
Appellate Court Affirms:

- Lab performed test in connection with paternity action
- Plaintiffs' injuries from lab communication to parties



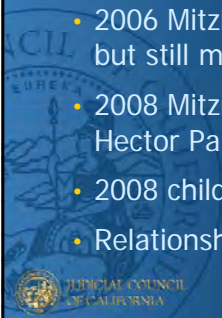
PANGILINAN V. PALISOC

- 227 Cal.App.4th 765
- Presumption of paternity



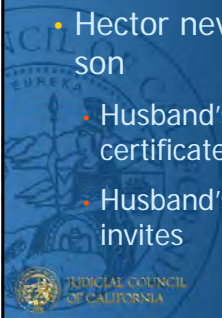
FACTS:

- 2006 Mitzie/Husband separated, but still married
- 2008 Mitzie began relations with Hector Palisoc, a married man
- 2008 child born to Mitzie/Hector
- Relationship continued until 2011



FACTS:

- Hector never held child out as son
- Husband's name on birth certificate
- Husband's name on baptism invites



FACTS:

- Mitzie filed petition to establish parental relationship
 - Between child and Hector
- Mitzie requested child support and genetic testing



FACTS:

- Hector denied paternity
- Hector requested husband be declared child's father
 - Claimed Mitzie waited too long to file
 - Presumption husband is father



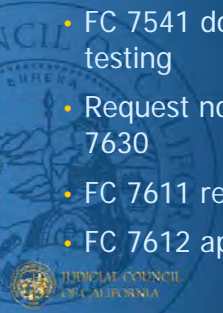
Trial Court Ruling:

- FC 7540 not applicable
- Denied request for DNA test per FC 7541
- Former 7611 applies
- Untimely & no evidence Hector held out as son



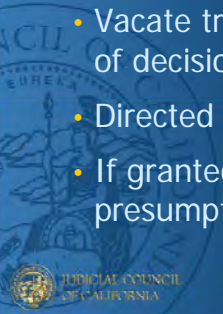
Appellate Court Ruling:

- FC 7541 does not preclude genetic testing
- Request not untimely under FC 7630
- FC 7611 rebuttable presumption
- FC 7612 applies



Appellate Court Ruling:

- Vacate trial court's statement of decision
- Directed to entertain DNA test
- If granted, hold hearing re: presumption of paternity



JASON P. V. DANIELLE S.

- 226 Cal.App.4th 167
- Cohabiting Sperm donor



FACTS:

- Jason/Danielle cohabitating
- 2006 attempts to conceive
- 2007 unsuccessful intrauterine insemination (IUI)
- 2008 parties separate, but maintain contact



FACTS:

- 2009 Child conceived through in vitro fertilization (IVF)
- Jason donated sperm
- Jason not listed on birth certificate, no voluntary declaration of paternity



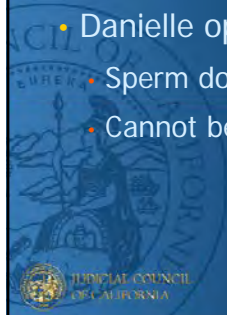
FACTS:

- After birth
- Mom/child referred to Jason as "dada"- continuous contact
- 2012 relationship over
- 2012 Jason filed petition to establish parental relationship



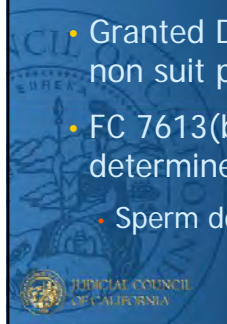
FACTS:

- Danielle opposed motion
- Sperm donor under FC 7613(b)
- Cannot be deemed natural father



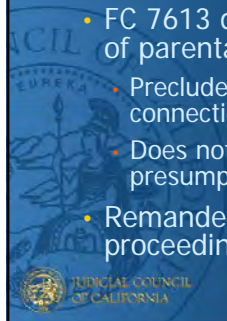
Trial Court Ruling:

- Granted Danielle's motion for non suit per CCP 631.8
- FC 7613(b) exclusive means to determine paternity
- Sperm donor/unmarried woman



Appellate Court Ruling:

- FC 7613 does not preclude finding of parentage under FC 7611
- Precludes establishing biological connection
- Does not preclude establishing presumption per FC 7611
- Remanded to conduct FC 7611 proceedings



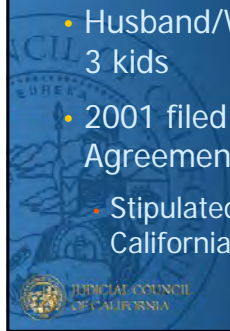
ROSENFELD V. GROSS

- 225 Cal.App.4th 478
- Modifying agreement for adult child support



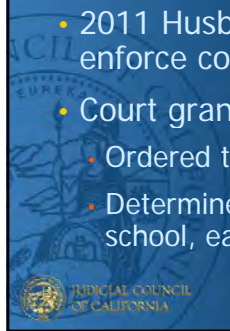
FACTS:

- Husband/Wife married 14 yrs, 3 kids
- 2001 filed Marital Settlement Agreement (MSA)
- Stipulated to equally pay future California college expenses



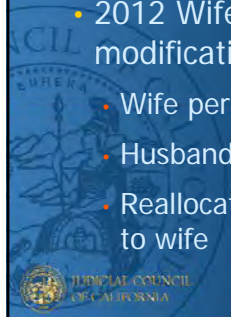
FACTS:

- 2011 Husband requests court enforce college expense clause
- Court grants request
- Ordered to meet/confer each fall
- Determine max cost for CA school, each pay 1/2



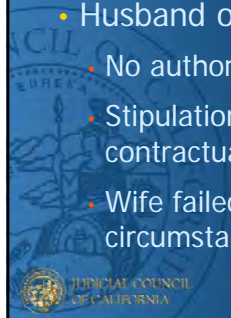
FACTS:

- 2012 Wife requests modification of college clause
- Wife permanently disabled
- Husband income \$400K
- Reallocate 91% to husband, 9% to wife



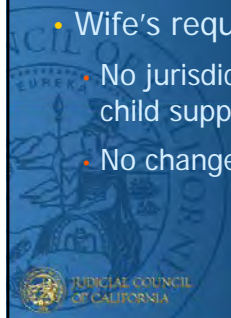
FACTS:

- Husband opposes:
- No authority to modify provision
- Stipulation to pay was contractual
- Wife failed to show change in circumstances from 2011



Trial Court Ruling:

- Wife's request to modify denied
- No jurisdiction to modify-not child support
- No change in circumstances



Appellate Court Ruling:

- Parties may restrict court jurisdiction to modify
- MSA did not expressly restrict
- Failure to consider modification is abuse of discretion



Appellate Court Ruling:

- Change in Circumstances-Yes
- Enforcement, not modification before court in 2011
- Directions to trial court to consider reallocation



IN RE MARRIAGE OF WILLIAMSON

- 226 Cal.App.4th 1303
- Marital Standard of Living (MSL)-calculating support



FACTS:

- Husband/Wife married 20 yrs, 3 kids
- Lavish lifestyle
 - \$2,168,055 in advances from husband's parents over the years



FACTS:

- At separation: expenses \$45K/mo.
- Post separation:
 - Husband income \$99K/yr.
 - Wife living in \$2.75million home
 - Husband paying wife \$8600 mo.



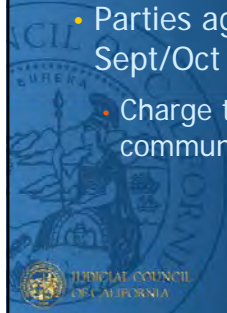
FACTS:

- Husband stopped paying
- Wife filed for child/spousal
- Court ordered \$5K/\$5K
- Residence sold for \$1,378,067
 - Proceeds in blocked account



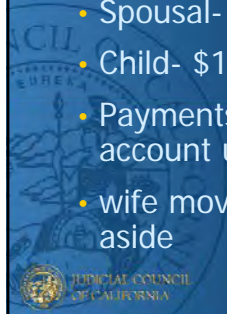
FACTS:

- Parties agreed to deduct Sept/Oct support from account
- Charge to husband's share of community assets



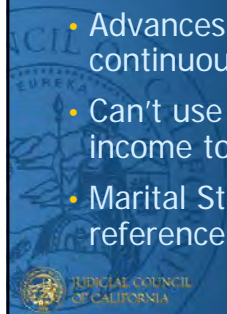
Trial Court Ruling:

- Spousal- \$2K month
- Child- \$1235-1136 month
- Payments from blocked account until exhausted
- wife moved for new trial & set aside



Appellate Court Ruling:

- Advances were gifts, but not continuous
- Can't use advances to impute income to husband
- Marital Standard of living only a reference point



Appellate Court Ruling:

- Trial court erred ordering payment from blocked account
- Erroneously reduced husband's obligation
- Impermissibly requiring wife to pay ½ of her own support
- Charge to husband's interest only



IRMO WOOLSEY 220 Cal.App.4th881 (10/22/13)

- H & W married in 9/01, 2 kids
- DOS 4/09
- W moves back to CA with Cs & files for legal separation
- H pushes for reconciliation with help of Live at Peace Ministries



IRMO WOOLSEY (continued)

- No reconciliation but complete mediated MSA in 8/09
- W served H w/legal sep, PDDs & FDDs
- H served PDDs but not FDDs
- W amended to disso in 1/10



IRMO WOOLSEY (continued)

- In 2/10, W seeks to enforce MSA per CCP 664.6
- H objected and got a trial
- Trial Court granted W's motion
- H appealed



IRMO WOOLSEY (continued)

- Issues on appeal (published):
 - Lack of compliance with financial disclosure rules
 - Undue influence during mediation
 - MSA not in compliance with Local Rule (notarization)



IRMO WOOLSEY (continued)

- Holding re financial disclosures:
 - Strict/technical compliance with FC 2104 and FC 2105 not required during ADR
 - Strong public policy for in favor of ADR as speedy and less costly and adversarial *IRMO Elden* (1997) 53 Cal.App.4th 1497; *Foxgate v. Bramalea* (2001) 26 Cal.4th 1
 - Note, compliance is still required
 - MSA contained detailed provisions regarding division of assets and debts
 - Included catch-all in favor of H
 - H admitted no assets were left out of mediated discussion



IRMO WOOLSEY (continued)

- Holding re financial disclosures:
 - Post-mediation compliance with FC 2106 (FDDs)
 - Both served PDDs
 - W served FDDs
 - H did not serve FDDs but will not be allowed to undo a judgment based on his own failure to comply



IRMO WOOLSEY (continued)

- Holding re undue influence:
 - EvC 1119 bars such claim
 - Mediation confidentiality protects process
 - Strictly interpreted by CASC in *Foxgate v. Bramalea* (2001) 26 Cal.4th 1



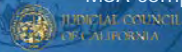
IRMO WOOLSEY (continued)

- Holding re undue influence:
 - Unequal division allowed in MSAs *IRMO Cream* (1993) 13 Cal.App.4th 81
 - Voluntary participation & self-determination *IRMO Kieturakis* (2006) 138 Cal.App.4th 56
 - Mediator's goal is to ensure fairness, balance of power & exercise of free will during mediation



IRMO WOOLSEY (continued)

- Holding re Local Rule compliance
 - Local Rule invalidated
 - Notarization not required by applicable statutes (CCP 664.6, EvC 1123 & 2550)
 - *IRMO Elkins*
 - Trial Courts cannot create local rules that conflict with statutes or Rules of Court or are inconsistent with CA Constitution or case law
 - MSA complied with State law



IRMO WOOLSEY (continued)

- H was SRL at trial
 - Significance of trial prep
 - Effect of procedural failures on appeal



ROBERTS v. COMMISSIONER 141 T.C. No. 19 (12/30/13)

- H & W married in 1990, separated in 2008 and permanently in 2009, disso in 2010 (Washington)
- In 2008, W forged H's signature and got some money out of his two IRAs
- H had no knowledge and W spent the money
- W prepared H's 2008 tax returns incorrectly as "single", did not declare the IRA early distributions and filed it for him without letting him review it
- W did not declare the distributions in her returns either



ROBERTS v. COMMISSIONER (continued)

- IRS files a notice of deficiency!
- The Commissioner held that Robert was liable and he appealed
- Issues on appeal:
 - Must H include the IRA distribution in his gross income for 2008?
 - Was he liable for 10% tax on early distribution?
 - What was his proper filing status for 2008?
 - Is he liable for accuracy related penalty due to underpayment?



ROBERTS v. COMMISSIONER (continued)

- Holding:
 - In part for Roberts and in part for IRS
 - H not "distributee" under IRC 408(d)(1) and need not include \$\$ in his gross income
 - Issue of first impression due to facts
 - W forged H's signature, received and spent the money, and lied about it all the way to the end
 - H proved that he did not authorize the withdrawals, nor did he receive, have control of, spent or in any way benefited from the money



ROBERTS v. COMMISSIONER (continued)

- Holding (continued):
 - Therefore, H also not liable for 10% early distribution additional tax
 - Incorrect tax filing status for 2008 and should have filed as "married filed separately"
 - H owes accuracy related penalty
 - You should have known better
 - W not professional tax preparer
 - Did not take immediate steps to file amended return for 2008
 - So did not act with "reasonable cause and in good faith"



JOHNSON v. COMMISSIONER
T.C. Memo 2014-67 (4/14/14)

- H & W married in 1989, had 3 minor children when divorced in 2006 (Minnesota)
- MSA: H to pay ss until youngest child graduates high school, W remarried or either party's death
- In 2011, H got deficiency notice from IRS disallowing deduction of ss from his gross income in 2008



JOHNSON v. COMMISSIONER
(continued)

- Holding:
 - In favor of IRS
 - IRC 71(b)(2) ss not deductible if terminated based on an event involving a child
 - Such contingencies make the ss payments cs in the eyes of IRS
 - Johnson owed over \$15K in additional taxes
- Query:
 - W claimed all ss payments as income paid taxes on that additional income
 - Did IRS issue her an unsolicited tax refund??



JOHNSON v. COMMISSIONER
(continued)

- Query:
 - W claimed all ss payments as income paid taxes on that additional income
 - Did IRS issue her an unsolicited tax refund??



FARAHANI v. COMMISSIONER
T.C. Memo. 2014-111 (6/10/14)

- F ordered to pay child and spousal support
- F in arrears on both
- 2009: F won a wrongful termination lawsuit and awarded \$305K
- Court allocated \$54270 of the award to satisfy the support arrears



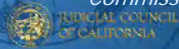
FARAHANI v. COMMISSIONER
(continued)

- F claimed all of it as spousal support payments in his 2009 tax return
- IRS issued a deficiency notice only allowing \$15K as spousal support and the rest for child support
- F appealed to Tax Court



FARAHANI v. COMMISSIONER
(continued)

- Held in favor of IRS:
 - Child support not tax deductible IRC 71(c)(1)
 - Spousal support tax deductible if includible in payee's gross income IRC 215(a) & (b)
 - If a payment is not enough to satisfy both amounts, to total is first applied to child support and remainder to spousal support IRC 71(c)(3)
 - Any support payments are first applied to unpaid child support *Haubrich v. Commissioner*, T.C.Memo.2008-299



FORM 8332 CASES

- IRC 152
 - "Dependent"
 - "Qualifying child"
 - "Custodial parent"
 - Special rules for divorce parents
 - Release of dependency exemption
 - Form & content



SHENK v. COMMISSIONER 140 T.C. No. 10 (5/6/13)

- H & W divorced in 2003
- 3 children
- Judgment:
 - Alternating year dependency exemption scheme also tied to W being employed
 - Not signed by either party
 - Did not include provision requiring W, custodial parent, to execute form 8332 or written equivalent



SHENK v. COMMISSIONER (continued)

- 2009: Both parents claimed C-3
- IRS served H with deficiency notice disallowing the dependency exemption, child tax credit and head-of-household filing status
- H petitioned Tax Court:
 - Continue so I can get state Court to order W to execute form 8332



SHENK v. COMMISSIONER **(continued)**

- Holding:
 - H cannot claim C-3, or C-2 (II), child tax credit or head of household filing status
 - Dependent child per IRC 152(a) ✓
 - Qualifying child per IRC 152 (c) ✓
 - Special rules for divorced or separated parents per IRC 152(e) . . . not so fast
 - No form 8332 or equivalent written declaration
 - Divorce judgment was not signed, no SSNs, conditional, and cannot serve as required declaration



SHENK v. COMMISSIONER **(continued)**

- Holding (continued):
 - H may be entitled to deduction per state Court judgment
 - Perhaps, but IRC is controlling authority in these cases
 - Strict interpretation of written declaration requirement to avoid "difficult problems of proof and substantiation" often present in such cases (*Miller v. Commissioner*, 114TC184(2000))



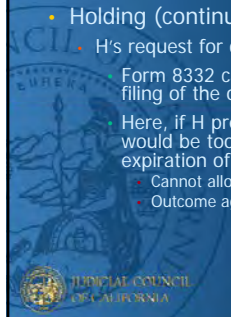
SHENK v. COMMISSIONER **(continued)**

- Holding (continued):
 - Remember *George v. Commissioner*, 139T.C.19(2012)
 - M "directed" to sign form 8332 in two different state Courts under protest
 - Tax Court lacks jurisdiction to invalidate the executed form 8332 due to alleged state Court errors
 - M must address those issues in state Court



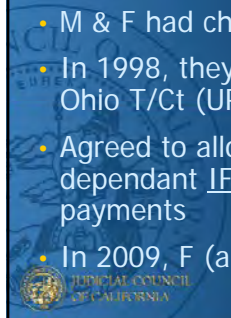
SHENK v. COMMISSIONER **(continued)**

- Holding (continued):
 - H's request for continuance denied
 - Form 8332 can be submitted subsequent to the filing of the original tax return
 - Here, if H prevails and IRS allows the exemption, it would be too late to disallow it for W due to expiration of SOL
 - Cannot allow same child to be claimed by both parents
 - Outcome against purpose of statute



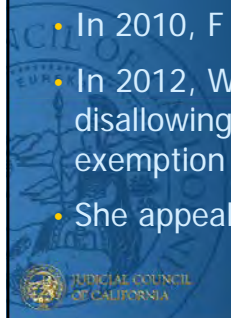
SWINT v. COMMISSIONER **142 T.C. No. 6 (2/24/14)**

- M & F had child in 1997
- In 1998, they filed an "agreed entry" in Ohio T/Ct (UPA action)
- Agreed to allow F to claim C as dependant IF he was current on is cs payments
- In 2009, F (and his W) claimed C



SWINT v. COMMISSIONER **(continued)**

- In 2010, F died ☹
- In 2012, W got deficiency notice disallowing the dependency exemption
- She appealed to Tax Court



SWINT v. COMMISSIONER (continued)

- Holding:
 - In favor of IRS
 - “qualifying child of custodial parent” IRC 152(c)
 - Exemption goes to “custodial parent” (parent with more than 50% timeshare) IRC 152(e)(1)
 - “Custodial parent” can release exemption to “noncustodial” parent IRC 152(e)(2)



SWINT v. COMMISSIONER (continued)

- Holding (continued):
 - After 7/2/08, form 8332 is required for release
 - Court order do not qualify (*Shenk*)
 - Before 7/2/08, other written agreements or Court orders would qualify as long as contains required language, signed and unconditional
 - Here, “agreed entry” was not signed and conditioned upon F being current with his cs payments



ALLRED v. COMMISSIONER T.C. Memo. 2014-54 (3/31/14)

- Another form 8332 case
- H & W divorced in 1996 (Wyoming)
- MSA: C live with W and H to claim C as dependant every year for state and federal tax returns; W to cooperate in executing necessary forms



ALLRED v. COMMISSIONER
(continued)

- 1996-2008 H claimed C and attached a filed copy of the "divorce decree" to his returns every year with no problem
- 2009: W claimed C without notice as she was the "custodial parent" IRC 152(e)(1)
- H tried to claim C via electronic filing but it got rejected



ALLRED v. COMMISSIONER
(continued)

- H filed hard copies and still claimed C based on blanket release in "divorce decree"
- H did not attach form 8332 because W would not sign one
- So H attached a partial copy of the "divorce decree"



ALLRED v. COMMISSIONER
(continued)

- IRS issued a notice of deficiency to H
- Issue on appeal: Did H (and his wife) improperly claim C?
- Holding: Yes, because H did not attach required documentation



**ALLRED v. COMMISSIONER
(continued)**

- What is required?
 - IRC 152(c) qualifying child
 - IRC 152(e)(2) release of exemption on form 8332 or other qualifying document since MSA was executed prior to 7/2/08 (cited *Swin*)



**ALLRED v. COMMISSIONER
(continued)**

- What was the problem here?
 - W refused to sign a form 8332 for 2009
 - "divorce decree" did not satisfy IRC 152(e)(2) requirements (1996 version)
 - W's signature nor her SSN appeared on it
 - Judge's signature not enough!
 - W's attorney's signature not enough



**ALLRED v. COMMISSIONER
(continued)**

- What is/was required here?
 - No changes to that section since 1996
 - Unconditional
 - Indicate number of years for release
 - CP's & NCP's dated signatures & SSNs
 - C's name



ALLRED v. COMMISSIONER
(continued)

- H's arguments rejected:
 - Previous tax filings not challenged by the IRS
 - If estoppel argument, cannot consider because not asserted in H's pleadings
 - Regardless, allowance of same deduction in past returns not a bar to challenging the same in later years
 - Initial acceptance of 2009 returns not a bar to subsequent deficiency notice since done within 3 years of filing of returns



ALLRED v. COMMISSIONER
(continued)

- Does H have any recourse in state Court to enforce the provisions of the MSA?



DAVIS v. COMMISSIONER
T.C. Memo. 2014-147 (7/24/14)

- H & W divorced in 2000 (Louisiana)
- 2 children, custody to W in Judgment
- H claimed C-1 in 2010, child tax credit and head of household filing status
 - C-1 was 19 and full time student, living with H & PGM
- IRS issued a deficiency notice to H because the disso judgment gave custody to W



Davis v. COMMISSIONER (continued)

- Held in favor of H:
 - C-1 was "qualifying child" per IRC 152(c) because for applicable tax year she:
 - (1) lived more than half of the year with H
 - H was "custodial parent" for 2010
 - "Greater number of nights" per Income Tax Regs.
 - Form 8332 not necessary
 - (2) was between 19 and 24 years of age
 - (3) did not provide for more than one half of her own support



V.S.V. M.L. 222 Cal.App4th 730

Paternity



FACTS:

- - V & M conceive child
- - M breaks up with V 1 month prior to D's birth (April 2012)
- - M marries R before D born. Lists R as father on D's birth certificate
- - R takes D into his home and holds him out as his own child.
- - M & R prevent V from contacting D.



Facts cont..

- - Dec 2012 - V files pet. to est. paternity
- - M moves to dismiss per FC 7630 subd. (a) and Dawn D v. Sup. Ct. (1998) 17 Cal.4th 932.
- - M says D born "during" the marriage and R held D out as his own child, thus FC 7611 presumption applies.
- - T/C agree with M. Finds presumption attached and V has no standing. V appeals.



HOLDING:

- - Reversed
- - T/C misinterpreted and misapplied Dawn D and FC 7630.
- - T/C behind the times – 2010 amendment to FC 7630 explicitly allows action to be brought by "a man alleged or alleging himself to be father". (amendment changed the term "natural mother" to "natural parent")



Holding cont..

- - Dawn D doesn't apply. Why? M & R not married at time of conception.
- - But wait – Dawn D would have applied if M & R had been married at time of conception!
- - No constitutional protection for alleged bio dad's interest in establishing a relationship with child born to a woman married to another man at time of conception and birth.
- - App/ct finds V has standing.
- - Standing **IS NOT** fatherhood!



V must still show:

1. Bio paternity (DNA test)
2. Kelsey S father – despite best efforts and holding child out as own, prevented from contact with child.
3. Acted as promptly as reasonable.
4. M's conduct unilaterally prevented him from meeting statutory requirements.
5. Demonstrated willingness to assume full custody of child.



JUDICIAL COUNCIL
OF CALIFORNIA

Conclusion:

- - R has FC 7611 status as presumed father.
- - If V shows all of above...
- - T/C must balance each man's presumption to determine which is based on weightier considerations of policy and logic.



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IN RE BRIANNA M.
220 Cal.App.4th 1025

Presumed Father Status



JUDICIAL COUNCIL
OF CALIFORNIA

Issue:

- - Is the presumption under Family Code Section 7611 rebutted by the execution of a voluntary declaration of paternity? (FC 7612 (c))
- - T/C says "yes"
- - Ct of App says "yes"
- - Supreme Court grants review.



Facts:

- - M & Bio F have child B – Bio F signs POP's dec.
- - M moves to Cal. M & R have 2 kids.
- - M leaves R. Takes up with J. Has kid with J.
- - M & J arrested. Dependency case ensues.
- - Bio F asks for custody.
- - R seeks 7611 presumed father status.
- - Bio F in & out of jail. Limited time with B.
- - R helped raise B even when M with J.



Findings:

- - T/C rules in favor of R
- - App. Ct. affirms
 - "The presumption of paternity rebutted by section 7612(c) relates solely to biological paternity, and to the rights (custody and visitation) and responsibilities (child support) that spring from it"
 - Biological paternity is irrelevant to "presumed father status" in a dependency action. Presumed father is not "natural father", but rather a man who has demonstrated a full commitment to his paternal responsibilities...and is entitled to seek reunification services and custody.



But what about In Re Jesusa V?

- - App. Ct. says a POP's executed by one man does not, as a matter of law, extinguish another man's presumed father status.
- In re Jesusa V (1998) 32 Cal.4th 588, 612.
 - Similar facts but no POP's
 - Dependency case
 - Found for 7611 presumed F but by 4/3 decision
 - Justice Chin wrote dissent. Justice Baxter responded:



Baxter:

- -"Justice Chin asserts that our holding will place at risk the father-child relationship for untold thousands of biological fathers "by a court's subjective and discretionary determination that some other man who qualifies as a presumed father would be a better father". But our holding does not apply to...unwed biological fathers who, unlike Humberto, have sought to formalize their legal status by executing a voluntary declaration of paternity"



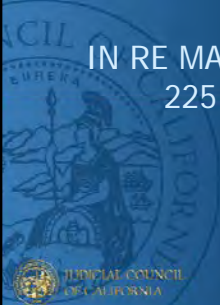
Uh?

- - You mean just like Bio F in Brianna M?
- - Perhaps not..
- - 7/0 vote Supreme Court grants review.
- - Request to depublish still pending.
- - Appellant's attorney filed letter claiming she has "lost contact" with appellant.
- - Dismissed 08/13/2014 - Appellant failed to file opening brief!!!!



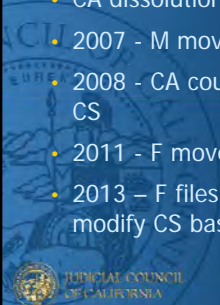
IN RE MARRIAGE OF HAUGH
225 Cal.App.4th 963

UIFSA Jurisdiction



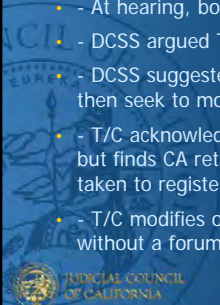
FACTS:

- CA dissolution judgment
- 2007 - M moves with child from CA to TX.
- 2008 - CA court orders F to pay M \$700 CS
- 2011 - F moves from CA to NV.
- 2013 – F files RFO in CA (San Diego) to modify CS based on reduced income.



Trial Court:

- - At hearing, both parties appeared by phone
- - DCSS argued T/C lacked jur. under FC 4909.
- - DCSS suggested F could register order in TX then seek to modify.
- - T/C acknowledges that all parties have left state but finds CA retains jur. until affirmative step taken to register order in another state.
- - T/C modifies order – “you don’t leave parties without a forum”. DCSS appeals.



Reversed

- - App ct states:
- - Cornerstone of UIFSA is concept of continuing, exclusive jurisdiction.
- - Only 1 state has jurisdiction at a time.
- - Ct that made order retains jurisdiction to modify order so long as requirements for continuing, exclusive jurisdiction are met.



FC 4909


- - Requirements for continuing, exclusive jurisdiction:
 1. Issuing state remains the residence of the obligor, the individual obligee, or the child for whose benefit the support order issued.
 2. Until all parties who are individuals have filed written consents with the tribunal of this state for the tribunal of another state to modify order and assume continuing, exclusive jurisdiction.
 3. By implication, if M, F, and child are no longer residents of issuing state, issuing state loses continuing, exclusive jurisdiction automatically.



No one here but us – Can we still keep it?

- - No, take it somewhere else!
- - REASON:
 1. Issuing tribunal has no current info re factual circumstances of parties.
 2. Taxpayers of state have no reason to expend funds on the process.
- - T/C ordered to dismiss F's RFO.





GONZALEZ VS. ROBELLO
Unpublished opinion

UIFSA Jurisdiction

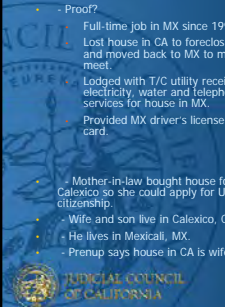
JUDICIAL COUNCIL OF CALIFORNIA



Facts:

- - 2000 - M & F divorce in Mexico (MX).
- - F to pay M 1000 pesos per month CS.
- - 2003 - M & kids move to San Diego.
- - 2008 - DCSS registers Mexican judgment.
- - 2012 – DCSS files RFO to modify CS.
- - F moves to dismiss.
- - F claims CA lacks jur. to modify MX judgment.

JUDICIAL COUNCIL OF CALIFORNIA



Argument:

- - F insists he still lives in MX.
- - Proof?
 - Full-time job in MX since 1995
 - Lost house in CA to foreclosure in 08 and moved back to MX to make ends meet.
 - Lodged with T/C utility receipts for gas, electricity, water and telephone services for house in MX.
 - Provided MX driver's license and voting card.
- - Mother-in-law bought house for wife in Calexico so she could apply for US citizenship.
- - Wife and son live in Calexico, CA.
- - He lives in Mexicali, MX.
- - Prenup says house in CA is wife's.

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Ruling:

- T/C finds insufficient evidence. Denies M's RFO.
- M & DCSS move for reconsideration.
- M now has F's 09,10,11 tax returns, F's marriage certificate, and request for TRO filed by F.
- ALL documents list Calexico as F's address.
- F says "so what?" He has to file US taxes (he's a citizen). He used P.O. Box for TRO.
- Motion denied, but modified order anyway!



T/C finds:

- - All evidence was available at original hearing in June so reconsideration denied.
- - Nevertheless, finds F lives in CA with wife and son and modifies CS (FC 4909).
- - F filed US taxes listing CA address for last 3 years. F's marriage certificate lists CA address. Prenup signed in US with CA address. All court forms list CA address.
- - After de novo confirms ruling, F appeals.



Affirmed

- - Sole issue on appeal - Can CA assume continuing and exclusive jur over CS?
- - under UIFSA – "NO", if F resides in MX.
- - Why? – MX is reciprocating state for purposes of UIFSA
- - So is F's residence in MX or CA?



What is Residence?

- "Residence" is not the same as "Domicile"
- A party may have more than one residence but only one domicile. UIFSA uses "Residence".
- So if F could have more than one residence, why does he lose?
- T/C's finding that F resided in CA inferred that he did not have a residence in MX.



HUH?

- A residence is more than a temporary sojourn. M showed that F used Mexicali house sparingly. Utilities barely used and in F's wife's name, but she supposedly lives in CA.
- But what about all of F's evidence?
 - What evidence?
 - none of it was in the record before the court of appeals. F failed to provide it.
 - No reporter's transcript.
 - F failed to meet his burden on appeal.



IN RE MARRIAGE OF BOSWELL 225 Cal.App.4th 1172

Child Support Arrearages



A bad day at the office?

- First sentence of decision:
 - "This is another frivolous Family Law Appeal"
- Second sentence of decision:
 - "As we shall explain, given well-known appellate rules, it was "dead on arrival" at the appellate courthouse".
- Question - If you're appellant's attorney, do you read on or flip to end to see if you got sanctioned?



Facts:

- M & F divorce October 1985.
- S/P to M – F to pay M \$140 per month CS.
- M "disappears" with kids 2 months later.
 - M moves out of state
 - M changes kid's names
- F does not see kids for 13 years!
- When youngest is 16 – M gives son to F.
- 15 years later – M files for cs arrearages.
 - Wants \$92,734.94.



Trial Court:

- "This is just a terribly egregious situation".
- T/C finds M intentionally concealed kids.
- T/C specifically rules that it would be "unjust and inequitable" to enforce cs order.
- T/C also finds that M's RFO is untimely and that laches apply.
- T/C denies M's request.
- M appeals



Appellate Court:

- - AFFIRMED
- - Family Law Court is a court of equity.
- - Those who seek equity must do equity and have "clean hands"
- - "These are some of the dirtiest hands we have seen"
- - T/C's finding that M unjustly unilaterally removed F from kid's lives is tantamount to a finding of unclean hands.



Holdings:

1. "We hold that a family law court, in the exercise of its broad equitable discretion, and upon a finding of "unclean hands", may decline to enforce a child support arrearage judgment".
2. "We hold that, where, as here, the family court makes a fair and equitable ruling on the contested issues of fact, its express or implied factual determinations, are binding on appeal."



Sanctions?

- -NO-
- Why? T/C also based it's decision on laches. Laches don't apply as a matter of law.
- "This is the only thing that saves her and her attorney from a sanction order"
- "Whew.....lucky"



TAB 16

**Coming Together to Keep Cases from
Falling Apart: How Coordination with
Judicial Officers, Facilitators, and Clerks
Can Keep Compliance with CRC 5.83
on Track**

*Ms. Maria C. Livingston,
Ms. Leigh Parsons, Ms. Melanie Snider &
Ms. Carrie Snuggs*

Coming Together to Keep Cases From Falling Apart:

How Coordination with Judges, Facilitators, and Clerks Can Keep Compliance with CRC 5.83 on Track

18th Annual AB 1058 Child Support Training Conference
October 2, 2014

What is CRC 5.83?

Family Centered Case Resolution Process

- "...processes and procedures for courts to manage cases from initial filing to final disposition in an effective and timely manner"
- Case review at 180 day intervals
- Suggested milestones
- Case disposition goals



Populations


- Orange (3.1M)
- Riverside (2.3M)
- Santa Clara (1.9M)
- Butte & Lake (287K)






**Local Rules/Process –
Butte**

- Review cases every 6 months for the 1st 18 months or until Judgment entered
- If no Judgment by 3rd STC, set on dismissal calendar



**Local Rules/Process –
Lake**

- Review cases every 6 months for the 1st 18 months or until Judgment entered
- All review hearings are set on Tuesdays



Local Rules/Process – Orange

- Computer reviews cases every 6 months – No future hearing/no judgment
- Attorneys vs. SRL cases
- Assigned vs. Unassigned cases
- No response X 3 = no reviews



Local Rules/Process – Riverside

- Case Status Conference scheduled 240 days from the date the petition
- Family Law Case Management Order issued
- All parties or their counsel must personally attend the first conference



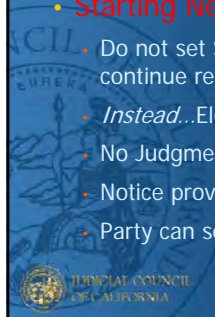
Local Rules/Process – Santa Clara

- **Now:**
- Petition-set STC at 4 months for all cases
- STC calendar – all SRL's sent to us
- 1-on-1 case review
- Continue STC every 6 months until no response for 3 events or Judgment



Local Rules/Process – Santa Clara

- **Starting Next Month:**
 - Do not set STC when Petition filed & do not continue repeatedly
 - *Instead...* Electronic review every 6 months
 - No Judgment = Notice sent
 - Notice provides resources to finish
 - Party can set GSTC if they want

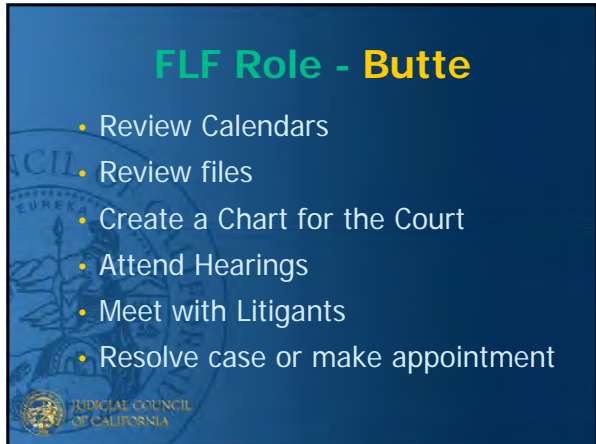


FLF Role



FLF Role - Butte

- Review Calendars
- Review files
- Create a Chart for the Court
- Attend Hearings
- Meet with Litigants
- Resolve case or make appointment



FLF Role - Lake

- Review SUSTAIN for upcoming cases
- Review cases
- Print out documents/case notes
- Attend Hearings
- Resolve case or make appointment



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**FLF Role - Orange
Calendar Support**

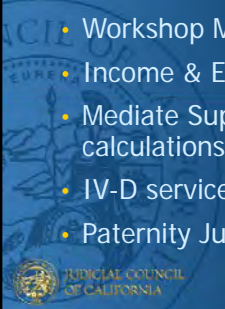
- Separate Assistance Center for courtroom referrals
- Cases reviewed for procedural needs
- Distribution of work from judicial referrals



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**FLF Role – Orange
Decision Tree - AB1058 Services**

- Workshop Model
- Income & Expense Declarations
- Mediate Support/ Prepare calculations
- IV-D services explained
- Paternity Judgments



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FLF Role - Riverside

- Self Represented Orientation Class
- Referrals from Case Status Conferences
 - Parentage Judgments
 - Default Judgments
 - Referrals to Workshops

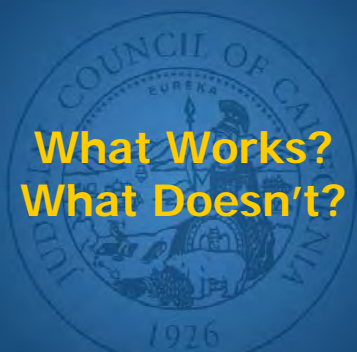


FLF Role – Santa Clara

- Developed processes
 - On Local Rules committee
 - Manage all SRL STC hearings
 - “Group” STC (GSTC) = Divide into 5 Groups
 - Video + Q&A
 - Referrals to DCSS & other resources
 - UPA Judgments + CS calcs (UPA cases)
 - Appt to finalize in Disso/Legal Sep



**What Works?
What Doesn't?**



What Works? Butte/Lake

- Tracking cases shows what works
- 88% of cases completed within 6 months
- Fewer SRL's going to Trial



What Doesn't Work? Butte/Lake

- Extensive preparation and time attending hearings...
- ...Diverts resources from core SHC/FLF duties
- No extra \$\$ to comply



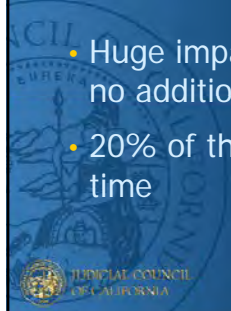
What Works? Orange

- Reaches a different population
- Gets cases on track
- More hands-on services



What Doesn't Work? Orange

- Huge impact on SHC/FLFO and no additional resources
- 20% of the bench officer's time



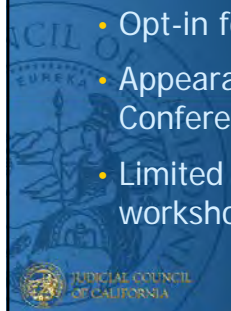
What Works? Riverside

- Technology
- Court Referrals to Workshops
- FLFs at DCSS Offices
- Stipulated Parentage Judgments in Court



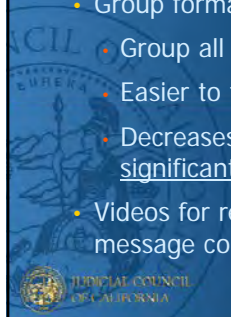
What Doesn't Work? Riverside

- Opt-in for email reminders
- Appearances at Case Status Conferences
- Limited availability at workshops



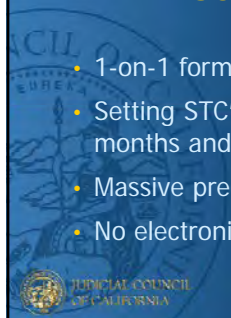
What Works? Santa Clara

- Group format
- Group all FL calendars to 1 day/mo
- Easier to track group trends
- Decreases staffing needs significantly
- Videos for repetitive info increase message consistency



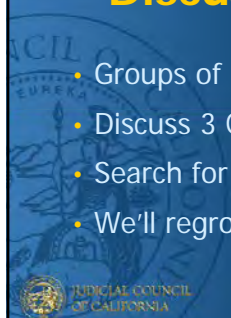
What Doesn't Work? Santa Clara

- 1-on-1 format
- Setting STC's for every case at 4 months and every 6 months thereafter
- Massive prep for no shows
- No electronic review



Brainstorming – Discussion Points

- Groups of like-size Counties
- Discuss 3 Questions (15 mins)
- Search for Best Practice "nuggets"
- We'll regroup and discuss (15 mins)



Brainstorming Questions

1. Is there anything your court is doing now that you consider a best practice?
2. What are practical steps your court can take now to make existing procedures efficient?
3. Is there a way to automate this process?
How will automating the process affect cases getting to Judgment, positively or negatively?



Sharing, Wrap-up & Wish List

Best practices emerged?



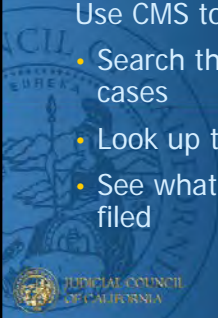
Contacts

- Maria Livingston (Orange) - mlivingston@occourts.org
- Leigh Parsons (Santa Clara) - lparsons@scscourt.org
- Pamela Peery - Pamela.Peery@riverside.courts.ca.gov
- Melanie Snider - msnider@buttecourt.ca.gov
- Carrie Snuggs - Carrie.Snuggs@riverside.courts.ca.gov





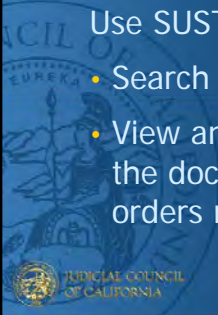
Technology Role



Technology – Butte

Use CMS to:

- Search the calendar to see assigned cases
- Look up the cases
- See what documents have been filed



Technology – Lake

Use SUSTAIN to:

- Search the calendar
- View and print out copies of the documents filed and prior orders made.

Technology – Orange

- Computerized Notices
- Procedural Assistance Calendar SRLs only
- Status Conference
- Case Resolution Conference



Technology – Riverside

- eMinders – Method to communicate the next procedural step
 - Proof of Service
 - Default/Response
 - Judgment



Technology – Santa Clara

- Run CMS calendar
- Review & put cases in 4+ groups
- Different video each group
- Future (soon): Electronic review + Video online



TAB 17

**Income Determination–
Calculating Child Support**

*Hon. Scott P. Harman &
Hon. Patrick J. Perry*

Child Support and Income Determination

2014 AB 1058 Conference
LOS ANGELES, CA

Goal

- Ensure compliance with Federal regulations
- To provide consistency throughout the state *where parties can not agree!*
- To ensure children receive support consistent with the State's high standard of living and high cost of raising children compared to other states.
- To encourage settlements of conflicts and minimize litigation

A parents 1st & principal obligation above and beyond payment of their current debts and other monthly expenses is to support children according to their circumstances & station in life?

1. True
2. False



Principal Objectives

- Parents 1st & principal obligation to support child according to circumstances & station in life
- Both parents mutually responsible for support
- Considers each parents income and level of responsibility for children
- Children share the standard of living of both parents. Support may improve the standard of living of custodial household.
 - See Family Code Section 4053

Calculating Guideline Child Support

Is the calculation of guideline child support mandatory in all cases where child support is requested?

1. Yes
2. No



Bench Officer's can exercise discretion when calculating guideline child support?

1. True
2. False



Calculating Guideline Child Support

- It is not a guideline
 - Adherence is mandatory by the court!
- Presumptively correct
 - Rebuttable presumption
 - Exceptions will be discussed and agreements by parents are encouraged
 - Even if only on some points.

Rebuttable Presumption

- Guideline unjust or inappropriate because:
 - **Stipulate to different amount (FC 4065)**
 - Deferred sale of residence
 - Payor has extraordinary high income & GL amount exceeds needs of child
 - Party not contributing to needs of child consistent with custodial time
 - Application unjust or inappropriate due to special circumstances

Special Circumstances

- Include but not limited to:
 - Different custodial plans for different children
 - Substantially equal custodial time & one parent has higher or lower % of income used for housing
 - Children have special medical needs
- List is not exclusive !!

How is Child Support Calculated

- Family Code Section 4055
- $CS = K[HN - (H\%)(TN)]$
- Components of Formula
 - Amount of each parents income allocated for CS
 - High wage earners net monthly disposable income
 - Approximate % high earner has child in their care
 - Total net monthly disposable income of both parents



Real World- How calculated

- Certified computer programs:
 - Guideline Calculator, Dissomaster, X-Spouse, Support-Tax, Nolo Press Program
- If calculating child support in a case involving the Dept of Child Support Services, the court must use:
 - Child Support Guideline Calculator-



Necessary Information

- Court order is only as accurate as the evidence received by the court !!
- While court is neutral, often requires bench officer to make inquiry of parties.
 - Frequently more hands on by bench officer in proper cases. Must balance with Canons.
- If you make inquiry of parties for inputs have clerk administer oath
 - # of children,
 - Parenting arrangement
 - Tax filing status- current as of year end.
 - Gross Income

Necessary Information (Con't)

- Deductions from Income
 - Taxes
 - Health Insurance (Pre or Post taxes)
 - Retirement Plans
 - Necessary job related expenses, union dues
- Mortgage Interest, Property Taxes, Charitable contributions
- Child Care expenses
- Statutory Hardships

Deductions which have tax effect

- Adjustments to income
 - IRA/ Pre-Tax 401K contributions
 - Pre-tax health insurance premiums or meet AGI threshold (uninsured costs)
 - Home Mortgage Interest
 - Property Taxes
 - Student Loan Interest
 - Charitable Contributions

Child Support Add-Ons

- Mandatory- FC4062
 - Child Care for employment or education
 - Uninsured health care costs.
 - Generally split equally, may also be proportional to net disposable income.
- Discretionary-
 - Education/Special Needs
 - Extra curricular activities
 - Visitation travel expenses

Responsibility for care

- Timeshare does not have to be exact-
 - Close approximation
 - Approved child support software programs have 'guideline' parenting time scenarios
 - Look to responsibility for care-
 - May be responsible for care even when child not with a particular parent (school).
 - Based upon what is actual arrangement, not necessarily what order says.

VOID CS Agreements

- Those agreements which deprive the court of jurisdiction, i.e. binding arbitration
 - IRMO Bereznak (2003) 110 CA4th 1062
- Waiver of arrears on a take it or leave it basis without good faith dispute as to amounts owed
 - IRMO Sabine & Toshio M. (2007) 153 Cal.App.4th 1203, 1213-1215

CS orders

- Always modifiable
 - Even Stipulated non-modifiable "floor", subject to modification.
 - IRMO Alter (2009) 171 Cal.App.4th 718
 - Different than spousal support!

Income is.....



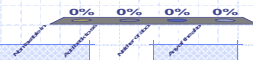
- “.income from whatever source derived” IRC language--Mandatory: FC 4058(a)(1)
 - Commissions, salary, wages, bonuses
 - Royalties, rents, dividends, interest, gifts maybe if recurring **IRMO Alter** (2009) 171 CA4 718
 - Pensions, annuities, social security benefits
 - Workers' comp., unemployment, disability
 - Spousal support from another relationship
 - Tribal payments paid directly to member
 - **MS v OS** (2009) 176 CA4th 548

What is Income (con't)

- Gross income to business less operating expenses. FC 4058(a)(2)
 - **Asfaw v. Woldberhan** (2007) 147 CA4th 1407
Depreciation of rental property is not deductible in calculating child support under 4058 and 4059.”
 - Add-Backs**—“was the expenditure necessary for the operation of the business”?

How do you generally treat depreciation when calculating income available for child support?

1. Non taxable income
2. Add back to self employment income as taxable
3. Neither of above but consider as factor for deviation
4. Any of the above depending on circumstances



HYPO

F owns apt. complex. \$200K/yr gross rental income and claims business expenses of \$150K, \$50K of which is depreciation. What is F's income for CS?

1. \$50K taxable
2. \$100K taxable
3. \$50K taxable plus \$50K non-tax
4. Something else

HYPO

F self employed & owns medical transcription business. \$200K gross income, \$150K business expenses, \$50K of which is depreciation. What is F's S/E income

1. \$50K taxable
2. \$100K taxable
3. \$50K taxable plus \$50K non tax
4. Whatever the tax return says
5. Possibly something else

What is Income (con't)

- Discretionary: FC 4058(a)(3) & (b)
 - Employment/self-employment benefits—consider benefit to employee, reduction in living expenses, other relevant factors
 - Earning capacity (less than 40 hour week not necessarily underemployed)

What is Income (con't)

- Overtime: Predictable overtime *must* be included unless:
 - Evidence that not likely to continue; or
 - Overtime subjects party to an "excessively onerous work schedule". Parent only required to work "objectively reasonable work regimen". See Co. of Placer v Andrade (1997)55 CA4th 1396; IRMO Simpson (1992) 4 Cal.4th 225.

What is Income (con't)

- Military Allowances
 - BAH—Basic Allowance for Housing
 - BAS—Basic Allowance for Subsistence
 - Although non taxable, federal pre-emption does not apply
 - BAH and BAS are non taxable income for child support
 - IRMO Stanton (2011) 190 CA4th 547

What is Income (con't)

- SEVERANCE PAY
 - Smith Ostler order in effect
 - "35% of all income in excess of \$25,000/mo
 - Payor receives severance pay of \$309K
 - 5 Components

What is Income (con't)

- Yrs of Service \$100,000
 - Lump sum in lieu of commissions \$152,000
 - Qualitative Compensation \$ 35,000
 - Healthcare payout \$ 1,500
 - Retirement benefits \$ 3,422
- TC ruling: % applies to all

What is Income (con't)

- Yrs of Service (limit 12 mo) \$100,000
 - Lump \$ in lieu 6mo commissions \$152,000
 - Qualitative Compensation \$ 35,000
 - Healthcare payout \$ 1,500
 - Retirement benefits \$ 3,422
- TC ruling: % applies to all
- CA: reverses---Allocate rationally

What is Income (con't)

- Allocation of Severance Pay
- TC discretion
 - May follow allocation stated in plan or other reasonable allocation
 - May not allocate all to one month
 - IRMO Tong & Sampson (2011) 197 CA4th 23

What is NOT Income?

- Child support
- Public assistance (AFDC, SSI, TANF, Adoptive Assistance)
- Gifts (maybe)... But see *IRMO Alter* (2009) 171 CA4th 718
- Inheritances, life insurance
- Appreciation in value of primary residence
IRMO Henry (2004) 126 CA4 111
- New mate income—exception in extraordinary circumstances (FC 4057.5)
– *IRMO Knowles* (2009) 178 CA4th 35

What is NOT Income? (Con't)

- Loans
- Undifferentiated lump sum PI awards
- Annuity purchased from undifferentiated lump sum PI award.
- However, just because not income, some of these facts may be basis to deviate from G/L CS.

Calculating Gross and Net Income

- Calculation of “Net Disposable Income”
FC 4058 (gross) and 4059 (deductions).
 - 12-month average. *IRMO Riddle* (2005) 125 CA4th 1075, at 1083, facts may dictate longer or shorter period.
 - Court can adjust support to account for seasonal or fluctuating income. FC 4060-4064.

Calculating Income (cont.)

- Percentage of fluctuating income as child support?
 - Better practice to set base CS and percentage of income (bonuses, incentive pay) over base level.
 - **IRMO Mosley** (2008) 165 Cal.App.4th 1375
 - Contra authority if bonuses/commissions are consistent.
 - See **Co of Placer v. Andrade**, supra.

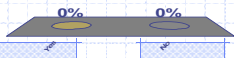
But Don't Forget.....

- Must consider appropriate deductions per FC 4059
 - Taxes
 - Health Insurance (Pre or Post tax)
 - Mandatory Retirement Plans (Pre or Post tax)
 - Vol. to extent ATI
 - Necessary job related expenses
 - Union dues
 - CS or SS
 - Hardship

Hardships

Must the court grant a hardship deduction to a parent who has a biological or adopted child from a different relationship in the home?

1. Yes
2. No



Allowable Deductions (con't)

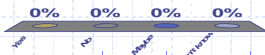
- Hardships
 - Extraordinary health expenses and uninsured catastrophic losses
 - Minimum basic living expenses for children residing with a parent for whom the parent has an obligation to support
 - Does not apply to step-children as there is no 'legal' duty of support owed.

HYP0

W works for State, tier 1 (e'er contributes to mandatory retirement also subsidized by e'er). H works for HP and voluntarily contributes to 401K & matched by e'er. H has no other retirement.

Is H's 401K contribution an allowable deduction in calculating G/L Child Support?

1. Yes
2. No
3. Maybe
4. I don't know

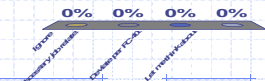


HYP0

Due to poor economy, F is laid off. Secures new wage employment but now commutes 100 miles each way to his office. F proves *increased* costs for commute \$500/mo.

How do you treat the increased commute costs in the calculation of CS?

1. Ignore
2. Necessary job related expense
3. Deviate per FC 4057
4. Let me think about it



Beyond the Paycheck

- Section 4058 language is expansive but must limit application to money actually received or available; not appreciation of residence. IRMO Henry (2005) 126 CA4th 111, at 119, 23 CR3rd 707, at 712.
- IRMO Destein (2001) 91 CA4th 1385, 111 CR2nd 487, appreciation of real estate okay if investment asset, not residence.

Beyond the Paycheck con't

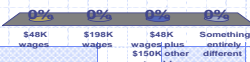
- Partnerships & S-Corps
 - K-1 vital
 - Need to understand various boxes.
 - Look not only to income but also to distributions- positive or negative

HYPO

F \$48K W-2 from S-Corp. S-Corp also gives F a K-1 with \$150K ordinary business income. M stay at home w/ twins- 6 months old.

For calculating G/L CS is F's income:

- \$48K wages
- \$198K wages
- \$48K wages plus \$150K other taxable
- Something entirely different



HYP0

Dad: General partner. Draw \$60,000/yr.
 K-1 shows distribution of \$70,000/yr.
 For calculating G/L CS is Dad's income:

- 70K wages/yr
- 60K/yr S/E income
- 70K/yr S/E
- 60K/yr S/E plus 10K other taxable
- Perhaps something entirely different.
- Whatever the LCSA recommends

Stock Options

- Income when option exercised or sale of stock at a gain. IRMO Cheriton (2001)
 92 CA4th 269, at 286, 111 CR2 755, at 767.
- Can option be income prior to being exercised? Murray v. Murray (1999)
 128 Ohio App.3d 662, at 668-670, 716 NE2d 288, 293-295.

HYP0

W granted 20K options. Vest ratably 1/5 annually over 5 yrs. Price on grant date \$10/share. 18 mo.'s later H files CS mod & req's. impute income on vested options. Price now \$20/share.

What is income from stock options?

1. \$40K
2. \$80K
3. \$20K
4. I went to law school because I was no good at math

Stock

- IRMO Pearlstein (2006) 137 CA4th 1361, 40 CR3rd 910 distinguishes stock *and cash* traded in sale of business—not income until stock sold or cash spent as opposed to reinvested—OK to impute reasonable rate of return
 - Stock options=compensation
 - Stock/cash sale of business=capital
 - Same result in IRC1031 exchange?

Inheritance

- County of Kern v. Castle (1999) 75 CA4th 1442, at 1453, 89 CR2 874, at 882.
 - Corpus not income.
 - Imputation of interest income to the corpus of the inheritance;
 - actual rental income, plus reduction in living expenses, per FC 4058(a)(3)
 - Compare County of Orange v. Smith (2005) 132 CA4th 1434, at 1447-1448, 34 CR3rd 383, at 392-393.

Life Insurance

- Lump sum payment of life insurance benefits not income—may apply reasonable rate of return. IRMO Scheppers (2001) 86 CA4th 646,

Gambling Winnings

- Return on capital investment, include as income. IRMO Scheppers, supra, at 651 and 533.



Lottery Winnings



- County of Contra Costa v. Lemon (1988) 205 CA3rd 683, at 688, 252 CR2nd 455, at 459—AFDC case. Court held lottery winnings to be income and available for both AFDC reimbursement and ongoing child support.
 - See IRMO Scheppers, supra, at 651 and 533.

Benefits from Employment

- **Discretionary Add-ons**
 - **Automobile.** IRMO Schulze (1997) 60 CA4th 519, at 528, 70 CR2nd 488, at 494.
 - **Housing.** IRMO Schulze, supra, at 529 and 495.
 - **Meals.** Stewart v. Gomez (1996) 47 CA4th 1748, at 1756, 55CR2nd 531, at 536.

Annuity from Undifferentiated lump sum PI award



- IRMO Rothrock (2008) 159 Cal.App.4th 223, held annuity purchased from undifferentiated lump sum PI award not income.
 - BOP on person challenging
- IRMO Heiner (2006) 136 Cal.App.4th 1514 held undifferentiated lump sum PI award not income.

Imputing Income

- Gifts
- Earning Capacity
 - Unemployed/underemployed
- Assets
- Expense Theory
- New Mate Income
 - FC 4057.5

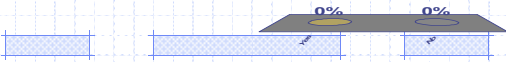
F receives gift of \$18K every year from parents to pay his rent. F (NCP) wages \$22K/yr. M (CP) wages \$48K/yr. TS 0%.
What is F's income for calculating G/L CS?

1. \$22K wages
2. \$22K wages plus \$18K non-tax income
3. \$22K wages plus \$18K taxable income
4. Something else

0%	0%	0%	0%
\$22K wages	\$22K wages plus \$18K non-tax income	\$22K wages plus \$18K taxable income	Something else

Would your answer to the previous question be different if the parents provided H free housing with an annual value of \$18K instead of gifting him \$18K?

1. Yes
2. No



Gifts

- One-time gifts are not includable as income unless failure to do so would provide inequitable result. IRMO Schulze, supra at 530 and 495.
 - Court has broad discretion to **deviate up or down** if in the best interests of the children. IRMO deGuigne (2002) 97 CA4th 1353, at 1361, 119 CR2nd 430, at 436.



Gifts (cont.)

- Recurring gifts may be treated as income for child support. IRMO Alter (2009) 171 CA4th 718
- IRMO Shaughnessy (2006) 139 CA4th 1225, held discretion to consider third party gifts in spousal support
 - [FC4057(b)(5) mentioned in dicta].



Earning Capacity



- FC4058(b) Discretion to consider in lieu of income if consistent with best interests

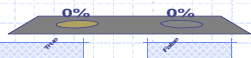
- May consider EC along with parents receipt of disability benefits. Stewart v. Gomez (1996) 47 CA4th 1748
- Burden on party seeking to impute to show ability (age, experience, health), and opportunity to work (job availability). IRMO Regnery (1989) 214 CA3rd 1367, 263 CR 243.

Earning Capacity (cont)

- Burden on responding party if employment terminated voluntarily. IRMO Ilas (1993) 12 CA3rd 1630; IRMO Padilla (1995) 38 CA4th 1212.
- Cannot 'automatically' impute to former level if termination involuntary, even if misconduct! IRMO Eggers (2005) 131 CA4th 695, 32 CR3rd 292.

Where a parent retires early & before normal retirement age when there are still minor children, the trial court must impute income as a matter of law to the pre-retirement level when calculating an initial guideline child support order?

1. True
2. False



Earning Capacity (cont)

- Retirement scenario
 - IRMO Bardzik (2008) 165 CA4th 292
 - Reiterates BOP on parent who seeks to modify CS order to show parent has ability and opportunity.
 - Retirement distinguished from voluntary termination (IRMO Ilas & Padilla, supra;) ?!?
 - However, perhaps consider viability on Stewart v. Gomez, *infra*, if in best interests to impute and evidence to do so

Earning Capacity (cont.)

- Court may impute to one who is unable to find employer willing to hire them so long as there is a substantial likelihood income can be produced utilizing marketable skills. IRMO Cohn (1998) 65 CA4th 923, at 930, 76 CR2nd 866 at 871.
 - Tangible evidence needed; cannot be “drawn from thin air.” IRMO Cohn (lawyer case); Oregon v. Vargas (incarcerated parent) 70 CA4th 1123. Want ads enough. LaBass and Munsee (1997) 56 CA4th 1331.

Earning Capacity(cont.)

- What if earning capacity greater than actual earnings, i.e. underemployed?
 - Ability to pay standard—if earning capacity greater than actual earnings court may base order on ability so long as in the children’s best interests—sound discretion of the court. Moss v. Superior Court (Ortiz) (1998) 17 C4th 396, at 4245; IRMO Simpson (1992) 4 C4th 225, at 233; IRMO Smith (2001) 90 CA4th 74, at 81.

Earning Capacity(cont.)

- IRMO Sorge (2012) 202 CA4th 626
 - 4058(b) allows imputing income on the basis of business assets without consideration of losses—start-ups by dad after \$800K income from prior employment.

Earning Capacity(cont.)

- Remarriage and quit job/reduced hours
 - IRMO Paulin (1996) 46 Cal.App.4th 1378
 - Lim & Carrasco (2013)—Parent reducing work to 80% FT Ok if in best interests of the children.
 - IRMO Ficke (2013)—must find imputation of income to be in children's best interests.

Imputing Income

INTEREST

Can impute reasonable rate of return on non-income-producing assets. IRMO Dacumos (1999) 76 CA4th 150, at 154-155, 90 CR2nd 159, at 161; IRMO Destein (2001) 91 CA4th 1385, at 1393-1396, 111CR2nd 487, at 492-496; IRMO deGuigne, supra, at 1363 and 437-438.

- Rate of return? Substantial evidence test on review; Risk free (6%)--Destein, legal rate (10%)—Scheppers, 4.3 or 4.5 government bond rate—IRMO Ackerman (2006) 146 CA4th 191 all acceptable. Common sense "Theoretical rate" 4.5% IRMO Berger (2009) 170 CA4th 1070

Imputing Income (cont.)

- Brothers v. Kern (2007) 154 CA4th 126 confirms trial court imputing reasonable rate of return on liquidated proceeds already paid to third party.
 - Court also **deviated** from guidelines—payor incarcerated- considered child needs for above guideline award.



Imputing Income (con't)

- Expenses Theory
 - Calculate guideline
 - Make credibility finding if I&E or other evidence of unbelievable income vis a vis expenses
 - Rule out other sources for payments as show by evidence
 - Re-calculate with expenses as non tax income- no tax consid. as expenses are paid after tax.
 - See IRMO Loh (supra); IRMO Calcattera (2005) 132 CA4th 28

Imputing Income(cont.)

- Exceptions to imputing income:
 - CalWorks participant Mendoza v Ramos (2010) 182 CA4th 680
 - IRMO Williams (2007) 150 CA4th 1221 confirms that court cannot impute reasonable rate of return on home equity in primary residence.
 - IRMO Schlafly (2007) 149 Cal.App.4th 747, confirms cannot impute income on mortgage free housing (FRV?) of primary residence
 - But consider Kern v Castle, supra.
 - Also discussed "add-ons" FC 4062

As a result of investments after new marriage H and new spouse have passive investment income of \$5,000/mo. H recently laid off and collecting UI benefits of \$1,950/mo. What is H's income for CS?

1. \$1,950
2. \$6,950
3. \$4,450



Imputing Income (cont.)

- Remarriage—May impute income to custodial parent who terminates employment to care for new children of remarriage (IRMO Hinman (1997) 55 CA4th 988, 64CR2nd 383) or remarriage to wealthy spouse (IRMO Wood (1995) 37 CA4th 1059, 44 CR2nd 236)
 - **CAUTION** re FC 4057.5
 - Need finding of that exclusion of NMI would result in extreme or severe hardship to child
 - IRMO Knowles (2009) 178 CA4th 35



Summary— Determining Income

- Income = gross income from all sources, including commissions, bonuses, overtime
- May include benefits
- Does not include aid, spousal support, etc.
- Average when fluctuating or seasonal
- Imputing income may be available



In 2008 F receives \$319K from Tribe and reports same as taxable income on his tax return. \$35K of this figure is for legal fees paid directly to his attorneys and \$80K represents bi-annual bonuses. The balance is regular monthly disbursements. What is F's income for calculating G/L CS?

1. \$319K
2. \$284K
3. \$204K



Deviating from Guideline

- "The court is not supposed to punch numbers into a computer and award the parties the computer's result without considering the circumstances in a particular case which would make that order unjust or inequitable"
 - Marriage of Fini (1994) 26 CA4th 1033
 -It's true, we are not mere robots or potted plants!



Deviating from Guideline (cont.)

- FC 4056
 - If deviating, must state findings and guideline CS and state reasons for deviation on record.
- FC 4057(a)
 - The amount of child support established by the formula presumed to be the correct amount of child support.



Deviating from Guideline (cont.)

- FC 4057(b)

The presumption of 4057(a) rebuttable-- may be rebutted by showing that formula unjust or inappropriate, consistent with FC 4053, based on one or more identified factors, list is not exclusive.

Deviating from Guideline (cont.)

- Calculation of guideline 

– No statutory exception to requirement that court determine guideline before addressing deviation. IRMO Hubner supra, at 184 and 652.

Deviating from Guideline (cont.)

Stipulation of the parties. FC4057(b)(1)

Guideline calculation &
FC 4065 inquiry/advisement required.

Deferred Sale of Residence FC4057(b)(2)

Discretionary. IRMO Braud (1996) 45CA4th 797,
at 819, 53 CR 2d 179, at 192


Deviating from Guideline (cont.)

- High Income & G/L exceeds C's needs. Burden on high earner to establish that formula is "unjust or inappropriate" and would exceed needs. FC 4053(b)(3). IRMO Cheriton, supra,, at 297 and 776.
- Substantial evidence test—opposite result may be supportable. IRMO Wittgrove (2004)_120 CA4th 1317, at 1326 and 1328, 16 CR3rd 489, at 495 and 497.

Deviating from Guideline (cont.)

- May avoid need to calculate guideline if parties stipulate that paying parent is extraordinary high earner and on what is an appropriate amount of child support. Estevez v. Superior Court (Salley) (1994) 22 CA4th 423, at 431, 27 CR2nd 470, at 475-476. Court makes "assumptions least favorable to the obligor."

Deviating from Guideline (cont.)

- Establishing needs of children 
 - Varies with standard of living of parent, per FC 4053(f). IRMO Hubner (2001) 94 CA4th 175, at 187, 114 CR2nd 646, at 655; IRMO Wittgrove, supra, at 1329 and 498; IRMO Chandler (1997) 60 CA4th 124, at 129, 70 CR2nd 109, at 113.

Deviating from Guideline (cont.)

- Future financial security may be considered. IRMO Kerr (1999) 77 CA4th 87, at 97, 91 CR2nd 374, at 381.
- Consideration of alternative resources may not be appropriate. IRMO Cheriton, supra at 293-294 and 773 (trust not to be considered unless actually satisfying needs of children).

Deviating from Guideline (cont.)

- Court needs information based in fact concerning obligor's actual gross income. Johnson v. Superior Court (Tate) (1998) 66 CA4th 68, at 75, 77 CR2nd 624, at 628; IRMO Hubner supra at 186-187 and 654-655.

Deviating from Guideline (cont.)

Contribution not commensurate with parenting time. FC4057(b)(4)
Clothing, extra curricular, etc.

Deviating from Guideline (cont.)

Guideline child support would be
"unjust or inappropriate." FC4057(b)(5)

Including *but not limited to*...

(A) Different time-share with different children,

(B) Substantially equal time but housing expense
greater for one parent, and

(C) Special medical or other needs for the
children.

Above language is not words of limitation

Deviating from Guideline (cont.)

- Other Examples:

- Broad discretion given court, as list of
circumstances are inclusive, not exclusive.
County of Lake v. Antoni (1993) 18 CA4th
1102, at 1106, 22 CR2nd 804, at 806; IRMO
Wood (1995) 37 CA4th 1059, at 1069, 44
CR2nd 236, at 242; IRMO deGuigne supra, at
1361 and 436.

Deviating from Guideline (cont.)

- Edwards v Edwards (2008) 162 Cal.App.4th
136. Where jurisdiction exists to award
post age of majority CS, application of GL
formula is unjust or inappropriate where
neither parent retains primary physical
responsibility for adult child for any period
of time.

Deviating from Guideline (cont.)

- Assets. IRMO Dacumos supra 154-155 and 161; IRMO Destein supra at 1393-1396 and 492-496; IRMO deGuigne supra at 1363 and 437-438.
- Lavish lifestyle. IRMO deGuigne supra at 1360-1366 and 435-440.
- Nontaxable benefits. IRMO Loh supra at 335-336 and 900.
- Salary Deferral combined with lavish lifestyle. IRMO Berger (2009) 170 Cal.App.4th 1070

Deviating from Guideline (cont.)

-**Extraordinarily low income.** City and County of San Francisco v. Miller (1996) 49 CA4th 866, at 869, 56 CR2nd 887, at 888.

Federal Poverty Guideline
Concept used to reduce arrears in public assistance case. City and County of San Francisco v. Funches (1999) 75 CA4th 243, at 247, 89 R2nd 49, at 52.

Summary—Deviating from Guideline

- Stipulation—findings required
- Deferred Sale of Residence
- Not Contributing commensurate with TS
- Extraordinarily High Income
- Guideline support unjust or inappropriate “catchall” clause

Putting it all together

- Now you have the framework to calculate Child Support
- Conceptually it's like graduating from law school and passing the bar.
- It's applying it in the real world that counts, and that's what has not been taught.

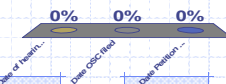
W files and 75 days later serves a Petition for DOM. Six (6) mo's later W files OSC for CS. To what date may the Court make the initial order retroactive to?

1. Date of hearing
2. Date OSC filed
3. Date Petition was filed



W's OSC also seeks spousal support, to what date may the court make the SS order retroactive to?

1. Date of hearing
2. Date OSC filed
3. Date Petition was filed



M & D 50/50 Custody Order. D deploys overseas. M seeks CS mod with 0% timeshare. Child spends significant time with D's family including weekends and some overnights and various meals (approx. 30% timeshare).

How do you calculate child support?

1. Use 0% Timeshare but deviate
2. Use 50% Timeshare & order G/L CS
3. Use 30% Timeshare & order guideline



A voluntary declaration of paternity may be rescinded by either parent....

1. Within 60 days
2. Within 2 years
3. Within 6 months
4. Never, unless set aside by court as it is equivalent to a judgment



A motion to set aside a voluntary declaration of paternity must be filed within what period of time in relation to the child's birth?

1. 2 months
2. 6 months
3. 1 year
4. 2 years



A person is entitled to a hardship deduction for the minimum basic living expenses of a natural or adopted child living in the home when calculating guideline CS?

1. True
2. False



When calculating guideline child support the Court shall deduct from gross income of the parents the health plan premiums paid

1. Only for the child subject to the CS order
2. For all children whom their exists an obligation to support
3. The total premium including adults and children
4. Premium for parent and all children for whom their exists a legal obligation to support



When calculating a party's net disposable income which of the following are considered health insurance deductions?

1. Vision Premium
2. Dental Premium
3. Health Premium
4. All of above
5. Only 2 and 3



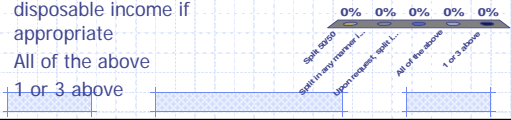
M has free child care to enable her to work. M chooses to put child, age 4, in early learning development program (ELDP) instead of free child care. Is the cost of the ELDP a mandatory child support add-on?

1. Yes
2. No
3. Maybe



Assume the Court granted the ELDP costs in the previous question, how must the court allocate the costs between the parents?

1. Split 50/50
2. Split in any manner it chooses
3. Upon request, split in proportion to net disposable income if appropriate
4. All of the above
5. 1 or 3 above



Dad receives Social Security Disability Insurance benefits in the sum of \$1,000 per month. What is Dad's income for calculating guideline child support?

1. \$1,000 wages
2. \$1,000 non-tax as disability
3. \$1,000 taxable disability
4. \$0



How do you calculate guideline CS owed by parents who reside together for a caretaker on aid?

1. Add incomes together as NCP's and include caretaker income then proportionally allocate
2. Compute guideline separately for each parent
3. Add incomes together as NCP's, do not include caretaker income, proportionally allocate
4. Add incomes together as NCP's, do not include caretaker income, equally allocate.

DISCOVERY



- Limited discovery available without pending motion FC 3662 - 3663
- Discovery permitted to provide sufficient information to allow court to determine "net disposable income"-- extent of discovery is discretionary with the court. Johnson v. Superior Court (Tate) (1998) 66 CA4th 68, at 75-76.



TAB 18

Income Determination–Advanced

*Hon. Scott P. Harman &
Hon. Patrick J. Perry*

Hypo 1

Moe and Joe, who were involved in a same-sex relationship, determined to have a child and solicited the aid of their friend, Mary, to bear the child for them. Both Moe and Joe had relations with Mary and achieved the desired result. After the birth Mary breast fed little Shempie for two years and continued her involvement in his life as a co-parent with Moe and Joe, though she did not live with them. When Shempie was 5 years old Moe and Joe split and it was decided that Moe would have custody of Shempie 28%, Joe 36% and Mary 36%. Thankfully, they all work in the same job and have \$2,500 per month income. How do you calculate child support for little Shempie?

Hypo 2

Charlie and Jon share equal custody of their child Angus. Charlie works full time and earns \$6,000 per month. Jon is permanently disabled and receives Social Security Disability in the amount of \$4,200 per month. In addition Jon receives derivative benefits for the child in the amount of \$460. Guideline child support using only the party's incomes calls for Charlie to pay Jon \$87 per month. Adding the derivative benefits to Jon's income as non-taxable income results in guideline support of \$14, also payable by Charlie. What is your order?

Hypo 3

Amanda and Paul have one child, Mortimer, who lives with his mother 72% of the time. Paul has income of \$3,000 per month. Amanda, who was previously employed as a receptionist earning \$1,950 per month, but she recently remarried Harvey who has custody of his child by a former relationship and they have decided that Amanda will return to school and provide care for both children. Harvey earns \$4,200 per month. Amanda and Harvey have living expenses of \$4,000 per month. What do you use as Amanda's income?

Hypo 4

Sandi and Diego have two children of their marriage and share custody 65% to Sandi and 35% to Diego. Diego is retired and receiving social security benefits. Sandi receives \$1,300 per month in derivative benefits from social security on behalf of the children (Social Security will not split the benefits). Guideline child support based on the parties respective incomes has Diego owing Sandi \$894 per month for both children. How do you deal with the derivative benefits?

Hypo 5

Sam earns \$5,000 per month working for Pacific Gas and Electric Co. His wife, Linda, has been a stay at home mother of two children, Rachel who is now 15 and Amanda who is now 12. After Sam and Linda divorce, Sam begins a non marital relationship with Carrie who becomes pregnant with Arthur. Carrie earns \$8,000 a month. Sam and Carrie agree that Sam will quit his job and take care of Arthur on a full time basis. He applies for and qualifies for TANF. DCSS now brings both cases to court. Linda argues that Sam should be attributed his earning capacity at the job he quit. Sam argues you cannot attribute earnings to a welfare recipient. Your ruling, and why?

Hypo 6

Ginger and Tom have 3 children, Molly age 4, Andy age 7 and Bob age 10. Tom earns \$3,000 per month and Ginger works as a nurse earning \$5,500 a month. They divorce and stipulate to a custody and visitation schedule giving Ginger 60% custodial time. Ginger remarries a physician, John, who earns \$30,000 a month as an anesthesiologist. They have twins who are now 1 year old. Ginger stopped working just before the twins birth and she and John have decided she should stay home to care for the twins. DCSS has now filed a request to establish a child support order. Your ruling?

Hypo 7

Sally is the primary custodial parent of 3 children. She has worked in the past earning \$1,700 per month but is now receiving TANF and earning \$400 per month. Mark is the children's father. He has custodial time amounting to a 30% timeshare. He earns \$6,000 per month. DCSS has filed seeking an order to reimburse the county. Guideline Child Support would be \$1,800 per month and such an order will mean that Sally will no longer receive welfare. Mark asks that the court impute earnings to Sally at this hearing. Your ruling?

- Hypo 8
- John is the son of parents who were extremely wealthy. He and Mary married and lived in a home in Venice that John's parents gave him valued at \$1.5 million. John never really had to work as his parents "loaned" him money every year to cover all of his expenses. Those loans averaged \$12,500 a month. John and Mary had three children who are now 15, 13 and 12. All the children's expenses were paid for by John's parents through the same method ("loans"). During the marriage, the "loans" were not the subject of any written documentation and no payments were ever made to John's parents. After John and Mary separated, John's parents continued to "loan" him the \$12,500 a month, and also "loaned" him \$4,000 a month so he could give those funds to Mary for the children's expenses. After marriage, the "loans" were the subject of written promissory notes but John never made a payment on these obligations.
- Eventually, John and Mary became involved in a vicious custody battle. Neither party can stand the other, and John's father testifies at a support hearing that he and his wife have decided they will no longer "lend" John any money for support of the children and that they have modified their estate plan to deduct from John's inheritance all of the monies they have "lent" him over the years. While they plan to continue to give or loan John money for his expenses, those further advances will also be used to reduce his share of their massive estate. How do you analyze these facts?

Hypo 9

John and Mary have one minor child, Tabitha, who lives with Mary 75% of the time. John works part time earning \$1600 per month and Mary receives TANF and lives in an apartment where she serves as the Manager for the complex. Her consideration is free rent and utilities. How do you calculate and what do you order as child support?

Hypo 10

Jerry and Molly divorce after 10 years of marriage, with two minor children who live 55% with Jerry. Jerry is self-employed as a landscaper and reports monthly earnings of \$1,500. Molly is a hairdresser renting a chair at a salon and reports monthly income of \$900. Each complains that the other is underreporting their income and Molly testified to \$3,000 monthly income for Jerry and Jerry testified to \$2,800 monthly income for Molly. Their tax returns during their years of marriage reflect combined annual income of \$28,800. What is their income for support purposes?

TAB 19

Parentage Notwithstanding Genetics

Mr. Glen H. Schwartz

PARENTAGE LITIGATION REFERENCE GUIDE

2014 EDITION

By

GLEN H. SCHWARTZ

PARENTAGE LITIGATION

REFERENCE GUIDE

By

GLEN H. SCHWARTZ

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PARENTAGE LITIGATION

By

GLEN H. SCHWARTZ, Esq.

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I.
CALIFORNIA'S STATUTORY SCHEME OF PARENTAGE

A. INTRODUCTION

California's parentage law is made up of a series of statutes that wind a trail from common law to the reflection of modern day values. These statutes have been and continue to be explained, analyzed, and interpreted in decisions by the appellate courts throughout the state and even by the United States Supreme Court in cases that arise from a wide spectrum of areas of law including family, probate, and dependency.

Although parentage statutes are found in other Codes, the focus of this reference guide is principally on those statutes found in the *Family Code*. However, the case law discussed will not be so limited in that the courts freely share application of the parentage statutes in those other areas of the law.

B. UNIFORM PARENTAGE ACT

The cornerstone of California's statutory scheme of parentage is the *Uniform Parentage Act* ("UPA"). The UPA was approved by the National Conference of Commissioners on Uniform State Laws in 1973. The UPA was inspired by a Texas law review article entitled "A Proposed Uniform Act on Legitimacy," and was encouraged by the United States Supreme Court decisions in *Weber v. Aetna Casualty & Surety Company* (1972) 406 U.S. 164 [92 S.Ct. 1400, 31 L.Ed.2d. 768] (Louisiana's worker's compensation statute, which relegated illegitimate children to the status of "other dependents," was held unconstitutional) and *Gomez v. Perez* (1973) 409 U.S. 535 [93 S.Ct. 872, 35 L.Ed.2d. 56] (a Texas court was reversed for denying substantial benefits to illegitimate children which were generally accorded to children). The UPA made a revolutionary change in the law by abolishing the incidents of illegitimacy and establishing legal equality of children without regard to the marital status of their parents. *Uniform Parentage Act, Prefatory Note*.

The UPA was enacted by the California Legislature in 1975. A press release issued on October 2, 1975 described the new legislation this way: "The bill, as amended, would revise or repeal various laws which now provide for labeling children as legitimate or illegitimate and defining their rights and those of their parents accordingly. In place of these cruel and outdated provisions, [the bill] would enact the Uniform Parentage Act which bases parent and child rights on the existence of a parent and child relationship rather than on the marital status of the parents." Effective January 1, 1994, the UPA was incorporated into the California *Family Code* ("FC") section 7600 et seq., and the introductory provisions state:

"'Parent and child relationship' as used in this part means the legal relationship existing between a child and the child's natural or adoptive parents incident to which the law confers or imposes rights, privileges, duties, and obligations. The term includes the mother and child relationship and the father and child relationship." *FC* §7601

And,

"The parent and child relationship extends equally to every child and to every parent, regardless of the marital status of the parents." *FC* §7602.

COMMENT: In 2000, the National Conference of Commissioners on Uniform State Laws approved a new Uniform Parentage Act, and after various changes a new UPA was enacted in 2002. However, California has not adopted the 2002 UPA, but the 1973 version remains embedded in California's statutory scheme of parentage.

C. MORE THAN TWO PERSONS MAY BE PARENTS OF A CHILD

Effective January 1, 2014, the Legislature added to the introductory provisions of California's UPA the following:

"This part does not preclude a finding that a child has a parent and child relationship with more than two parents." *FC* §7601(c).

And,

"For purposes of state law, administrative regulations, court rules, government policies, common law, and any other provision or source of law governing the rights, protections, benefits, responsibilities, obligations, and duties of parents, any reference to two parents shall be applied to every parent of a child where that child has been found to have more than two parents under this part." *FC* §7601(d).

To carry out this policy the Legislature added **subsection (c)** of *FC* §7612 which, given appropriate circumstances, allows a court to find that more than two persons may be the parents of a child. (See "Comment" to section II.C.1. for a discussion of *Family Code* section 7612(c).)

D. OTHER FAMILY CODE PARENTAGE STATUTES

California's statutory scheme of parentage is not limited to the provisions of the UPA. Additional *Family Code* provisions which are relevant to establishing parentage are as follows:

FC §7540 et seq., the conclusive presumption of paternity and its rebuttal provisions;

FC §7550 et seq., the Uniform Act on Blood Tests to Determine Paternity;

FC §7570 et seq., the establishment of paternity by voluntary declaration;

and

FC §17400 et seq., actions brought by local child support agencies.

II.
METHODS OF ESTABLISHING PARENTAGE

A. CONCLUSIVE PRESUMPTION

1. *Family Code section 7540*

The conclusive presumption of paternity is codified in *Family Code section 7540*:

"[T]he child of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage."

The conclusive presumption reflects the ancient principle that when a husband and wife are living together in matrimony, the integrity of their family should not be impugned, and the husband is deemed responsible for his wife's child.

Historically, the rule promoted the social policies of preservation of the integrity of the family, protection of the welfare of children by avoiding the stigma of illegitimacy and keeping them off welfare rolls, and insurance of the stability of title and inheritance. *Estate of Cornelious* (1984) 35 Cal.3d 461.

More recently, the courts have declared that the conclusive presumption promotes the social policies of identification of the child's father by establishing, as a matter of law, that the father is the man with whom the child has had an ongoing father and child relationship, even though the presumption may not comport with biological reality. *Susan H. v. Jack S.* (1994) 30 Cal.App.4th 1435.

2. *Necessary Foundational Facts*

The conclusive presumption applies only if the foundational facts of (1) marriage, (2) cohabitation, and (3) the husband's potency and fertility *all co-exist* at the time of conception. *City and County of San Francisco v. Strahlendorf* (1992) 7 Cal.App.4th 1911.

"Sterility" for purposes of *Family Code section 7540* is defined in its "strictest sense": it is limited to cases where a preponderance of the evidence shows that the husband could not produce live sperm at the time of conception; proof of only a low sperm count or impaired fertility is not sufficient to avoid the application of the presumption. *In re Marriage of Freeman* (1996) 45 Cal.App. 4th 1437.

3. ***The Conclusive Presumption May Be Applied Against A Man Who Is Biologically Related To The Child***

a. ***Michael H. v. Gerald D.***

The United States Supreme Court in *Michael H. v. Gerald D.* (1989) 491 U.S. 110 [109 S.Ct. 2333, 105 L.Ed.2d. 91] held by a plurality decision that California's conclusive presumption did not infringe upon the due process rights of a man who wished to establish paternity of a child born to another man's wife. The court stated that the conclusive presumption implements a substantive rule of law that declares it to be generally irrelevant for paternity purposes whether a child conceived and born into an existing marriage was fathered by someone other than the husband.

Acting on the appeal of the alleged biological father and the child, the Second Appellate District affirmed the trial court's granting of the husband's motion for summary judgment on the grounds that he was the child's father by virtue of the conclusive presumption of paternity (*Michael H. v. Gerald D.* (1987) 191 Cal.App.3d 995). The California Supreme Court denied review, and the United States Supreme Court granted hearing of the alleged biological father's claim.

The facts, which the plurality opinion labeled "extraordinary," are such that Carole and Gerald were married and commenced living together as husband and wife in 1976. While still married and living together as husband and wife, Carole conceived and in May 1981 gave birth to Victoria. Carole had had an extra-marital affair with Michael during the period she conceived Victoria. After Victoria was born, Carole told Michael she believed the child could be his. Carole, Michael and Victoria had blood tests performed at UCLA that showed there was a 98.07% probability that Michael was Victoria's biological father. Carole separated from Gerald in October 1981. Thereafter, Carole and Victoria stayed with Michael in the Virgin Islands for three months, after which Carole left Michael. Then Carole and Gerald reconciled. In November 1982, Michael brought his paternity action. In August 1983, Carole and Victoria again took up residence with Michael. They lived with Michael until April 1984. In June 1984, Carole again reconciled with Gerald and joined him in New York, where thereafter they continued to live in a family unit with Victoria and two other children subsequently born into their marriage.

b. ***Michelle W. v. Ronald W.***

The California Supreme Court in *Michelle W. v. Ronald W.* (1985) 39 Cal.3d 354 held that the conclusive presumption of paternity did not deny due process to the alleged biological father who had not claimed paternity until he married the child's mother six years after the child's birth.

The facts are such that Judith and Ronald were married in May 1965 and lived together as husband and wife until their separation in 1977. In 1973, Judith and Donald began having sexual relations, although Judith and Ronald were married and living together. In October 1974, Judith gave birth to Michelle. Until their marital separation in 1977, Judith, Ronald, Michelle and older daughter Tamara lived together in a family unit. When Judith and Ronald separated, they executed a marital settlement agreement wherein Judith was awarded custody of Michelle, Ronald was awarded rights of visitation, Ronald's obligation to provide child support for Michelle was described, and the issue of paternity was not raised. Thereafter, Ronald regularly and continually exercised his visitation rights with Michelle. In November 1980, Judith married Donald, and since that marriage, Michelle has lived in Donald's home and he has held her out to be his natural child.

In March 1981, a paternity action was brought by Donald and six-year-old Michelle, through her guardian ad litem. The trial court granted summary judgment establishing that Ronald was the father of Michelle, based upon the uncontradicted facts that Ronald and Judith were living together as a married couple at the time of Michelle's conception and birth, and that Ronald was neither impotent nor sterile. The California Supreme Court affirmed the trial court's ruling, holding that the conclusive presumption did not violate Donald's due process rights because "Donald's private interest in establishing a biological relationship in a court of law is overridden by the substantial state interests in familial stability and the welfare of the child." (*Id.* at p. 363) With respect to Michelle's claim, the Supreme Court questioned whether Michelle was the real actor behind this "child" paternity suit in that her guardian ad litem was a family friend of Donald and Judith, and was represented by the same attorney as Donald; the court reasoned, nonetheless, that Michelle's rights were no greater than those afforded to Donald.

4. *Marital Separation Or Dissolution Does Not Affect The Application Of The Conclusive Presumption*

Although the conclusive presumption can only arise in the context of a marital relationship, the presumption is not rendered inapplicable upon marital dissolution. The familial relationship between the presumed father and the child does not usually terminate upon dissolution of marriage. As the court in *Susan H. v. Jack S.*, *supra*, 30 Cal.App.4th 1435 observed, "the state has a legitimate interest in the 'social stability of the dissolving family' and an interest in not only 'preserving an intact family, but preserving the integrity of the divorcing family.'"

Other examples of the application of the conclusive presumption notwithstanding dissolution of marriage include the conclusive presumption being invoked by the mother to obtain a support order against the husband in dissolution proceedings (*In re Marriage of B.* (1981) 124 Cal.App.3d 524) by the husband to defend his relationship

with the child even where the marriage had been dissolved (*Vincent B. v. Joan R.* (1981) 126 Cal.App.3d 619); and, as discussed hereinabove, by the presumed father after the mother divorced him, obtained child support, and then married the biological father (*Michelle W. v. Ronald W.* (1985) 39 Cal.3d 354).

5. ***The Conclusive Presumption Will Be Applied Unless There Is No Parent- Child Relationship To Preserve***

The conclusive presumption will not be applied if its application does not promote the social policies for which it was intended -- protecting the parent-child relationship -- and thereby offends due process. Or, put more simply, as illustrated below, the presumption will not be applied if its application would lead to an "absurd result that defies reason and common sense".

To determine whether a party is denied due process by being prevented from proving who is the biological father, the court must weigh competing state and private interest. But, the state's interest of preserving and protecting the developed parent-child relationship will always outweigh a party's private interest of establishing biological parentage. Therefore, the courts have held that the conclusive presumption will be applied unless there is no existent parent-child relationship to preserve. For example:

a. The presumption was not applied to make the husband the father where the child's mother and her husband had died, the husband had never lived with the child, and the husband had renounced his paternity and relinquished the child for adoption. *In re Lisa R.* (1975) 13 Cal.3d 636.

b. The presumption was not applied to make the husband the father where the mother and child separated from the husband when the child was eight days old, the mother and child moved in with the biological father whom the mother then married, and the child was raised to perceive the biological father rather than the husband as her father. *In re Melissa G.* (1989) 213 Cal.App.3d 1082.

c. The presumption was not applied where the husband and wife separated before either of them knew she was pregnant, the husband remained unaware of the child's existence for the next 13 years, and the child knew the husband was not her father. *County of Orange v. Leslie B.* (1993) 14 Cal.App.4th 976 (given these facts, the application of the conclusive presumption leads to an "absurd result that defies reason and common sense").

d. The presumption was not applied to make the husband the father where the mother separated from the husband before the child was born, the husband never lived with the child, neither the husband nor child perceived themselves to be

related, and the child was raised to believe another man was his father. *Comino v. Kelley* (1994) 25 Cal.App.4th 678.

6. ***The Conclusive Presumption Is Subject To A Limited Two Year Genetic Test Rebuttal Period***

Family Code section 7541 opens a limited window of opportunity for statutorily defined parties to request genetic tests in an effort to rebut the conclusive presumption of the husband's paternity:

a. The motion for genetic tests must be filed not later than two years from the child's date of birth.

b. The motion for genetic tests may only be filed by the following persons:

(1) The husband;

(2) The presumed father, within the meaning of *FC* §§7611 and 7612;

(3) The child through or by the child's guardian ad litem; and

(4) The mother of the child, if the child's biological father has filed an affidavit with the court acknowledging parentage of the child.

The requirements must be strictly adhered to if genetic tests are used to rebut the conclusive presumption. *Miller v. Miller* (1998) 64 Cal.App.4th 111 (private blood tests, not ordered by the court, performed more than two years after the child's birth had "no legal significance" and therefore could not rebut the conclusive presumption).

COMMENT: Prior to 1980, the conclusive presumption was, indeed, conclusive. It was not until 1980 that the legislature amended the presumption [then found in former *Evidence Code* section 621] to allow "blood tests" to be used to rebut a husband's paternity under the above-described limited circumstances. The term "blood tests" is still used in **Family Code section 7541**; however, in doing so, reference is made to **Family Code section 7555 et seq.** which therein uses the more technologically advanced term of "genetic tests". And that term is used herein when referencing the tests of **Family Code section 7541**.

B. VOLUNTARY DECLARATION

The statutory scheme of establishing parentage by voluntary declaration (also known as a "POP", an acronym for Paternity Opportunity Program) is set forth in *Family Code* section 7570 et seq. Its purpose is to speedily identify the father of children born to *unmarried mothers* so that the children may know their medical histories, know their fathers, and receive the financial support and monetary benefits due them.

In *H.S. v. Superior Court (S.G.)* (2010) 183 Cal.App.4th 1502 it was held that a voluntary declaration executed by a married mother is voidable because it would undermine family stability policies underlying the marital presumptions and standing statutes.

1. *Signing Of The Voluntary Declaration*

Although hospitals must try to obtain signed declarations before the infant born to the unmarried mother leaves the hospital, attesting parents may mail a notarized declaration to the Department of Child Support Services at any time after the child's birth. *FC* §§7571(a) and 7571(d). Additionally, attesting parents may sign a declaration in person at a local child support agency office where staff witnessing the parents' signatures must forward the signed declaration to the Department of Child Support Services. *FC* §7571(f).

The voluntary declaration of paternity must be executed on a form developed by the Department of Child Support Services and must contain the information and admonishments set forth in *Family Code* section 7574.

2. *The Voluntary Declaration Has The Same Force And Effect As A Judgment Of Paternity*

The signing and filing of a voluntary declaration "shall establish the paternity of a child and shall have the same force and effect as a judgment for paternity issued by a court of competent jurisdiction. The voluntary declaration of paternity shall be recognized as a basis for the establishment of an order for child custody, visitation, or child support." *FC* §7573.

In *Kevin Q. v. Lauren W.* (2009) 174 Cal.App.4th 1557, the court held that the voluntary declaration is not a mere presumption to be weighed against parentage presumptions or otherwise subject to rebuttal. Unless and until the voluntary declaration is set aside, it trumps the *Family Code* section 7611 rebuttable presumptions, and has the same force and effect of a judgment. (See section II.C. for a complete discussion of *Family Code* section 7611 presumptions.)

The facts of *Kevin Q.* are such that Kevin, who for 20 months received Lauren's child into his home and openly held out that child as his natural child (unequivocally qualifying as a presumed father under *Family Code* section 7611(d)), brought an action to establish his parentage of that child. In response, Lauren and biological father (who had no previous relationship with the child) properly signed a voluntary declaration of paternity, and used that voluntary declaration to defend against Kevin's parentage action. The Court of Appeal reversed the trial court's adjudication of Kevin's paternity, holding that the voluntary declaration functioned as a judgment of paternity, and a judgment of paternity trumps the rebuttable presumption of paternity.

COMMENT: Kevin Q. reminds us of the distinction that a presumption under *Family Code* section 7611(d) is a "rebuttable presumption", whereas a properly executed voluntary declaration of paternity has the same effect as a judgment, and therefore is not weighed or balanced against any other presumption -- as the case states, the effect of a judgment trumps presumptions.

3. *Birth Certificate Requirements*

Health & Safety Code ("H&SC") section 102425(a) sets forth the information that is required to be on a birth certificate, including the father's full name, birth place, and date of birth. If the parents are not married to each other, the father's name may be listed on the birth certificate only if the father and the mother sign a voluntary declaration of paternity at the hospital before the birth certificate is prepared. If there is no voluntary declaration, the birth certificate can be amended later to reflect the father's name only after paternity has legally been established or by a subsequently properly executed voluntary declaration of paternity.

H&SC section 102767 authorizes an application to delete a father's name from a birth certificate after the rescission of a voluntary declaration of paternity under *Family Code* section 7575(a).

4. *Rescission/Setting Aside Of The Voluntary Declaration*

a. *Rescission/Setting Aside Under Family Code section 7575*

Paternity established by the voluntary declaration may be nullified in the following ways:

(1) The filing of a statutory prescribed rescission form with the Department of Child Support Services within 60 days of the date of the execution of the declaration by the attesting father or mother (unless a court order of custody, visitation, or child support has been entered in an action in which the person seeking to rescind was a party). *FC* §7575(a).

(2) If, within the first two years of the life of the child, a motion for genetic blood tests is filed by either the local child support agency, the mother or the man who signed the voluntary declaration, and the blood test results establish that man is not the child's father, the court may set aside the voluntary declaration of paternity unless the court determines that denial of the request to set aside the voluntary declaration is in the best interest of the child taking into consideration all of the following factors:

- The child's age.
- The length of time since the execution of the voluntary declaration by the man who signed the declaration.
- The nature, duration, and quality of the relationship between the man who signed the declaration and the child.
- Whether the man who signed the declaration has requested the parent-child relationship continue.
- Whether the biological father has indicated that he does not oppose such a continued relationship.
- Whether it would be beneficial or detrimental to the child in establishing the biological parentage of the child.
- Whether the man who signed the declaration has made it more difficult to find or obtain support from the biological father.
- Additional factors that the court deems relevant to its determination of the best interest of the child. *FC §7575(b)*.

In *Gabriel P. v. Suedi D.* (2006) 141 Cal.App.4th 850, the trial court erred for setting aside the declaration without evaluating the relationship between the child and the man who signed the voluntary declaration. Also see *In re William K.* (2008) 161 Cal.App.4th 1 in which it was held that it was not in the child's best interest to set aside the voluntary declaration even though the father listed on the birth certificate was not the child's biological father.

(3) A motion to set aside the declaration may be brought by the mother or presumed father under *Code of Civil Procedure section 473* [mistake, inadvertence, or excusable neglect]. The *section 473* timetable begins to run on the date that the court makes a finding of paternity based upon the voluntary declaration of paternity in an action for custody, visitation, or child support. *FC §7575(c)*.

In *County of Los Angeles v. Sheldon P.* (2002) 102 Cal.App.4th 1337 the appellate court affirmed the trial court's finding that the mother showed mistake, surprise, or excusable neglect when she signed a voluntary declaration of paternity naming her friend who was not the biological father under circumstances where she was asked to sign the declaration very shortly after giving birth, while she was taking pain medication, was not given the explanatory materials required by statute, and no one explained the document.

b. Rescission/Setting Aside Under *Family Code* section 7612(e)

Under *Family Code* section 7612(e), within the first two years of the execution of a voluntary declaration, a person who is presumed to be a parent under *Family Code* section 7611 may file a petition to set aside that voluntary declaration. The court's ruling on such a petition to set aside shall take into account:

(1) The validity of the voluntary declaration of paternity (as discussed hereinbelow).

(2) The best interests of the child based upon the court's consideration of the factors set forth in *Family Code* section 7575(b) (as discussed hereinabove).

(3) The best interests of the child based upon the nature, duration, and quality of the petitioning party's relationship with the child and the benefit or detriment to the child of continuing that relationship.

(4) In the event of any conflict between the presumption under *Family Code* section 7611 and the voluntary declaration of paternity the weightier considerations of policy and logic shall control.

COMMENT: Subsection (e) of Family Code section 7612 was added by the legislature effective January 1, 2012 in response to *Kevin Q. v. Lauren W.* (discussed hereinabove) which did not allow a presumed father to challenge the voluntary declaration executed by the mother and an absentee father. However, *section 7612(e)* does not result in *Kevin Q. v. Lauren W.* no longer being good law, rather it merely allows a presumed father, under certain circumstances, to challenge the voluntary declaration of paternity.

5. *Invalid Voluntary Declaration*

Under *Family Code* section 7612(f), a voluntary declaration is *invalid* if, at the time the declaration was signed, any of the following conditions exist:

a. The child already had a presumed parent under *Family Code* section 7540. (See section II.A. for a complete discussion of the conclusive presumption.)

b. The child already had a presumed parent under subsection (a), (b), or (c) of *Family Code* section 7611. (See section II.C. for a complete discussion of the rebuttable presumptions.)

c. The man signing the declaration is a semen donor whose rights and obligations are controlled by *Family Code* section 7613(b). (See section II.F. for a complete discussion of the rights and obligations of a semen donor.)

6. *Recognition Of Out-Of-State Voluntary Declaration*

A paternity affidavit signed by a man in another state which had the same force and effect as a judgment in that state is entitled to full faith and credit in California. *In re Mary G.* (2007) 151 Cal.App.4th 184 (the voluntary affidavit signed in Michigan confirmed presumed father status in California).

C. SECTION 7611 REBUTTABLE PRESUMPTIONS

1. *Establishing The Presumptions*

A person is presumed to be the natural parent of a child if that person meets any of the following four principal conditions:

a. If the child is born during the marriage of the presumed parent and the child's natural mother, or 300 days after the marriage is terminated by death, annulment, declaration of invalidity, divorce, or judgment of separation. *FC* §7611(a).

In *Lisa I. v. Superior Court (Philip V.)* (2005) 133 Cal.App.4th 605, a husband qualified as a presumed father under *Family Code* section 7611(a) where the child was conceived more than a year and a half after the mother and her husband separated and the child was born more than six months after their divorce judgment was entered.

b. If before the child's birth, the presumed parent and the child's natural mother have attempted to legally marry each other, although the attempted marriage is or could be declared invalid, and either of the following is true: (1) if the attempted marriage could be declared invalid only by a court order, the child is born during the attempted marriage, or within 300 days after its termination by death, annulment, declaration of invalidity or divorce, or (2) if the attempted marriage is invalid without a court order, the child is born within 300 days after termination of cohabitation. *FC* §7611(b).

c. If after the child is born, the presumed parent and the child's natural mother have married, or attempted to legally marry, although the attempted marriage is or could be declared invalid, and either of the following is true: (1) with his or her consent, the presumed parent is named as the child's parent on the child's birth certificate, or (2) the presumed parent is obligated to support the child under a written voluntary promise or by court order. *FC §7611(c)*.

d. If the presumed parent receives the child into his or her home and openly holds out the child as his or her natural child. *FC §7611(d)*.

In *Comino v. Kelley* (1994) 25 Cal.App.4th 678, Paul Comino, a man not biologically related to the child, was found to be the child's presumed father based upon the following facts: a few weeks before the birth of the child, the mother moved into Paul's home; Paul and the mother attended La Maze childbirth classes together; Paul was present at the delivery and cut the umbilical cord; with the mother's consent, the child was named Joshua Paul Comino; Paul was identified as the father on the child's birth certificate which was signed by the mother; the mother sent out birth announcements identifying Paul as the father; and for the next two and one-half years, Paul, the mother, and the child lived together as a family unit in all common respects.

It is the totality of both elements -- reception of the child into the man's home and public acknowledgement of the child as his natural child -- which reflects a commitment towards developing and maintaining a substantial father and child relationship that raises a man to the level of a *Family Code section 7611(d)* presumed father. See *Miller v. Miller* (1998) 64 Cal.App.4th 111 where a man did not become a presumed father by simply living with the mother and the child because he did not openly hold the child out as his natural child and there was no evidence that he was living with the child for any other reason than to be with her mother.

Family Code section 7611(d) does not contain any specific durational requirement; it merely requires the party seeking presumed parent status to have received the child into his or her home and openly held the child out as his or hers in a fashion that is "sufficiently unambiguous as to constitute a clear declaration regarding the nature of the relationship, but need not be for any specific duration." *Charisma R. v. Kristina S. (Charisma R. II)* (2009) 175 Cal.App.4th 361 (living in a family unit during the child's first three months of life was sufficient to become a presumed parent given involvement throughout the insemination process, birth, and for those three months). However, the courts have declined to adopt the doctrine of constructive receipt of a child into a man's home. *Dawn D. v. Superior Court (Jerry K.)* (1998) 17 Cal.4th 932 (a man was found not to have met the statutory conditions for presumed fatherhood because he did not actually receive the child into his home, despite his considerable efforts to do so, including filing a complaint before the child's birth to establish parentage and requesting joint legal and physical custody).

COMMENT: In an appropriate action, a court may find that a child has a parent and child relationship with more than two parents if it finds that recognizing only two parents would be detrimental to the child. In determining detriment to the child, the court must consider all relevant factors including, but not limited to, the harm of removing the child from a stable placement with a parent who has fulfilled the child's physical and psychological needs for care and affection, and who has assumed that role for a substantial period of time. And, a finding of detriment to the child does not require a finding of fitness of any of the parents or persons with a claim to parentage. *FC §7612(c)*.

This subsection was part of the legislative package, effective January 1, 2014, which provided the policy set forth in *Family Code* section 7601(c) and (d). This legislation was a reaction to the 2011 case of *In re M.C.* (2011) 195 Cal.App.4th 197, in which the appellate court reversed a juvenile court's finding that a child had three presumed parents holding that until the Legislature speaks otherwise, a child cannot have more than two parents.

2. *Rebutting The Presumptions*

Family Code section 7612 sets forth that the *Family Code* section 7611 presumptions are rebuttable presumptions affecting the burden of proof and rebutted in the following two manners:

- a. May be rebutted in an appropriate action by clear and convincing evidence, *Family Code* section 7612(a).
- b. Is rebutted by a judgment establishing paternity of the child by another man, *Family Code* section 7612(d).

COMMENT: Kevin Q. v. Lauren W. (2009) 174 Cal.App.4th 1557 reminds us that a properly executed voluntary declaration of paternity has the same effect as a judgment, and therefore rebuts a presumption under *Family Code* section 7611; also see *In re Levi H.* (2011) 197 Cal.App.4th 1279 ["... voluntary declaration trumps presumed father status under section 7611, subdivision (d) despite any inequities."]

3. *The Presumptions Are Not Necessarily Rebutted By Proof That The Presumed Father Is Not The Biological Father -- In re Nicholas H.*

In *In re Nicholas H.* (2002) 28 Cal.4th 56 the California Supreme Court held that a presumption arising under *Family Code* section 7611 is not necessarily rebutted by clear and convincing evidence that the presumed father is not the biological father. The court pointed to the rebuttal language in *Family Code* section 7612(a) ("may be rebutted") as evidence that the statute does not contemplate an automatic rule that

biological paternity rebuts the **section 7611** presumption in all cases, without concern for whether rebuttal was "appropriate" in the particular circumstances.

Nicholas H. arises from a juvenile dependency proceeding in which the mother was attempting to deny the presumed father's parentage, even though there was no other man claiming parental rights to the child. The facts are such that when Kimberly was pregnant with Nicholas, she moved in with Thomas who was not Nicholas's biological father, as he admitted. Nevertheless, Thomas wanted to act as a father to Nicholas so he participated in Nicholas's birth, was listed on Nicholas's birth certificate as his father, and provided a home for Kimberly and Nicholas for several years. As the court observed, "Thomas lived with Nicholas for long periods of time, he has provided Nicholas with significant financial support over the years, and he has consistently referred to and treated Nicholas as his son. In addition, there is undisputed evidence that Nicholas has a strong emotional bond with Thomas and that Thomas is the only father Nicholas has ever known."

Given these facts, the Supreme Court found that this was not "an appropriate action" in which the presumption of Thomas's paternity "may" be rebutted, because the rebuttal of the *Family Code* **section 7611(d)** presumption will render Nicholas fatherless.

COMMENT: Thus, *Nicholas H.* firmly implanted the proposition that the lack of a biological connection with the child will not preclude a claim of parentage if the following questions are both proven true:

(1) Does the man qualify as a presumed father under *Family Code* **section 7611(d)** because:

- He received the child into his home; and
- He openly held out the child as his natural child?

(2) Are the facts of the case such that it is not "an appropriate" action in which the presumption may be rebutted (i.e., would rebutting the presumption leave the child without a second parent)?

4. *If There Are Two Or More Rebuttable Presumptions, The Weightier Presumption Will Control*

Family Code **section 7612(b)** provides that if two or more presumptions arise under *Family Code* **section 7611** which conflict, the presumption which on the facts is founded on weightier considerations of policy and logic will control.

(1) *Steven W. v. Matthew S.*

In *Steven W. v. Matthew S.* (1995) 33 Cal.App.4th 1108, two men were presumed to be the child's father. The mother separated from Matthew and began living with Steven. The mother informed Steven that she was pregnant with his child, and together they told their friends, co-workers, and Steven's family the news. Steven attended childbirth classes and pre-natal doctor appointments with the mother, and he was present in the delivery room when the child was born. The mother named the child Michael, which is Steven's middle name, and identified Steven as his father on the birth certificate. For the next two and one-half years, Steven, the mother, and Michael lived together as a family unit. Thereafter, the mother and the child moved into Matthew's home, and Matthew thereafter also held the child out as his own. The mother and Matthew continued to permit Steven regular and continuing custodial time with the child.

The trial court found that both Matthew and Steven were presumed fathers [Matthew was a presumed because he was married to the mother when the child was born (*FC §7611(a)*), he had taken the child into his home and held the child out as his own (*FC §7611(d)*), and blood test results established that he was the child's biological father (*FC §7555*); Steven was a presumed father because he had taken the child into his home and held the child out as his own (*FC §7611(d)*)]. But, in light of the facts, the trial court found, and the appellate court affirmed, that the conflict between the presumptions weighed in favor of Steven, and therefore Steven was adjudged to be the father of the child.

(2) *In re Jesusa V.*

In *In re Jesusa V.* (2004) 32 Cal.4th 588, the California Supreme Court extended its *Nicholas H.* holding to find that the lack of biological ties does not preclude a finding of presumed parentage where the presumed parent has a close relationship with the child. Whereas *Nicholas H.*'s holding was based upon the fact that there was only one presumed father seeking to establish his parentage with no other candidate as a possible father, in *Jesusa V.* there were two presumed fathers (one of whom is biologically related) who were competing to be adjudged the father of the child.

The facts of *Jesusa V.* are such that Paul and Jesusa's mother had been married for 18 years and had five children together. During a three-year marital separation, Jesusa's mother became pregnant by her relationship with Heriberto giving birth to Jesusa. When Jesusa was less than two years old, Heriberto was arrested for raping and beating Jesusa's mother. At juvenile court proceedings following Heriberto's arrest, Paul promptly requested presumed father status. The trial court found that Paul has a substantial relationship with Jesusa; not only is Paul married to Jesusa's mother, he is the father of Jesusa's five siblings, all of whom live with him and have themselves established a close relationship with Jesusa; although Jesusa and her mother resided with

Heriberto before his arrest and incarceration, they visited Paul at his home nearly every weekend; Paul provided shelter to Jesusa and her mother during periods of conflict between the mother and Heriberto, which periods sometimes lasted as long as a month.

Based on these facts, it was found that both Heriberto and Paul each could claim a presumption of fatherhood. And, applying the reasoning of *Nicholas H.*, it was further found that this was "an appropriate action" in which the presumption of Heriberto's paternity could be rebutted notwithstanding that he was biologically related to the child. And applying the reasoning of *Steven W.*, the California Supreme Court found no abuse of discretion in the fact that the juvenile court undertook to identify the presumption "which on the facts is found on the weightier considerations of policy and logic" and determined that Paul's presumption outweighed that of Heriberto's.

5. *The Presumptions Are Applied On A Gender Neutral Basis*

Family Code section 7650 provides that "insofar as practicable" the provisions of the UPA apply to a determination of the existence or non-existence of a mother and child relationship.

a. *Elisa B. v. Superior Court (Emily B.)*

In *Elisa B. v. Superior Court (Emily B.)* (2005) 37 Cal.4th 108 the California Supreme Court held that a birth mother's former lesbian partner, who has no biological ties to the child, can establish a parent-child relationship under a gender neutral application of *Family Code section 7611(d)*. In that case, Elisa B. and Emily B. began living together in a lesbian relationship in August 1993. They later exchanged rings, established a joint bank account, and pooled their resources for household expenses. Both wishing to experience childbirth, they went to a fertility clinic together and underwent artificial insemination using semen from the same anonymous donor so that their children would be biologically related. Elisa gave birth to a son in 1997, and Emily gave birth to twins in 1998. They gave their children hyphenated surnames by combining their last names and each cared for all three children at one time or another. Both moms breastfed all three children. By agreement, Emily was the stay-at-home mom caring for all three children, and Elisa was the primary breadwinner. In November 1999, Emily and Elisa separated, and until May 2001, Elisa continued to assist in the support of Emily and the twins, after which Emily began receiving AFDC for the twins. In June 2001, El Dorado County filed a complaint against Elisa to establish her parentage of the twins and for a child support order.

After granting review, the California Supreme Court found that Elisa is a presumed mother of the twins under *Family Code section 7611(d)* because (1) she received the children into her home and (2) she openly held them out as her natural children. And, having found that Elisa qualified as a presumed parent, applying the

reasoning of *Nicholas H.* (discussed hereinabove), the court then found this is not an appropriate action in which to rebut that presumption with proof that she is not the children's biological mother because (1) she actively participated in causing the children to be conceived with the understanding that she would raise the children as her own together with the birth mother, (2) she voluntarily accepted the rights and obligations of parenthood after the children were born, and (3) there are no competing claims to her being the children's second parent.

In holding that Elisa could become the second parent of Emily's twins, *Elisa B.* disapproved those cases which had previously denied same-sex couples access to the judicial process for a determination of paternity/maternity. See *Curiale v. Reagan* (1990) 222 Cal.App.3d 1597, *Nancy S. v. Michelle G.* (1991) 228 Cal.App.3d 831, and *West v. Superior Court (Lockrem)* (1997) 59 Cal.App.4th 302.

COMMENT: Thus, in a same-sex case the analysis for determining whether the alleged parent is the second parent is as follows:

(1) Does the alleged parent qualify as a presumed parent under *Family Code section 7611(d)*, because:

- The alleged parent received the child into her home; and
- The alleged parent openly held the child out as her natural child?

(2) Are the facts of the case such that it is not "an appropriate" action in which the presumption may be rebutted with proof that the alleged parent is not biologically related, which is answered by the following questions:

- Did the alleged parent actively participate in causing the child to be conceived with the understanding she would raise that child as her own together with the other mother?
- Did the alleged parent voluntarily accept the rights and obligations of parenthood after the child was born?
- There are no competing claims that someone else is the second parent?

See *E.C. v. J.V.* (2012) 202 Cal.App.4th 1076 in which the court of appeal remanded to the trial court for it to analyze the facts with a clear understanding of the above criteria.

COMMENT: Whereas *Elisa B.* arose in a context of defending against a county's complaint to establish parentage for the purpose of collecting AFDC reimbursement and prospective child support, *Charisma R. v. Kristina S. (Charisma R. I)* (2006) 140 Cal.App.4th 301 was a private action in which the court found that a former lesbian domestic partner can affirmatively file a complaint to establish parental relationship with the child who was born to her former partner.

b. Recognition Of Same-Sex Marriages

As a result of the United States Supreme Court case of *Hollingsworth v. Perry* (2013) 570 U.S. ___ [133 S.Ct. 2652, 186 L.Ed.2d. 764] the appellate court's holding that California's Proposition 8 same-sex marriage ban was unconstitutional was not reversed thereby allowing Governor Jerry Brown to declare that, "in light of the decision, I have directed the California Department of Public Health to advise the state's counties that they must begin issuing marriage licenses to same-sex couples in California..."

COMMENT: As discussed, several of the parentage presumption statutes are dependent upon marriage, and given California's recognition of same-sex marriages those presumptive statutes are not limited to a husband and wife marital relationship.

c. Registered Domestic Partners

Family Code section 297 et seq. permits domestic partners to register with the Secretary of State. The registered domestic partners are to be given the same rights, protection, and benefits, and are subject to the same responsibilities, obligations, and duties under the law, as are granted to and imposed upon spouses. In particular, *Family Code section 297.5(d)* provides:

"The rights and obligations of registered domestic partners with respect to a child of either of them shall be the same as those of spouses. The rights and obligations of former or surviving registered domestic partners with respect to a child of either of them shall be the same as those of former or surviving spouses."

Thus, if the partners register in conformity with the statute, the non-birth parent in an existing or former same-sex relationship will have the right to seek the rights and obligations of parentage with respect to a child born into the relationship as do spouses and former spouses.

6. *The Presumptions Are Applicable In All Types Of Cases*

Notwithstanding that *Nicholas H.*, *Jesusa V.*, and *Elisa B.* all arose from dependency proceedings, their holdings that under certain circumstances biology is not determinative of parentage are not limited to the dependency context. The reasoning of these three California Supreme Court cases are built upon the shoulders of non-dependency family law UPA cases, which are cited extensively throughout those Supreme Court opinions; and, indeed, dependency cases and family law UPA cases freely share the reasoning that under the appropriate circumstances biology should not be used to deprive a child of two parents to support and nurture him/her.

See *Librers v. Black* (2005) 129 Cal.App.4th 114, which arose as an action under the UPA, in which the court rejected the argument that *Nicholas H.* and *Jesusa V.* were not applicable but rather limited to the dependency context. The court stated that *Family Code* sections 7611 and 7612 apply to determine parentage in adoptions, family law matters and UPA petitions, and in dependency cases.

D. PARENTAGE BY EQUITABLE ESTOPPEL

The doctrine of equitable estoppel is a rule of fundamental fairness whereby a party is precluded from benefitting from their inconsistent conduct which has induced reliance to the detriment of another. See *Evidence Code* ("EvC") section 623 which is the statutory doctrine of equitable estoppel.

In the context of a parentage action, the equitable estoppel doctrine may impose upon an alleged parent the obligation to support a child apart from the statutory presumptions and apart from whether the alleged parent is genetically related to the child.

1. *Applies Only If The Alleged Father Knows The Truth That He Is Not Biologically Related To The Child.*

A line of marital dissolution cases hold that the conduct of a husband with no biological ties to a child may nonetheless estop the husband from avoiding parental obligations even after the husband's marriage to the child's mother is dissolved. *Clevenger v. Clevenger* (1961) 189 Cal.App.2d 658; *In re Marriage of Valle* (1975) 53 Cal.App.3d 837; *In re Marriage of Johnson* (1979) 88 Cal.App.3d 848.

The estoppel cases are based in large part on the same social policies that are promoted by the statutory presumptions of parentage, graphically stated as follows:

"The relationship of father and child is too sacred to be thrown off like an old sock, used and unwanted. We are dealing with the care and education of a child during his minority and with the obligations of the party who has assumed as a father to discharge it. The law is not so insensitive as to countenance the breach of an obligation in so vital and deep a relation, undertaken, partially fulfilled, and suddenly surrendered. [citing *Clevenger*]" (*In re Marriage of Johnson, supra*, 88 Cal.App.3d at p. 852.)

All of the following elements must be satisfied to give rise to this equitable estoppel:

- a. The putative father represented to the child that he was his/her father;
- b. The child relied upon the representation by accepting and treating the putative father as his/her natural father;
- c. The child was ignorant of the true facts; and
- d. The representation was of such long duration that it frustrated the realistic opportunity to discover the natural father.

In *In re Marriage of Valle* and *In re Marriage of Johnson*, the estoppel theory was applied to six-year parent-child relationships. The court in *Johnson* emphasized that no express representation of paternity is needed where such a representation can be implied from the husband's conduct: in that case, the mother's son, Jimmy, was born 10 days prior to the marriage of the mother and her husband; the husband, who knew he was not genetically related to Jimmy, had been present in the hospital at Jimmy's birth, held the baby, and participated in the name selection; the husband played a major role in the life of Jimmy for six years before the parties separated; and even after separation, until the dissolution proceeding commenced, the husband maintained a visitation schedule with Jimmy.

COMMENT: Valle was one of the early cases to open the possibility that if a husband is estopped to deny paternity for purposes of imposing the obligation to pay child support, "we perceive no good reason why the trial court should not have jurisdiction to award child custody when the parenthood is established by estoppel and when the issue is fairly and properly litigated with both parties present." (*Id.* at 842.)

In *In re Marriage of Pedregon* (2003) 107 Cal.App.4th 1284 it was held that a husband was obligated to pay child support based on parentage by estoppel given a 12-year parent-child relationship: in that case, the mother's son, David, was 10 months

old when husband met the mother, 18 months old when husband moved in with mother and David, and 22 months old when husband married mother; husband treated David as his son, and David considers husband as his father; David used husband's last name as requested by husband, and calls husband "Daddy"; even at 12 years of age, David was unaware that husband is not his biological father; David has never met or heard of his biological father; and wife has not maintained contact with David's natural father.

2. ***Does Not Apply If The Alleged Father Believes He Is The Child's Biological Father***

In *Clevenger v. Clevenger* (discussed hereinabove) and its progeny, it was emphasized that the doctrine of equitable *estoppel* was narrowly limited to cases in which the alleged father represents to the child that he is the child's natural father, knowing that he was not, and the child believes him to be the natural father.

However, in *County of San Diego v. Arzaga* (2007) 152 Cal.App.4th 1336, it was found that the doctrine of paternity by estoppel did not apply to an alleged father where the factual circumstances established that he acted as the child's father believing that he was the child's biological father.

The facts of *Arzaga* were such that during an on-again/off-again relationship with Arzaga, Maria became pregnant and gave birth to a daughter. Maria told Arzaga he was the child's father. Although they never married, Arzaga and Maria (with the child) would stay at each other's houses several days a week; the child grew to address Arzaga as "Papi"; and, Arzaga was a constant father figure in the child's life. Even after Maria and Arzaga's relationship ended, Arzaga continued to visit with the child until she turned 14 years old, and until the child was 16 years old, she always believed Arzaga was her father. The trial court found that Arzaga believed he was the child's biological father and acted accordingly, and only stopped acting as her father when he received genetic tests. Based upon these facts, the trial court found that Arzaga was estopped from denying his parentage of the then 16-year-old child. The appellate court reversed, holding that the doctrine of parentage by estoppel did not apply to a man who mistakenly believed he was the child's biological father.

"While we are sensitive to the emotional detriment that can result to a child who has relied upon conduct of a person who has held himself out as a father, it would be unfair, in our view, to apply the doctrine to an individual whose conduct was based on his *mistaken* belief that he actually was the child's natural father." (*County of San Diego v. Arzaga, supra*, 152 Cal.App.4th at p. 1348)

COMMENT: Even though *Arzaga* may have been correct in not applying the doctrine of equitable estoppel, it resulted in leaving a 16-year-old child fatherless. There is no discussion in the case as to why *Arzaga* was not found to have been the child's presumed father under *Family Code* section 7611(d) and that it would not be an appropriate action in which to rebut that presumption because a 16-year-old child would be left fatherless.

E. GENETIC TESTS

1. *Court Order For Genetic Testing*

Family Code section 7551 provides that in any civil action or proceeding in which paternity is a relevant fact, the court must order the mother, child, and alleged father to submit to genetic tests on the motion of any party to the action, so long as the motion is made at a time that does not unduly delay the proceedings. Additionally, the court may order such tests on its own motion, or on suggestion made by or on behalf of any person who is involved.

However, *Family Code* section 7551 is not applicable to cases involving the application of the conclusive presumption of *Family Code* section 7540 -- if the conclusive presumption can be rebutted by genetic tests, it must be done subject to the limitations of *Family Code* section 7541; if those limitations do not apply, and therefore the presumption cannot be rebutted, then paternity is no longer a relevant fact.

2. *Presumption Based Upon Genetic Test Results*

a. There is a rebuttable presumption, affecting the burden of proof, of paternity if the results of genetic tests are that the alleged father cannot be excluded as a possible biological father, and that the paternity index is 100 or greater (probability of paternity of 99% or greater); and this presumption may be rebutted by a preponderance of the evidence. *FC* §7555.

b. The statute does not specify what classes of evidence may be used to rebut the presumption, but cases have held that the presumption may be rebutted in ways that include:

- Proof that the genetic testing was conducted improperly, or the wrong gene frequency table was used, or the opposing expert is biased, may demonstrate that the paternity index is not 100 or more, and therefore rebuts the presumption. *County of El Dorado v. Misura* (1995) 33 Cal.App.4th 73.

- Proof that the alleged father may be infertile or otherwise had no access to the mother during the period of conception would establish the prior

probability of paternity is zero, and therefore shows non-paternity. *City and County of San Francisco v. Givens* (2000) 85 Cal.App.4th 51.

- Proof that another man who had access to the mother also has a high paternity index, which would raise a competing or inconsistent presumption (i.e., two related men could have access to the mother, or a woman may not know with which of two related men she had intercourse). *County of El Dorado v. Misura, supra*, 33 Cal.App.4th 73.

(See section III.F.3. for a complete discussion of use of genetic testing and tests.)

COMMENT: A presumption created by genetic tests is rebutted only by a preponderance of the evidence, whereas a presumption under *Family Code* section 7611 requires the higher standard of clear and convincing evidence to rebut.

F. ASSISTED REPRODUCTION

1. *Rights And Obligations Of The Husband*

Family Code section 7613(a) provides that if under the supervision of a licensed physician and surgeon and with the consent of her spouse, a woman conceives through assisted reproduction with semen donated by a man not her husband, the spouse is treated in law as if he or she were the natural parent of a child thereby conceived.

- a. The spouse's consent must be in writing and signed by both spouses;
- b. The physician and surgeon must certify the signatures and the date of the assisted reproduction procedure; and
- c. The signed consent must be maintained as part of the medical record, where it shall be kept confidential and in a sealed file.

Although the statute does not explicitly so state, because the statute does require the physician to certify the date of the insemination, it would appear that the spouse's written consent is required each time the woman is to undergo the assisted reproduction. Such a requirement is not burdensome and leaves no room for confusion on the part of the married couple or the physician regarding whether a consent previously given by the spouse is still viable.

If all the requirements are met and a child is conceived as a result of the consented assisted reproduction, a conclusive presumption of the spouse's parentage is

created, and genetic tests may not be used to challenge that parentage at any time and under any circumstances. *FC §7541(e)*.

Even in the absence of strict compliance with *Family Code* section 7613(a), a spouse may be treated as if he or she is the natural parent of a child born as a result of assisted reproduction if he or she unequivocally agreed to the assisted reproduction. *In re Marriage of Buzzanca* (1998) 61 Cal.App.4th 1410. The facts of *Buzzanca* are such that husband and wife agreed to have their genetically unrelated embryo implanted in a surrogate, but one month before the birth of the child, the husband filed a petition for dissolution of marriage and argued he was not the father of the child. Finding that the husband admitted that he agreed to the insemination and surrogacy, and even signed a consent form after insemination, the court applied *Family Code* section 7613(a) and found that the husband was estopped from denying that he was the father of the child.

2. *Rights And Obligations Of The Semen Donor And Mother*

Family Code section 7613(b) provides that the donor of semen provided to a licensed physician and surgeon or to a licensed sperm bank for use in assisted reproduction of a woman other than the donor's spouse is treated in law as if he were *not the natural parent* of a child thereby conceived, unless otherwise agreed to in writing signed by the donor and the woman prior to the conception.

In *Jhordan C. v. Mary K.* (1986) 179 Cal.App.3d 386, the court concluded that because there is no reference to marriage in subsection (b) of *Family Code* section 7613, it applies to all women, married or not:

"Thus, the California Legislature has afforded unmarried as well as married women a statutory vehicle for obtaining semen for artificial insemination without fear that the donor may claim paternity." (*Jhordan C. v. Mary K.*, *supra*, 179 Cal.App.3d at p. 392.)

Thus, *Family Code* section 7613(b) precludes a semen donor from establishing paternity based upon his biological connection to the child. Even if there had been an intimate relationship between the man and the unmarried woman, his claim of paternity based upon his biological connection will be denied so long as the child was conceived as a result of the man's semen being provided to a licensed physician for insemination in the unmarried woman. *Steven S. v. Deborah D.* (2005) 127 Cal.App.4th 319.

COMMENT: However, *Family Code* section 7613(b) does not preclude a semen donor from establishing that he is a presumed father under *Family Code* section 7611(d) based upon post-birth conduct. *Jason P. v. Danielle S.* (2014) 226 Cal.App.4th 167 [where a semen donor had a substantial relationship with the child for over 2 1/2

years after the child's birth and the child referred to him as "Dada", the appellate court held that the semen donor was not precluded from establishing parentage based upon the 7611(d) presumption.]

G. PROMISE TO FURNISH SUPPORT

A court may enforce a written promise to furnish support to a child born out of a presumed or alleged parent-child relationship, without consideration. *FC §7614(a)*. If the court finds that it is in the best interest of the child or parent, the court may order the name of the person paying support to be kept confidential and designate another person or an agency to receive and distribute the amounts paid in performance of the promise. *FC §7614(b)*. However, such an agreement to furnish support does not a bar a parentage action to prove or disprove the parent-child relationship. *FC §7632*.

III. THE PARENTAGE ACTION

A. HOW A PARENTAGE ACTION MAY BE BROUGHT

1. *Actions May Be Brought In Proceedings Not Under The Family Code*

Although parentage statutes are found in other areas of law, the focus of this reference guide is principally on statutes found in the *Family Code*. However, California's parentage statutes are explained, analyzed and interpreted in cases that arise from a wide spectrum of areas of law including:

a. Actions May Be Brought By The Local Child Support Agency

The Department of Child Support Services ("DCSS") is charged with the duty to "administer all services and perform all functions necessary to establish, collect, and distribute child support." *FC* §17200. In carrying out its functions of establishing and enforcing child support orders, DCSS may bring an action in the name of the county on behalf of the child(ren) or a parent of the child(ren) to determine parentage/the appropriate child support payor. *FC* §17404(a).

Family Code section 17410 provides that in any action filed by the local child support agency where the minor child's paternity is in issue, before a hearing or trial of the paternity issue, the agency must provide the mother and the alleged father the opportunity to voluntarily acknowledge paternity by signing a paternity declaration as described in *Family Code* section 7574. (See section II.B. for a complete discussion of the voluntary declaration of paternity.) Additionally, *Family Code* section 17414 provides that the court shall enter a judgment of paternity upon the filing of a written stipulation between the parties if that stipulation is accompanied by a written advisement and waiver of rights which is signed by the alleged father.

b. Actions May Be Brought In Dependency Proceedings

Any minor child who has been abused, neglected, abandoned, has suffered, or is at risk of suffering serious physical harm, or otherwise comes within the description of *Welfare & Institutions Code* ("*W&IC*") section 300 may be subject to the jurisdiction of the juvenile dependency court; and the juvenile court has a duty to inquire about and determine parentage of each dependent child. *W&IC* section 316.2. The statutes and case law used to determine parentage in dependency court are the same as those used to determine parentage in UPA cases.

COMMENT: Dependency court case precedent is applicable to family law parentage actions, and conversely, family law parentage case precedent is applicable

to dependency cases. And, both dependency and family law parentage case precedent is applicable to cases under other codes in which parentage is at issue.

c. Actions May Be Brought Under The Uniform Interstate Family Support Act (UIFSA)

UIFSA (*FC* §§4900-4978) is a procedural device designed to provide a simplified and inexpensive mechanism for enforcement of child and spousal support obligations of obligors located outside the jurisdiction in which the dependent spouse or children are present.

Although the provisions of UIFSA are most often used to enforce existing support orders, it does have a provision that in initiating or responding to a child support claim, the court of this state may adjudicate parentage as a prerequisite to the making or enforcing of a child support order. *FC* §4965. This parentage provision requires the court to apply the procedural and substantive laws of the *Uniform Parentage Act*, as adopted and applied by the State of California.

COMMENT: The various statutes, rules and procedures incident to governmental actions, including, but not limited to, constitutional rights to counsel, no attorney-client relationship created by the district attorney action, and attorney fees, are beyond the scope of this reference guide. But, any private practitioner called upon to represent a client in such proceedings must be fully versed in all aspects of these district attorney proceedings.

d. Actions May Be Brought Under The Domestic Violence Prevention Act

In a proceeding under the Domestic Violence Prevention Act ("DVPA") (*Family Code* sections 6200-6409), the parentage issue may arise in connection with an application for child custody or support. However, that determination of parentage is for the limited purpose of obtaining an order of no visitation to the restrained party in the action. If the court does determine parentage for purposes of making a DVPA order, it is without prejudice to any action to establish a parent and child relationship. *Family Code* section 6323(b)(1).

In a DVPA the court may accept a stipulation of parentage by the parties, if parentage is uncontested, and enter a judgment establishing parentage, subject to the set aside provisions of *Family Code* section 7646. *FC* §6323(b)(2). (See section IV.D. for a complete discussion of set aside provisions.)

e. **Actions May Be Brought Under The Probate Code**

The child (whether a minor or an adult) of a decedent may seek to establish parentage with respect to that decedent for the purpose of intestate succession using the statutes and case law that apply to other parentage actions (i.e., a parent and child relationship is considered established if it is presumed and not rebutted). **Probate Code section 6453.**

COMMENT: There is no statute of limitations upon bringing a parentage action, and therefore it is not uncommon to see such actions brought in the probate court. Indeed, it is often said that when a well known celebrity dies, there will be a traffic jam around the courthouse because of the many parentage actions being filed wherein a child claims to be the decedent's pretermitted heir.

2. **Actions May Be Brought In Proceedings Under The Family Code**

a. **When There Is A Presumed Parent**

(1) *To Establish Parentage*

- A child, the child's natural parent, a person claiming to be presumed to be the child's parent under **subsection (a), (b) or (c) of Family Code section 7611** [i.e. where the presumed parent married or attempted to marry the child's natural mother], at any time may bring an action to declare the existence of the parent and child relationship presumed under **subsection (a), (b) or (c) of Family Code section 7611. FC §7630(a)(1).**

- Where a person claims to be a presumed parent under **subsection (d) of Family Code section 7611** [i.e. where he or she received the child into his or her home and held the child out as his or her natural child], an action to establish his or her parentage may be brought by any interested party at any time. **FC §7630(b).**

(2) *To Establish Non-Parentage*

- An action to establish the non-existence of the parent and child relationship presumed under **subsections (a), (b) or (c) of Family Code section 7611** [i.e. where the presumed parent married or attempted to marry the child's natural mother] may be brought only by the child, the child's natural parent, or a person presumed to be the child's parent; and only if the action is brought within a reasonable time after obtaining knowledge of the relevant fact. **FC §7630(a)(2).**

- An action to establish the non-existence of a parent and child relationship presumed under **subsection (d) of Family Code section 7611** [i.e. where

he or she received the child into his or her home and held the child out as his or her natural child] may be brought by any interested party. *FC* §7630(b).

b. When There Is No Presumed Parent

(1) *To Establish Parentage*

An action to establish parentage with respect to a child who has no presumed parent, or whose presumed parent is deceased, may be brought by (1) the child or personal representative of the child, (2) the state Department of Social Services, (3) the parent or the personal representative of that parent if that parent has died or is a minor, or (4) a man alleged or alleging himself to be the father, or the personal representative or a parent of the alleged father if the alleged father has died or is a minor. *FC* §7630(c).

(2) *To Establish Non-Parentage*

Family Code section 7630(c) speaks only of an action to establish parentage. But that does not mean a person who does not qualify as a presumed parent lacks standing to bring an action to establish non-parentage. In *Said v. Jegan* (2007) 146 Cal.App.4th 1375, the child's mother named a man as the father on the child's birth certificate, and years later the man brought an action to establish his non-paternity. It was undisputed that the man did not qualify as a presumed father under the marital presumptions [subsections (a), (b), and (c)]. However, the mother filed a declaration in the action alleging facts which the man disputed but, if true, would give rise to the "holding out" presumption of his paternity under subsection (d). The court held that the man had standing to bring an action to establish his non-paternity as an "interested party" under *Family Code* section 7630(b) because "when an interested party seeks to prove he is not a child's father under [§7611(d)], ... he need only allege facts showing he *might* be the presumed father, then go on to disprove those facts at trial," *Said v. Jegan, supra*, 146 Cal.App.4th at p. 1383 [emphasis in original].

COMMENT: Said leaves unanswered the question whether a man has standing to bring an action to establish his non-paternity where neither he nor the mother alleges that he qualifies as a presumed father under *Family Code* section 7611.

c. When There Is A Presumed Father And Another Man Claiming Paternity

(1) *Dawn D. v. Superior Court (Jerry K.)*

In *Dawn D. v. Superior Court (Jerry K.)* (1998) 17 Cal.4th 932, two men claimed to be the child's father: the mother's husband, whose paternity was

presumed under *Family Code* section 7611(a), and another man who alleged he was the child's biological father but admitted he did not qualify as a presumed father under any subsection of *Family Code* section 7611. Under these circumstances, the Supreme Court held that the man claiming to be the biological father lacked standing to bring an action to establish his paternity, and upheld the standing statute against the claim that it violates a biological father's fundamental liberty interest in establishing a relationship with his offspring. Relying on the United States Supreme Court case of *Michael H. v. Gerald D.*, the court held that the interest of a man who impregnates another man's wife in establishing a relationship with the child is not worthy of constitutional protection. In a concurring opinion, Justice Kennard sums up the social conscience of the court as follows:

"A man who wishes to father a child and ensure his relationship with that child can do so by finding a partner, entering into a marriage, and undertaking the responsibilities marriage imposes. One who instead fathers a child with a woman married to another man takes the risk that the child will be raised within that marriage and that he will be excluded from participation in the child's life."
(*Dawn D. v. Superior Court (Jerry K.)*, *supra*, 17 Cal.4th at 947.)

COMMENT: Dawn D. does not appear to overrule *Michael M. v. Giovanna F.* (1992) 5 Cal.App.4th 1272, where the court held that the UPA's standing provisions *are* unconstitutional if they preclude a biological father from bringing an action to establish his paternity where the mother was unmarried at the time of conception but then marries another man before the child is born.

(2) *Craig L. v. Sandy S.*

Unlike the biological father in *Dawn D.* who had never developed a relationship with the child, in *Craig L. v. Sandy S.* (2004) 125 Cal.App.4th 36, the biological father alleged that since the child was born, he had assumed the paternal role in the child's life with the knowledge and consent of the mother and her husband: he signed a child support agreement and made the support payments; he and his wife took care of the child in their home three or four days a week when the mother went back to work shortly after birth; when the child was a few months old, the visits began including one overnight stay per week; and he held the child out to his family and friends as his

son. Relying on these facts, the biological father brought an action to establish his paternity and his standing to do so was challenged in a motion to quash filed by the mother's husband. Reversing the trial court's order granting the motion, the appellate court held that the biological father had standing to bring the action as an interested party because he qualified as a presumed father under *Family Code* section 7611(d).

d. To Determine A Mother And Child Relationship

Any interested person may bring an action to determine the existence or non-existence of a mother and child relationship. *FC* §7650. Persons who are "interested" include the woman claiming to be the child's mother, *In re Salvador M.* (2003) 111 Cal.App.4th 1353, and the child, *In re Karen C.* (2002) 101 Cal.App.4th 932.

B. WHEN THE ACTION MAY BE BROUGHT

1. No Statute Of Limitations

A parentage action may be brought at any time; there is no statute of limitations that limits the bringing of a parentage action, and laches may not be asserted as a bar to the action. *Perez v. Singh* (1971) 21 Cal.App.3d. 870. Indeed, actions to establish parentage have been brought by adults in an effort to establish their parentage to a person who is deceased. See *Estate of Cornelious* (1984) 35 Cal.3d 461. (See section III.A.1.c. for further discussion of parentage actions in probate.)

However, an action to establish the non-parentage of a person presumed to be the child's parent under subsections (a), (b) or (c) *Family Code* section 7611 must be brought, by the statutorily appropriate persons, within a reasonable time after obtaining knowledge of the relevant facts. *FC* §7630(a)(2). And, there are strict limitations relative to bringing an action to rebut the conclusive presumption of *Family Code* section 7540 and an action to set aside the voluntary declaration of paternity. (See sections II.A. and II.B. for a complete discussion of the conclusive presumption and the voluntary declaration of paternity.)

2. Before Birth

An action to establish parentage may be brought before the birth of the child, but enforcement of any order or judgment must be stayed until the birth of the child. *FC* §7633.

C. JURISDICTION AND VENUE

1. *Subject Matter Jurisdiction And Venue*

The superior court has jurisdiction in any proceedings brought under the *Family Code*. *FC* §200.

A parentage action may be brought in any county in which the child resides or is found, or if the father is deceased, in any county in which the proceedings for probate of his estate have been or could be commenced. *FC* §7620(b).

2. *Personal Jurisdiction*

A person who has had sexual intercourse in this state which may have resulted in the conception of a child submits to the jurisdiction of the courts of this state concerning any action brought under the UPA, which embraces both parentage and support actions. *FC* §7620(a). Also see *County of Humboldt v. Harris* (1988) 206 Cal.App.3d 857 (in light of the predecessor of *Family Code* section 7620(a) the father's alleged act of sexual intercourse with the child's mother in California, together with the subsequent birth of the child in the state and financial support by public assistance, constituted the requisite minimum contacts sufficient to satisfy due process requirements for personal jurisdiction).

D. NOTICE OF THE PARENTAGE ACTION

1. *Notice To Respondents*

Notice of the parentage action must be given to respondents by serving them with a copy of the Summons and Petition in compliance with the requirements of the *Code of Civil Procedure* for service of process in civil actions.

2. *Notice To Non-Parties*

Even if they are not parties to the action, the natural parent, each person presumed to be a parent under *Family Code* section 7611, and each man alleged to be the natural father must be given notice of the action and an opportunity to appear. *FC* §7635(b).

In *Gabriel P. v. Suedi D.*, *supra*, 141 Cal.App.4th 850, the appellate court found that the trial court erred by entering judgment in favor of the biological father without joining the presumed father pursuant to *Code of Civil Procedure* section 389 [compulsory joinder of indispensable party].

The notice to a non-party must be given in accordance with the provisions of the *Code of Civil Procedure* for service of process in a civil action, provided that publication or posting of the notice of the proceeding shall not be required. If a person who requires notice cannot be located, or his or her whereabouts are unknown or cannot be ascertained, the court may issue an order dispensing with notice to that person. *FC §7666(b)*.

COMMENT: Although there is no statutory provision as to who is required to give notice to a non-party, it would appear logical that the party who puts the non-party's parentage at issue would be required to give notice. For example, in an action brought by a woman naming a man as an alleged father, if that man raises an affirmative defense that a second man may be the natural father, the first man would be required to give the second man notice of the action.

3. *Notice To The Child*

A child(ren) 12 years of age or older, who is the subject of the action, *must* be made a party to the action and given notice. A child(ren) under 12 years of age *may* be made a party to the parentage action. *FC §7635*.

A minor who is a party to the parentage action must be represented by a guardian ad litem appointed by the court, whether the minor is the child whose parentage or non-parentage is sought to be established, or is a party in any other context. If the guardian ad litem is a relative of the child, that guardian ad litem need not be represented by counsel. *FC §7635*.

E. PENDENTE LITE ORDERS

1. *Child Support*

a. *Payment Of Support*

The court has the discretion to make child support orders, in addition to ordering a parent to pay the reasonable expenses of the mother's pregnancy and confinement. *FC §7637*.

Before the court may order a party to pay pendente lite support, the requesting party must prove by a preponderance of the evidence that the party who is requested to pay support is the father of the child. *Carbone v. Superior Court of Napa County* (1941) 18 Cal.2d 768.

In that the law does not distinguish between children born out of wedlock and children born in a marriage, the factors that determine the amount of child

support under the Statewide Uniform Guideline apply upon proof of parentage. *FC* §4050 et seq.

b. Limitation On Discovery Of Financial Information

Although *Family Code* section 3552 requires parents to produce income tax returns for the purpose of awarding child support, that code section does not apply in a parentage action until the issue of parentage is finally adjudicated. *Thomas B. v. Superior Court (Sherry H.)* (1985) 175 Cal.App.3d 255 (the court reasoned that the requirement to produce tax records applies only to "parents", and the legislature did not intend that they apply before parentage is conclusively established).

With respect to pendente lite support, the court in *Thomas B.* held that no financial records are discoverable until a prima facie showing of parentage has been made.

Thus, strict compliance with *Thomas B.* would require that the trial court bifurcate the issue of parentage from the issue of support at the pendente lite order to show cause. For example, where a mother is claiming that a man is the natural father of her child, and seeking pendente lite child support, that man need not produce any financial records until after the mother establishes his paternity by a preponderance of the evidence.

COMMENT: As a practical matter, in many parentage cases, it is very easy for the mother to establish the prima facie case of parentage. In such a case, the alleged parent's insistence upon a bifurcated hearing of parentage before the production of their financial records may be seen as a dilatory tactic resulting in the alleged parent being assessed attorney fees therefor.

2. Custody and Visitation

The court also has the discretion to make custody and visitation orders directed to the parties of the proceeding. *FC* §7637.

As in the support context, proper proof of parentage for custody and visitation rights requires a showing of parentage by a preponderance of the evidence. *Gadbois v. Superior Court* (1981) 126 Cal.App.3d 653 (since pendente lite support can be ordered to be paid by a person alleged to be the parent, equity demands that with proper proof of parentage, an alleged parent may be afforded the same consideration for pendente lite custody and visitation rights).

In a case involving the conclusive presumption of paternity (*FC* §7540), the court can make orders of pendente lite custody and visitation only if the presumption is

timely rebutted by genetic tests pursuant to *Family Code* section 7541, and the custody or visitation order would be in the best interest of the child. *FC* §7604.

3. *Attorney Fees*

The court may order pendente lite attorney's fees, expert fees, and other costs of the proceeding, including blood tests. *FC* §§7640 and 7605. (See section III.F.7. for a complete discussion of attorney fees in actions brought under the UPA.)

F. TRIAL ISSUES

1. *Right To Jury Trial?*

The courts have traditionally recognized that paternity is a legal issue to be tried by a jury, and remaining issues, such as support and custody/visitation, should be tried by the court without a jury. *Van Buskirk v. Todd* (1969) 269 Cal.App.2d 680. However, several appellate court cases have held that there is no right to a jury trial to determine paternity in actions that were brought by the District Attorney under the former *Welfare & Institutions Code* ("*W&IC*") Sections (now actions brought by the local child support agencies pursuant to *Family Code* section 17400 et seq.).

County of El Dorado v. Schneider (1987) 191 Cal.App.3d 1263 (no constitutional right to a jury trial in an action brought under former *W&IC* section 11350, after the alleged father refused to submit to blood tests); *County of Butte v. Superior Court (Filipowicz)* (1989) 210 Cal.App.3d 555, 559 ("Code of Civil Procedure section 592 does not provide a jury trial as a matter of right in a paternity action arising under Welfare & Institutions Code section 11350."); *County of Sutter v. Davis* (1991) 234 Cal.App.3d 319 (the right to a jury trial is measured by the common law of England, and paternity defendants had no right to a jury trial under English common law as it existed then, and therefore, the California Constitution does not provide paternity defendants the right to a jury trial).

Although there is no case denying the right of a jury trial to an alleged father in a private paternity case (not brought by the local child support agencies), most counties in the state have applied the non-jury policy in both private and governmental paternity actions.

2. *Standard Of Proof*

The mother has the burden of proving, *by a preponderance of the evidence*, that the identified man is the father of her child. *Walsh v. Palma* (1984) 154 Cal.App.3d 290. The uncontradicted testimony of the mother that she had sexual relations with only

the alleged father is sufficient to meet her burden of proof. *Huntingdon v. Crowley* (1966) 64 Cal.2d 647.

The burden of proof may be stronger or shifted by the effect of the presumptions of parentage. For example, if a man is a presumed father by virtue of a rebuttable presumption under *Family Code section 7611*, the burden is on the party opposing the application of the presumption to rebut it by clear and convincing evidence. *FC §7612*. Similarly, the party seeking to rebut the conclusive presumption of *Family Code section 7540* has the burden of doing so under the strict limitations of *Family Code section 7541* (only statutorily identified parties may bring a motion within the first two years of the life of the child for blood and genetic testing to rebut the presumption of the husband's paternity).

3. *Use Of Genetic Tests*

As discussed hereinabove (section II.E.), except in limited circumstances, on its own motion or the motion of any party to the action, the court must order the mother, child, and the alleged father to submit to genetic tests. There is a rebuttable presumption, affecting the burden of proof, of paternity if the results of genetic tests are that the alleged father cannot be excluded as a possible biological father, and that the paternity index is 100 or greater (probability of paternity of 99% or greater). *FC §7555*.

a. **Refusal To Submit To Court-Ordered Blood And Genetic Testing**

If, after an order is made to do so, a party refuses to submit to the blood test, the court may resolve the issues of paternity against the refusing party, without a trial on the merits. *FC §7551. County of El Dorado v. Schneider* (1987) 191 Cal.App.3d 1263. Additionally, a party's refusal to submit to court-ordered blood and genetic testing is admissible into evidence in any proceeding to determine paternity. *FC §7551*.

COMMENT: Good practice would dictate that if a party is refusing to submit to court-ordered blood tests, a motion to compel compliance should first be brought, and then, if the party still refuses, summary adjudication of the issue of paternity would be appropriate.

b. **Types Of Genetic Tests**

Family Code section 7551 does not name any particular genetic test or specify which test may be ordered, but does define "genetic tests" as "any genetic test that is generally acknowledged as reliable by accreditation bodies designated by the United States Secretary of Health and Human Resources."

In years past, the HLA (Human Leukocyte Antigen) Test was the widely used parentage valuation blood test, and had been approved in many cases. However, DNA (Deoxyribonucleic acid) testing which can be less intrusive than HLA testing, has become commonplace in paternity evaluation testing.

c. Exclusionary And Probability Test Results

The paternity evaluation blood and genetic test results can conclusively exclude a particular person as the biological parent of the child, and therefore yield results in terms of whether a man is excluded as the biological father of a child. *County of El Dorado v. Misura* (1995) 33 Cal.App.4th 73. Thus, if the results exclude the man as the biological father, the issue of paternity must be resolved accordingly. *FC §7554*.

The same tests, however, cannot conclusively establish paternity. *County of El Dorado v. Misura, supra*, 33 Cal.App.4th 73. But, since the test results are exclusionary, if a man is not excluded as the biological father, the tests will yield a "probability of paternity" result, which is the statistical finding that there is a given numerical probability that the man is actually the child's father. *Ibid*. If the paternity index is 100 or greater (usually represented as a probability in excess of 99%), that man is legally presumed to be the child's biological father. *FC §7555*.

d. Genetic Test Results Are Admissible Only Upon Laying A Foundation As To Their Authenticity And Accuracy

Even if blood and genetic test results are relevant, they are not automatically admissible into evidence. The admissibility of those results depends on establishing the foundation for their admissibility, as follows:

(1) Live Testimony

An authorized custodian of records or other qualified employee of the laboratory at which the blood and genetic testing were performed may be called as a witness to testify as to the authenticity and accuracy of the test results.

(2) Declaration Under Family Code section 7552.5

The necessity for live testimony to lay the foundation and authenticate the test results is alleviated by following the procedure set forth in *Family Code section 7552.5*. This section permits the blood and genetic test results to be admitted into evidence at a hearing or trial to establish paternity, without the need for foundation testimony of authenticity and accuracy, if all of the statutorily defined requirements are met.

The statutory requirements of *Family Code* section 7552.5 are that no later than 20 days before any hearing in which the test results may be admitted into evidence, a copy of those results were served upon all parties by any method of service authorized under *Code of Civil Procedure* section 1010 et seq. The test results *must be accompanied by a declaration* under penalty of perjury stating in substance each of the following:

- The declarant is the duly authorized custodian of the records or other qualified employee of the laboratory, and has the authority to certify the records.
- A statement which establishes in detail the chain of custody of all genetic samples collected, including the date on which the sample was collected, the identity of each person from whom a genetic sample was collected, the identity of the person who performed or witnessed the collecting of the genetic samples and packaged them for transmission to the laboratory, the date on which the genetic samples were received by the laboratory, the identity of the person who unpacked the samples and forwarded them to the person who performed the laboratory analysis of the genetic sample, and the identification and qualifications of all persons who performed the laboratory analysis and published the results.
- A statement which establishes that the procedures used by the laboratory to conduct the tests for which the test results are attached are used in the laboratory's ordinary course of business to ensure accuracy and proper identification of genetic samples.
- The genetic tests were prepared at or near the time of completion of the tests by personnel of the business qualified to perform genetic tests in the ordinary course of business.

(3) *Objection To Declaration Under Family Code section 7552.5*

Any party served with blood and genetic test results and a declaration under *Family Code* section 7552.5 may file written objections no later than five days prior to the hearing at which paternity is at issue. *FC* §7552.5(b). If the written objection is timely filed and served, an authorized custodian of records or other qualified employee of the laboratory must be called as a witness to testify as to their findings and be subject to cross-examination.

COMMENT: It would appear that the party objecting to the declaration, and forcing the live testimony of the expert, must have a very good reason to do so. Otherwise, that party can expect to be assessed the cost of the expert as well as attorney fees for requiring a hearing on the subject.

4. *Defenses*

a. **Legal Defenses**

(1) *Presumptions*

The presumptions of *Family Code* sections 7540 and 7611 can be used at trial as a defense to the claim of parentage. (See sections II.A. and II.C. for a complete discussion of said presumptions.)

In *Susan H. v. Jack S.* (1994) 30 Cal.App.4th 1435, Susan brought an action against Jack alleging he was the biological father of her child. Because Susan was married and living with her husband at the time of conception, Jack successfully invoked the conclusive presumption of *Family Code* section 7540 as a defense to Susan's action.

(2) *Estoppel*

Given all the elements of estoppel, one can be estopped from denying his or another's parentage. (See section II.D. for complete discussion of equitable estoppel.)

Additionally, estoppel can be used as a defense against another person's legal claim of parentage. In *Guardianship of Ethan S.* (1990) 221 Cal.App.3d 1403, a consolidated guardianship and paternity action, a husband sought to establish that he was the father of a child born to his wife during their marriage (relying upon the conclusive presumption). However, until he had filed his paternity action, the husband had represented to that child that another man, the biological father, was his father, and the child grew up believing these representations to be true. Applying the equitable estoppel of *Clevenger, Valle, and Johnson*, the court found that the policy of preserving an existing father and child relationship between the child and his biological father is served by the estoppel and, therefore, held that the husband was estopped from denying the biological father's paternity.

(3) *Conception With Donated Semen*

Family Code section 7613(a) provides that if a woman conceives through assisted reproduction with semen donated by a man not her husband, with her husband's consent, the husband is treated in law as the natural father of the child thereby conceived. Therefore, that section provides a defense for the husband and wife against a semen donor who might seek to establish his parentage; and conversely provides a defense to a semen donor against a claim of parentage by the husband and/or wife.

Family Code section 7613(b) provides that the donor of semen provided to a licensed physician or a licensed sperm bank for use in assisted reproduction of a woman other than the donor's spouse is treated in law as if he were not the natural father of the child thereby conceived. Therefore, that section provides a defense for a woman against a semen donor who might seek to establish his parentage; and conversely provides a defense to a semen donor against a claim of parentage by the woman. (See section II.F. for a complete discussion of parentage by assisted reproduction.)

(4) *Genetic Testing*

In most cases, unless a party chooses to attack the scientific validity of the genetic test results, a high paternity index and corresponding probability creates a rebuttable presumption which may be dispositive. (See section III.F.3. for a complete discussion of genetic tests.)

Proof that the alleged father may be infertile or otherwise had no access to the mother during the period of conception would establish the prior probability of paternity is zero, and therefore shows non-paternity. *City and County of San Francisco v. Givens* (2000) 85 Cal.App.4th 51.

COMMENT: Remember, no matter how high the paternity index may be, if the blood and genetic test results are not properly introduced into evidence, they cannot establish paternity or non-paternity. *Comino v. Kelley* (1994) 25 Cal.App.4th 678.

b. Factual Defenses

(1) *Impotence And Sterility*

The inability to inseminate, whether due to sterility or impotence, may constitute a defense. However, a low sperm count does not preclude insemination but merely makes it less likely, and therefore may not be a defense. *In re Marriage of Freeman* (1996) 45 Cal.App. 4th 1437.

(2) *SODDI*

"Some other dude did it."

Evidence is admissible to affirmatively prove that the mother had sexual intercourse with another man, or other men, during the possible period of conception. *Huntingdon v. Crowley* (1966) 64 Cal.2d 647. However, if genetic test results have been introduced creating a rebuttable presumption of a man's paternity, his proof of the mother's sexual intercourse with another man is not sufficient to rebut his presumption

without blood and genetic test evidence not excluding the other man. *County of El Dorado v. Misura, supra*, 33 Cal.App.4th 73.

(3) *Timing*

The putative father may acknowledge intercourse with the mother, but deny that the intercourse occurred during the period in which the mother most likely conceived.

Judicial notice can be taken that the normal gestation period is between 270 and 280 days. *Louis v. Louis* (1970) 7 Cal.App.3d 851.

(4) *No Sexual Intercourse*

Again, unless the trier of fact finds that there was sexual intercourse between the mother and the alleged father within the time period of possible conception, the genetic test results have no probative value and may be disregarded. *City and County of San Francisco v. Givens, supra*, 85 Cal.App.4th 51.

5. *Confidentiality Of Hearing And Records*

The hearing or trial may be held in closed court without admittance of any person other than those necessary to the action or proceeding. *FC §7643(a)*.

Even though it is not mandatory for the proceeding to be closed, it is common practice that if either party so moves the court, it will be ordered.

All papers and records, other than the final judgment, pertaining to the action or proceeding, whether part of the permanent record of the court or of a file in any public agency or elsewhere, are subject to inspection only upon an order of the court for good cause shown. *FC §7643(a)*. However, all papers and records pertaining to the action or proceeding are subject to inspection by the parties to the action, their attorneys, and agents acting pursuant to written authorization from the parties to the action or their attorneys. *FC §7643(b)*.

6. *Display of Child*

The court has discretion to view the child, or a photograph of the child, for comparison to the alleged father. *Gallina v. Antonelli* (1963) 220 Cal.App.2d 63. However, absent unusual circumstances, the court may refuse to view the child if it does not believe the viewing would be probative. *EvC section 352*.

7. *Attorneys Fees*

Family Code section 7640, which in 1994 was incorporated into the **Family Code** as part of the UPA, provides that the court may order reasonable fees of counsel, experts, and the child's guardian ad litem, and other costs of the action and pre-trial proceedings, including blood tests. These fees and costs may be ordered paid by the parties, excluding any governmental entity, in proportions and at times determined by the court.

As part of 2004 California Legislation relative to attorney fees, **Family Code section 7605** was created which provides that in a proceeding under the UPA to establish physical or legal custody of a child or a visitation order, and in any proceeding subsequent to entry of a related parentage judgment, the court shall ensure each party's access to legal representation by making an attorney fee order based on income and need assessments. (**Family Code section 7605** includes the authority for an award of attorney fees in a post-judgment custody/visitation proceeding.)

In *Kevin Q. v. Lauren W. [Kevin Q. III]* (2011) 195 Cal.App.4th 633, after noting that **Family Code section 7605** was part of a legislative package that also amended **Family Code section 2030** the court held that a trial court's analysis in making an award of attorney fees under **Family Code section 7605** is the same as the court's analysis in making an award of fees under **Family Code section 2030**.

COMMENT: Kevin Q. II is a "must read" for its excellent discussion of the requisite considerations in making an attorney fee order whether under **Family Code section 2030** or **Family Code section 7605**. (Even the effect upon an award of attorney fees due to reoccurring gifts from the litigant's parent is discussed.)

Notwithstanding **Family Code section 7640** or **Family Code section 7605**, in an action brought by the county, an alleged parent is not entitled to attorney's fees even though the establishment of parentage may be a prerequisite to liability. *County of Santa Barbara v. David R.* (1988) 200 Cal.App.3d 98. However, in *City and County of San Francisco v. Ragland* (1987) 188 Cal.App.3d 1375, the court awarded the defendant attorney's fees in a particularly egregious set of circumstances in which the district attorney's office, among other things, hid evidence, knew at various times the complaining witness had said she did not know who the father was, and had changed her mind.

IV.
THE PARENTAGE JUDGMENT

A. EFFECT OF JUDGMENT

1. *Determinative For All Purposes*

The judgment or order of the court determining the existence or non-existence of the parent and child relationship is determinative for all purposes except for actions brought for child neglect under *Penal Code* ("*PenC*") section 271. *FC §7636*.

Robert J. v. Leslie M. (1997) 51 Cal.App.4th 1642 held that under the doctrine of res judicata, an adjudicated father's action to establish his non-paternity was barred in light of his prior stipulation to paternity, even though blood tests established that he was not the child's biological father.

The facts are such that, fearful that a paternity lawsuit would hurt his chances of getting a deputy sheriff's job, Robert stipulated to a district attorney's judgment without seeking genetic tests or consulting counsel. Robert paid child support and arranged to have his parents care for the child. Four years later, the mother finally agreed to genetic tests, which excluded Robert as the biological father. Robert then filed an action to establish his non-paternity of the child.

The court held that re-litigating the issue of paternity would not serve "the ends of justice." The child's interest in continuing to receive financial support from Robert, and emotional support from Robert's parents, as well as the state's interest in preserving the finality of support judgments, outweighed Robert's interest "in avoiding the financial consequences" of the paternity judgment:

"If there is one class of judgments where the doctrine of res judicata should be scrupulously honored, it is a paternity judgment." (*Robert J. v. Leslie M.*, *supra*, 51 Cal.App.4th at p. 1647.)

Guardianship of Claralyn S. (1983) 148 Cal.App.3d 81 held that a judgment establishing paternity, entered in an action brought by the county for reimbursement of public assistance, could not be challenged in a later guardianship proceeding brought by the child's grandparents, notwithstanding two blood tests excluded the purported father. The court reasoned that even though the doctrines of res judicata and collateral estoppel may not be invoked against the grandparents because they were not parties to the prior paternity action, there is "the public policy of maintaining parent-child relationships and insuring the finality of paternity judgments." (*Id.* at p. 85)

2. *May Be Challenged By A Child Not A Party To The Action*

A prior parentage judgment may not be binding on the child if the child was not joined and made a party to the action.

In *Everett v. Everett* (1976) 57 Cal.App.3d 65 [*Everett I*], the mother arranged a lump sum settlement of a paternity claim and entered into a stipulated judgment that Chad Everett was not the father of the child. After the stipulated judgment of non-paternity, the child was not estopped from bringing its own paternity action against Chad Everett through a guardian ad litem.

In *Ruddock v. Ohls* (1979) 91 Cal.App.3d. 271, a mother and her husband adjudicated non-paternity in their dissolution proceeding. The mother and husband were estopped from re-litigating the issue of paternity in a subsequent proceeding, but the judgment was not binding upon the child who was not joined and made a party in the dissolution action.

B. PROVISIONS AND ORDERS

In addition to determining parentage, *Family Code section 7637* provides that the judgment or order may contain any other provision directed against the appropriate party to the proceedings, concerning:

1. The duty of support;
2. The custody of the child;
3. Visitation privileges with the child;
4. The furnishing of bond or other security for the payment of the judgment;
5. Any other matter in the best interest of the child; and
6. Directing the father to pay the legal expenses of the mother's pregnancy and confinement.

C. CHANGE OF NAME OF CHILD

If the parentage petition had included a request for change of the child's name, the judgment may include a provision changing the child's name. *FC §7638*. If the judgment or order is at variance with the child's birth certificate (i.e., a judgment of paternity of a man different than that listed on the birth certificate), the court must order a new birth certificate be issued. *FC §7639*.

D. SETTING ASIDE JUDGMENT OF PATERNITY

Family Code section 7645 et seq. sets forth a special procedure for setting aside or vacating paternity judgments if genetic testing indicates that the previously established father of a child is not the biological father. The procedure applies to judgments that establish paternity, including those determinations made pursuant to sections 300, 601, or 602 of the *Welfare & Institutions Code* or a voluntary declaration of paternity. However, this procedure does not apply to a judgment in any action for marital dissolution.

1. *Time Period For Bringing Motion*

Family Code section 7646(a) authorizes that a motion to set aside or vacate a judgment if brought by the previously established mother of a child, the previously established father of a child, the child, or the legal representative of any of these persons within two years after:

- a. The previously established father having learned or should have learned about the paternity proceedings or judgment, whichever occurred first; or
- b. The birth of the child if paternity was established by a voluntary declaration of paternity.

The trial court must not order genetic testing to determine whether to set aside a paternity judgment if the two-year time period for bringing the motion has expired. *County of Orange v. Superior Court (Rothert)* (2007) 66 Cal.Rptr.3d 689.

COMMENT: The *Family Code* section 7646(a) time limits do not affect any rights under *Family Code* section 7575(c) to set aside a voluntary declaration of paternity on grounds of mistake, inadvertence, surprise, excusable neglect.

2. *Conditions Of Granting Motion*

Family Code section 7648 gives the court discretion to deny the motion if it finds that such a ruling would be in the child's best interests, considering all relevant factors including (1) the child's age, (2) the length of time since the paternity judgment, (3) the nature, duration, and quality of the relationship between the previously established father and the child, (4) whether the previously established father has requested the parent-child relationship continue, (5) whether the biological father has indicated that he does not oppose such a continued relationship, (6) whether it would be beneficial or detrimental to the child in establishing the biological parentage of the child, and (7) whether the previously established father has made it more difficult to find or obtain support from the biological father.

Family Code section 7645 et seq. does not impair a party's rights to seek to set aside a judgment pursuant to *Code of Civil Procedure* section 473 [mistake, inadvertence, or excusable neglect].

3. ***Support Orders Vacated/No Right Of Reimbursement***

If the court grants a motion to set aside or vacate a paternity judgment, it must also vacate any order for child support and arrearages that were based on that previous judgment. The previously established father has no right of reimbursement for any amount of support paid prior to granting the motion. *FC §7648.4.*

E. ENFORCEMENT AND MODIFICATION OF THE JUDGMENT

If there is a voluntary declaration of paternity in place, or parentage or a duty of support has been acknowledged or adjudicated, the obligation of the parent may be enforced in the same or other proceedings by (1) the parent, (2) the child, (3) the public authority that has furnished or may furnish the reasonable expenses of pregnancy, confinement, education, support or funeral, or (4) any other parent, including a private agency, to the extent the person has furnished or is furnishing these expenses. *FC §7641.*

The court has continuing jurisdiction to modify a parentage judgment or order. Therefore, child support orders incorporated into a parentage judgment are modifiable as is any other child support order. *FC §7642.*

TABLE OF AUTHORITIES

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TAB 20

**Child Support–Related Technology
for the 21st Century**

*Hon. Barry S. Michaelson, Ms. Julia
Montgomery & Ms. Maria Livingston*

Child Support Related Technology for the 21st Century

Barry Michaelson, Commissioner,
Orange County Superior Court
Maria Livingston, Director,
Orange County Superior Court Facilitator's Office
Julia Montgomery, Attorney,
Orange County Department of Child Support Services

1

Independent Partners Helping Families

- ▶ **Facilitator** – Gathers accurate information and provides education
- ▶ **Child Support Services** – Gathers and presents information/evidence to the Court; enforces the Court's orders
- ▶ **Court** – Makes appropriate orders

2

Barry Michaelson
Commissioner, Orange County
Superior Court

- ▶ **Technology in the Courtroom**

3

Use of Technology

- ▶ CSS Internal Electronic Files
- ▶ Court's Use of Electronics

4

CSS Internal Electronic Files

- ▶ Prepare CSE guideline
- ▶ Use for purposes of stipulations
- ▶ Use for purposes of preparation and presentation to Court

5

Court Electronics

- ▶ Courtroom
- ▶ Usefulness on Bench
- ▶ CSS Electronic Files
- ▶ The Future

6

Courtroom

- ▶ Electronic Legal Files
- ▶ Monitors at Counsel Table
- ▶ Child Support Compliance Predictor Tool
- ▶ Usefulness on the Bench, and for the Parties and Counsel

7

ELF – Electronic Legal Files

- ▶ Index is tailored for easy retrieval
- ▶ Allows Judicial Officer to see imaged version of all orders, pleadings and other documents in a particular case
- ▶ Saves money because there is no longer a need to store, retrieve and transport paper files
- ▶ Commissioner able to display any document on courtroom monitors for litigants to review

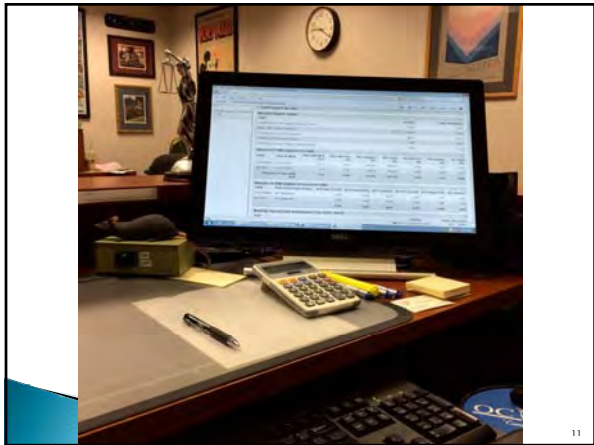
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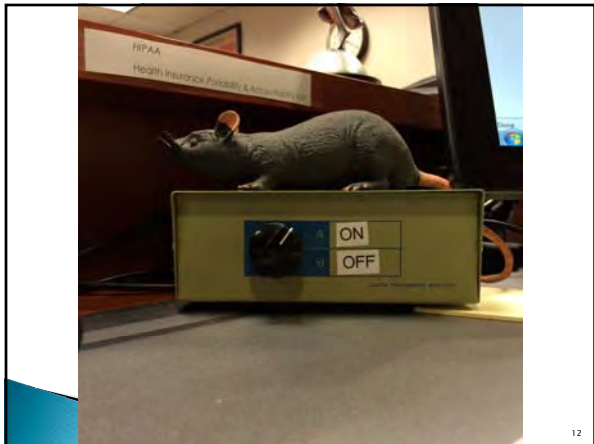
Monitor Utilization

- ▶ Controlled by Commissioner
- ▶ Ability to access all Court files
- ▶ Includes the parties in the process of the calculations of child support

9







Using Monitors when Calculating Support

- ▶ CSE Guideline is shown to all parties (avoids any ex parte aspects)
 - Errors in input can be immediately corrected
 - The parties can see "what if" scenarios if time share, income or other variables are changed
 - Court can determine net available income after payment of support and show the parties
 - **Helps to determine if deviation from guideline is appropriate**

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Benefits of Using Monitors

- ▶ Saves time during and after hearings
 - Parties understand the process
 - Parties understand the results (even if they do not like them)

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Usefulness on the Bench

- ▶ Counsel and parties have favorably reported acceptance of the electronics
- ▶ The CSE Guideline is saved by the Commissioner
- ▶ The Minute Orders are prepared in the Courtroom
- ▶ Fewer questions addressed to CSS occur after the Court hearing

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The Future

- ▶ Should Court files be able to be accessed by CSS?
- ▶ Orange County Superior Court permits limited access
- ▶ CSS files across county lines
- ▶ How to access?
- ▶ How to determine cases with back and forth calculations involving different Courts?

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Julia Montgomery Orange County Department of Child Support Services

- ▶ Use of Technology to Improve Customer Service and Efficiency

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CSS Technology

- ▶ Electronic Filing of Summons & Complaints
- ▶ OnBase – Paperless Document Control and Storage System (January 2013):
 - In-House Electronic Mail System
 - Electronic Litigation Files
- ▶ PACs Legal System at Courthouse (July 2007)
- ▶ Customer Pagers (December 2008)
- ▶ Laptops in Courtroom and at Meet & Confers
- ▶ Research Team – Data Mining and Predictive Analytics
- ▶ Customer Service
- ▶ Community Resource Center

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E-Filing Summons & Complaint

- ▶ Summons and Complaint prepared at CSS office after research and contact with customers
- ▶ Summons and Complaint, Proposed Judgment and other Documents E-filed with Court
- ▶ Within 2-3 days, the conformed Summons and Complaint, with an assigned case number, is electronically returned to CSS

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OnBase Features

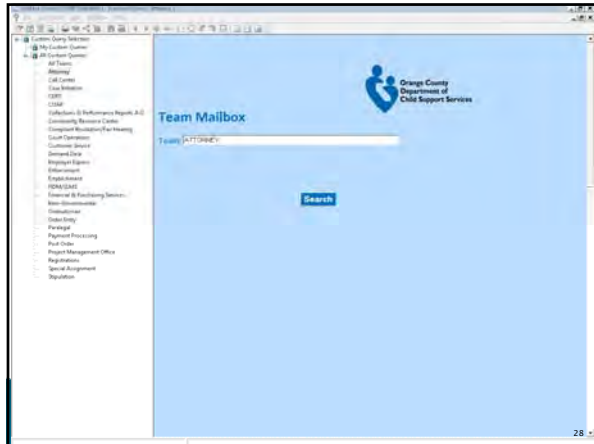
- ▶ **Scanning:** OnBase scans individual documents or batches of documents, and recognizes document types through character recognition
- ▶ **Indexing:** Documents are indexed by key words so that staff can search in a variety of ways
- ▶ **Searching:** Ability to locate documents by Superior court case number, participant name, internal case number...etc.

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OnBase Virtual Mail

- ▶ **Automation:** Eliminates much manual processing and routing of mail. As appropriate, documents can be re-indexed and routed to other teams.
- ▶ **Inbox Review:** Documents are transmitted electronically to Team Mailboxes for review. Staff reassigns these documents when they are complete.
- ▶ **Urgent Documents:** OnBase can send an e-mail notification identifying new documents (with a hyperlink)

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ELF Benefits

- ▶ Streamline business processes
- ▶ Expedite internal delivery of documents
- ▶ Reduce number of lost/misplaced documents
- ▶ Reduce court preparation time
- ▶ Reduce size of paper folders
- ▶ Reduce costs
- ▶ Establish electronic document workflows
- ▶ Increase document security
- ▶ Enhance customer service

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OnBase Features for ELF

- ▶ An ELF file is a set of pre-designated folders in OnBase for use by legal staff
- ▶ Colored tabs organize the documents
- ▶ Tabs identify what documents are missing from a tab by highlighting in red
- ▶ Allows staff to filter or search by key words. Examples:
 - Court date
 - A.M. or P.M.
 - Attorney assigned

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Legal PACS Benefits

- ▶ Streamlined check-in process
- ▶ Ability to accurately assess staff availability, productivity and volume of customers
- ▶ Ensure that customers are matched with staff's skill sets/experience
- ▶ Flexibility in reassigning interviews
- ▶ Real time status tracking interviews – Ability to view tickets that are open, assigned, in progress, transferred or closed.

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Legal PACS Benefits

- ▶ System alerts staff if a customer has been waiting for an extended period of time
- ▶ Allows for collection of statistical data so that staff can be used most efficiently and provide the best customer service:
 - Tracks interviews
 - Tracks wait times
 - Tracks volume

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Pagers at Court

- ▶ Implemented in December 2008 & recently upgraded
- ▶ Facilitates communication between customers and our Courthouse check-in desk
- ▶ Provides customers with flexibility, without worrying about missing interview, to leave the immediate area after checking in for their pre-hearing interview:
 - Take children to child care
 - Review educational information provided
 - Complete any necessary documents

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Predictive Analytics

Predicting Likelihood of Payment- Barriers Study

	Very Low (0-19%)	Low (19-34%)	Medium (34-57%)	High (57-94%)
Median NCP Age at 1 st Born	24	25	26	25
Average Visits Per Month	4.1	4.1	4.8	5.3
Median Monthly NCP Income	\$618	\$974	\$1,719	\$3,484
Median Ratio of Order to Wage	37.8%	33.9%	21%	10.9%
Mostly Current and Former Assistance	73%	59%	54%	46%
% Unemployed	89%	65%	37%	1%
Prevalence of Criminal History	91%	38%	36%	15%
On Probation	28%	9%	8%	2%
Did Not Complete High School	36%	31%	28%	21%
History of Substance Abuse	40%	22%	20%	9%
On Public Assistance	30%	27%	19%	7%

38

California Guideline Study

- ▶ Sampled 102,232 cases statewide
- ▶ Cases linked to reported income, the guideline calculation and 12 months of payment history

Findings

- ▶ Ratio of order to wage (ROTW) is a major predictor of child support payments
- ▶ When ROTW is above 19%, payments decrease

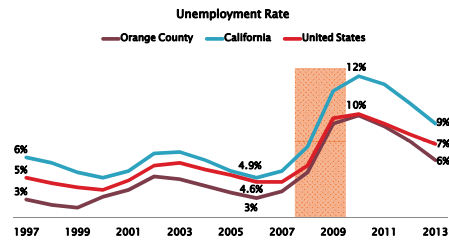
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California Guideline Study Initial Findings

	Number of Cases	Compliance	Per cent of Months Paid	Payments Per Child(Monthly)
Minimum Wage (\$1,387)	19,983	19.9%	27.9%	\$47
Low Income (\$0-\$1,386)	27,526	47.8%	56.0%	\$68
Mid Income (\$1,388-\$2,500)	28,636	61.5%	74.2%	\$176
High Income (>\$2,500)	26,187	75.3%	85.7%	\$371
Total	102,332	59.1%	63.3%	\$172

40

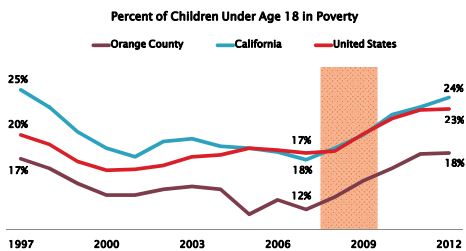
Economic Climate



Source: United States Bureau of Labor Statistics
Shaded area represents the Great Recession from December 2007 to June 2009

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Economic Climate

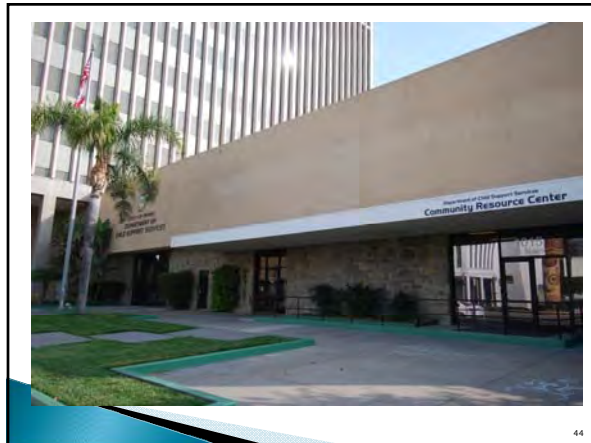


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Poverty in California
Source: United States Department of Agriculture
<http://www.ers.usda.gov/Data/povertyrates/>



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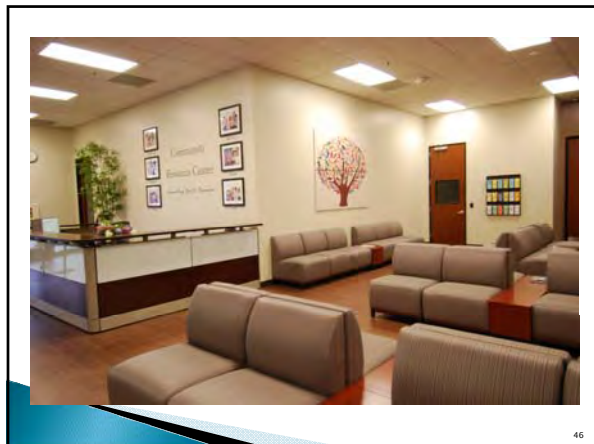


44

Community Resource Center

- ▶ Assists parents with completing documents
- ▶ Offers workshops
- ▶ Links parents to community agencies and organizations
- ▶ Allows parents access to Facilitator at Child Support Services' office
- ▶ Genetic testing available

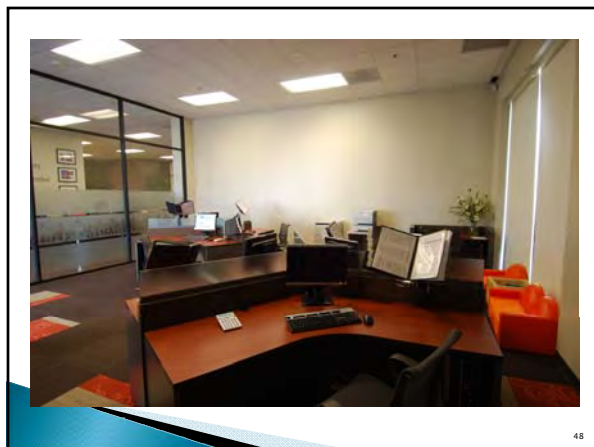
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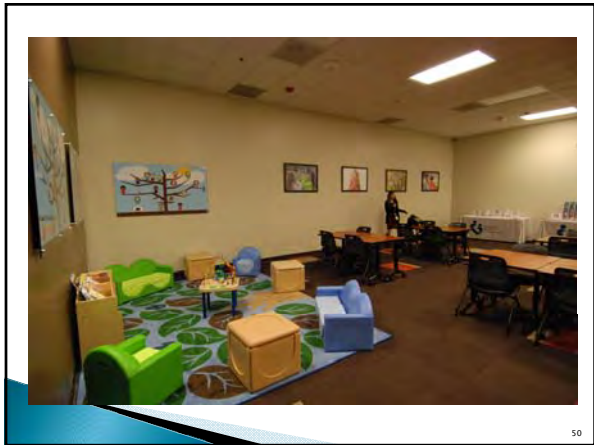
Providing Assistance and Access to Our Families

- ▶ Case Opening
- ▶ Change of Address
- ▶ Benefits – CalWin/CalFresh
- ▶ Link to DCCS Website
- ▶ Making and Receiving Payments
- ▶ Smart Forms
- ▶ Request for Modification
- ▶ Community Resources

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**FAMILY LAW FACILITATOR
TECHNOLOGIES FOR
EFFICIENCIES AND IMPROVED
CUSTOMER SERVICE**

Maria Livingston

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Using Technology for Efficiencies & Increased Customer Service

- ▶ Website Options
- ▶ On-site Triage Technology
- ▶ Location of Services
 - ▶ Templates
 - ▶ Statistics

52

ON-LINE VS. IN-LINE SERVICES

- ▶Triage – the on-line interview
- ▶SmartForms – e-filing court forms
- ▶Pubble – “Ask a Question” feature

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On-Line Triage

- We selected Small Claims for the prototype (for experience and lessons)
- We identified and adhered to State-wide triage principles
- We allowed for localized triage customizations
- We started by building for a concretely defined user profile and expand from there:
 - has access to computer
 - comfortable using computer
 - wants to use computer
 - speaks English
 - does not want to come to court.

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On-Site Triage Efficiencies

- Microsoft SharePoint – Dashboard for Staff
- Judicial Referral Tool –
No more handwritten notes

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LOCATION OF SERVICES

Orange County Pilot – began in April 2011

Contract for FLFO services – began in 2012



IV-D partners co-location project

Asst. Facilitator working with CSSD on referrals

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TECHNOLOGY ISSUES

- ▶ Remote access for staff
- ▶ Security issues
- ▶ Transporting documents between sites

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Sample of Simplified Declaration Used by a Child Support Services

The Department has been advised [Choose an item](#) that there has been a material change in circumstances since the last child support order was made in that [Choose an item](#) [Choose an item](#)

If the parties' completed Income and Expense Declarations are not available for filing with this motion, the Department will request that the parties have them completed and ready to file by the date of the hearing.

After reviewing the applicable documents in the file and records maintained in the California Child Support Enforcement (CSE) System, the addresses for the parties named in the attached proof of service are the current verified primary mailing addresses on file with DCSS.

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Technology & Statistics

- ▶ SharePoint
- ▶ Microsoft Dynamics CRM

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SharePoint



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Microsoft Dynamics CRM



- ▶ Coming soon!
- ▶ My Court Card
- ▶ Data Collection
- ▶ Appointments
- ▶ E-mailing checklists, surveys and reminders

Enhancing Customer Service

Reporting Capabilities

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QUESTIONS

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Contact Information

- ▶ IV-D Commissioner Barry Michaelson- Orange County Superior Court
bmichaelson@occourts.org
- ▶ Julia Montgomery, Orange County Department of Child Support Services
jmontgomery@css.ocgov.com
- ▶ Maria Livingston, Family Law Facilitator/Self-Help Services Unit Manager Orange County
mlivingston@occourts.org

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TAB 21

DCSS Guideline Calculator Training–
Beginning

*Hon. David E. Gunn &
Hon. Nancy C. Staggs*

**18th Annual Child Support Training Conference
September 30 – October 3, 2014 – Los Angeles**

DCSS GUIDELINE CALCULATOR TRAINING

◆ **Presenters' Contact Information (for questions):**

Hon. David Gunn, Superior Court of Butte County:

dgunn@buttecourt.ca.gov

Hon. Louise Bayles-Fightmaster, Superior Court of Sonoma County:

lbayles@sonomacourt.org

Hon. Nancy Staggs, Superior Court of Madera County:

nancy.staggs@madera.courts.ca.gov

Hon. Adam Wertheimer, Superior Court of San Diego County:

AdamWertheimer@SDCourt.CA.Gov

Hon. Rebecca Wightman, Superior Court of San Francisco County:

rwightman@sftc.org

◆ **Public Guideline Calculator**

Websites:

<http://www.childsup.ca.gov> [DCSS Home page – click “Calculate Child Support”]

<http://www.childsup.ca.gov/Resources/CalculateChildSupport/tabid/114/Default.aspx>
[Guideline Calculator Welcome page – contains Alerts, link to User Guide]

<https://www.cse.ca.gov/ChildSupport/cse/guidelineCalculator>
[Guideline Calculator “Portal” page – brings you directly to calculator program]

NOTE: On portal page – you must enter the # of children for whom you are calculating support. You cannot change this number after starting a calculation (must start over).

Basic rules of navigation and default settings:

- Better to click OK/CANCEL/CALCULATE vs. browser back/forth buttons
- 30-minute timeout unless click a hyperlink or refresh
- Timeshare is defaulted to 20% visitation value; additional check box makes the timeshare factor of first-born the same as all other children and must be unchecked to enter different timeshare values for other children.
- To print out Results – must click View Printable Results button
- **Parent 1** = NCP (non-custodial parent); **Parent 2** = CP (custodial parent)
- CP tax settings defaulted to include # of children calculating support (must change if split custody case)

◆ **What to do if you are having problems:**

E-mail DCSS: CCSASGC@dcss.ca.gov

For Bench Officers: If you are having password issues (internal GC) – Contact the AOC’s CCTC Helpdesk at 1-877-847-3042

**DCSS GUIDELINE CALCULATOR TRAINING
BEGINNING**

Practice Exercise -- Scenario #1

Two children, ages 6 and 2, living primarily with Mom.

Timeshare: Dad has children every other weekend, shared or alternating holidays and two weeks in the summer.

Parent 1 (NCP Dad)

Single, 1
\$21.50/hr, 36 hrs/week (W-2)
\$350 health insurance, pre-tax
\$100 mandatory retirement, pre-tax

Parent 2 (CP Mom)

Head of Household, 3
\$500 per week
child care \$600: \$100 for 6 yr old &
\$500 for 2 yr old

Result: Total \$963
 c/s \$663
 c/c \$300

What if Father argues that the child support is too high?

- FC 4061(b) allocation of child support?

Result: c/c \$234

DCSS GUIDELINE CALCULATOR TRAINING BEGINNING

Practice Exercise -- Scenario #2

Three children, ages 0, 3 and 5, living primarily with Mom.

Timeshare: Dad has the 3 and 5 year old children every other weekend and one evening per week; he has no visitation yet with infant.

Parent 1 (NCP Dad)

Single, 1

\$8.50/hr, 25 hrs/week (W-2)

Parent 2 (CP Mom)

Head of Household, 3
lives with parents
on aid

Result: Total \$365-\$423 = guideline child support range with LIA

- Low income adjustment (LIA) must be selected (red error banner)

What if Dad asks for an imputation of income to Mom?

- Child care?

What if Mom is in the CalWorks Program? (likely exempt because of age of children)
Barron v. Superior Court (2009) 173 Cal. App. 4th 293

What if DCSS asks for a Seek Work Order for Dad? For Mom?

**DCSS GUIDELINE CALCULATOR TRAINING
BEGINNING**

Practice Exercise -- Scenario #3

Two children, ages 14 and 8; 14 year old lives with Dad, 8 year old lives with Mom

Timeshare: Parents each have both children every other weekend, shared or alternating holidays and two weeks in the summer.

Parent 1 (CP Dad)

Head of Household, 2
Worker's Compensation \$2200/mo

Parent 2 (CP Mom)

Head of Household, 2
\$12,000 per month
\$400 property tax
\$2,500 mortgage interest
\$450 health insurance, pre-tax
\$500 401K
child care for 8 year old is \$900/mo

Result: Total \$1,135 (payable by Mom)
 c/s \$1,585
 c/c \$ -450

**DCSS GUIDELINE CALCULATOR TRAINING
BEGINNING**

Practice Exercise -- Scenario #4

One child, age 17, lives with Mom.

No timeshare with Dad.

Parent 1 (NCP Dad)

Married, files jointly with spouse (MFJ, 4)
Self-employment \$3,500/mo
Wife \$1200/mo
One biological child with Wife
One stepchild (Wife's child)
Child support obligation for another child at \$400/mo

Parent 2 (CP Mom)

Head of Household, 2
\$20.00/hr full time
\$350 health insurance, pre-tax

Result: Total \$518

FC 4071(a)(2) discretionary hardships allowed for natural or adopted children,
• Not for stepchildren (haggard v. Haggard (1995) 38 Cal. App. 4th 1566

What if Dad complains that child support is too high...any basis for a deviation or departure from guideline – FC 4057?

**DCSS GUIDELINE CALCULATOR TRAINING
BEGINNING**

Practice Exercise -- Scenario #5

One child, age 13.

Equal timeshare but Mom claims child.

Parent 1 (CP Dad)

Head of Household, 3
Two other children
YTD \$18,634 through 6/11/2011
Union dues - \$56/mo
Tools - \$50/mo
Receives child support - \$500/mo

Renter - \$1,700/mo

Parent 2 (CP Mom)

Head of Household, 2
SSDI - \$1,200
Child's auxiliary benefit - \$600/mo

Renter - \$275/mo

Result: Total \$352

What if Dad asks for two hardships for children in his household? FC 4071(a)(2)

Result: Total \$256

Does Dad get any credit from the derivative or auxiliary Social Security benefit received by child (\$600)? FC 4504 = No.

What if Dad asks for ½ of child's auxiliary Social Security benefit? Can you divide the benefit? (Social Security will not divide benefit between parents with equal timeshare.)

What if Dad asks for a deviation from guideline because his rent is so much higher than Mom's rent? FC 4057(b)(5)(B) does allow for deviation from guideline where one parent pays a much higher or lower percentage of income for housing.

TAB 22

**DCSS Guideline Calculator Training–
Experienced**

*Hon. Louise Bayles-Fightmaster,
Hon. Adam Wertheimer &
Hon. Rebecca L. Wightman*

**18th Annual Child Support Training Conference
September 30 – October 3, 2014 – Los Angeles**

DCSS GUIDELINE CALCULATOR TRAINING

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Hon. Louise Bayles-Fightmaster, Superior Court of Sonoma County:

lbayles@sonomacourt.org

Hon. Nancy Staggs, Superior Court of Madera County:

nancy.staggs@madera.courts.ca.gov

Hon. Adam Wertheimer, Superior Court of San Diego County:

AdamWertheimer@SDCourt.CA.Gov

Hon. Rebecca Wightman, Superior Court of San Francisco County:

rwightman@sftc.org

◆ **Public Guideline Calculator**

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For Bench Officers: If you are having password issues (internal GC) – Contact the AOC’s CCTC Helpdesk at 1-877-847-3042

ADVANCED GUIDELINE CALCULATIONS

18th Annual AB1058 Conference – October 2014

Guideline Calculator (ADVANCED)

“Rules of Engagement”

- **Unless otherwise noted:**
 - Assume income is **W-2**
 - Amounts in Hypos are **MONTHLY**
 - Always give full low income adjustment
- If something is not clear: **ASK!**
- No Q is a “stupid” question!
- We are here to **HELP** you! (Really!!)

WARM UP SCENARIOS

- **First scenario:** One child, CP mother receives cash assistance (i.e. it is an aided case). Father earns \$15/hr. working full-time, he does not see the child. No other add-ons, deductions, hardships (no other facts).
- **Second scenario:** Same facts as above, but now NCP father has a second case, and both cases are on your calendar. The second CP is also on aid, NCP does not see this child either, and no other facts.

What is the guideline child support amount for:

- **Scenario 1?** _____
- **Scenario 2?** 1st case _____ 2nd case _____

WARM UP RESULTS

- Scenario 1: \$527
- Scenario 2:
 - 1st case \$422
 - 2nd case \$422

HYP0 #1

- **Your findings are:**
 - 2 kids - Timeshare with Bob (NCP):
 - 10 yr. old Alice = 24% and 5 yr. old Ted = 5%
 - **Gross monthly incomes:**
 - Bob: \$10K Self-Employed + \$3K non-tax. income + \$1050 interest
 - Carol: \$5K W-2 + \$12K annual bonus
 - **Tax filing status:**
 - Bob: Single & one
 - Carol: Head of Household & three
 - **Other factors:**
 - Bob: \$2,200 mortgage int. \$350 Prop tax + \$375 pre-tax health ins + other child support of \$675
 - Carol: \$95 union dues + \$575 post tax health ins + \$275 non Roth IRA. Texas resident (no state taxes)
 - Carol seeking temporary guideline spousal support. You are sitting in Santa Clara County
- “Optimize” the results, i.e. release exemptions (aka “tactic 9”)

HYP0 #1 RESULTS

NON-OPTIMIZED RESULTS

- Bob's net inc: \$9,673
- Carol's net inc: \$4,495
- Child Support:
 - Ted Support: \$1,668
 - Alice Support: \$ 795
- Total C/S: \$2,463
- Spousal Support: \$1,578

OPTIMIZED RESULTS

- Bob: S & 3 Carol: H/H & 1
- Bob's net inc: \$9,892
- Carol's net inc: \$4,177
- Child Support:
 - Ted Support: \$1,706
 - Alice Support: \$ 826
- Total C/S: \$2,532
- Spousal Support: \$1,817

HYP0 #2

- During the hearing in Hypo #1's case your LCSA attorney presents you with a proposed calculation for non-optimized support (to be provided in class), however their conclusion is different from yours...
- Having confirmed you are correct in your calculation, **review the LCSA printout:**

Where did the LCSA go wrong?

(How many errors can you find?)

HYP0 #2 RESULTS

- 1. Wrong tax year (they used 2012)
- 2. Bob is Single and 2 (should be 1)
- 3. CA tax rates used for Carol (vs. Texas)
- 4. Only 1 child listed for tax credits for Carol (in detail pages – should be 2)
- 5. Bob's interest income listed as other taxable income (vs. under interest income)
- 6. Bob's health ins. set as post-tax (should be pre-tax)
- 7. Alameda S/S guidelines used

HYP0 #3

- You have two cases left on your Tuesday calendar, line items 3 & 4.
- Both cases involve the **same NCP father**, but **different CP mothers**, each with one child only. **Facts:**

<u>Father (NCP):</u>	<u>Mother (line 3)</u>	<u>Mother (line 4)</u>
▪ \$4,625/mo. (W-2)	\$2,627/mo. (W-2)	\$6,375/mo. (W-2)
▪ Single 1	HH2	HH2
▪ Timeshare → → → → →	3% w/F	→ → 25% w/F
▪ \$375 health ins. (post-tax)	\$125 health ins. (pre-tax)	\$275 health ins (post-tax)
▪ \$50 Job related expenses	\$250/mo. Mand. Ret.	\$50 union dues
▪ \$1,125 mortgage interest	(tax-deferred)	
▪ \$275/mo. property taxes		

- What is the monthly guideline child support in each line item?

HYP0 #3 RESULTS

- Father net income:
 - Line 3: \$3,082
 - Line 4: \$2,557
- Line 3 Mother net income: \$2,118
- Line 4 Mother net income: \$4,622

- Child support Line 3: \$753
- Child support Line 4: \$228

HYP0 #4

You're down to your *last* case on your Wednesday calendar:

- Two children – split custody. Both file HH & 2.
- Father has the youngest child and is receiving CalWorks; Mother has the older child, and earns \$950 biweekly (W-2). Mother also has extraordinary medical expenses of \$75/mo.
- Father does not see the older child at all. Mother sees the younger child 40% of the time.

- Your order? Guideline monthly child support: _____, payable from ____ to ____.
- Allocation? (Payable in what direction for each?)
1st born _____ 2nd born _____

- What if the younger child emancipates *before* older child?

HYP0 #4 RESULTS

- \$313, "net" payable from Mother to Father.
- 1st born \$46 payable Father to Mother
- 2nd born \$359 payable Mother to Father

- If the younger child emancipates early, i.e. *before* older child, CS = \$0. Not \$46 as allocated when there are 2 children.

HYP0 #5

- In the middle of your long Monday afternoon calendar two parties are seated at counsel table to present the facts in their matter...

- Your order? Guideline monthly child support: _____, payable from ____ to ____.

- Allocation (payable in what direction for each)?
1st born ____ 2nd born ____ 3rd born ____

HYPO #5

- **DAD:** Your honor, my youngest son Max is living with me, he sees his mom every other weekend, every other holiday and two weeks each summer. Sam, my middle child stays with me three days each week and my eldest Jack is with me half the time. I also have my daughter Kim from my first marriage living with me full time. I would like you to give me a hardship for her.
- **MOM:** Its OK to give him the hardship. Kim is expensive. Even though Adam is right about the current custody and visitation arrangement. I'm their mother and I think they should spend more time with me. Can you change that?
- **DAD:** If you ask them they would want to spend all the time with me. Do you want me to get them on the phone for you? I guess not... Anyway, ever since I retired from the Marines after honorably serving my country for 20 years including 3 combat tours of duty in the Middle East I started my own business and I now clear \$4,775 each month on the average according to my profit & loss statement. I receive \$1,375 from my military retirement and \$775 in VA disability, which is not taxed. I claim Kim and Max for taxes. I pay \$475 per month for health insurance after taxes.
- **MOM:** I don't contest any of those facts. I have a good job making \$5,500 each month salary. I claim Sam and Jack for taxes. My monthly union dues are \$75, my monthly health ins. before taxes is \$325 and I contribute \$175 each month to my 401(k). I pay mortgage interest of \$1235 each month and \$225 prop. tax each month.

HYPO #5 RESULTS

- \$231, payable from Mother to Father
- 1st born \$81 payable from F → M
- 2nd born \$271 payable from F → M
- 3rd born \$583 payable from M → F

HYPO #6

- The first three matters on your TH calendar involve the same NCP mother, two separate CP fathers and one child in foster care (father deceased). Mother has split custody with F#1 of 2 children, and 1 child with F#2. You find:
- **Mother:** \$2,600, HH & 2, \$335 post-tax health ins., \$298 in mandatory retirement, \$200 child care for child from Father #1 in her custody
- **Father #1:** \$5,000, HH & 2, \$576 health ins. (pre-tax), \$300 child care, mortgage interest \$1132, prop tax \$208, eldest child with him 67%, Father sees youngest child 5%
- **Father #2:** \$1560, MFJ & 4, new spouse \$8760, mort. int. \$2342, prop. tax \$387, \$50 union dues, 90% time share with baby with new spouse
- 0 time share with child in foster care
- Your rulings?

HYPO #6 RESULTS

- Mother net monthly income:
#1: \$1174, #2: \$1498, #3: \$1566
- Father #1 net monthly income: \$3822
- Father #2 net monthly income: \$1228
- Children with father #1:
 - \$1101, total "net" payable from Father to Mother
 - 1st born \$219 payable from Father to Mother
 - 2nd born \$882 payable from Father to Mother
 - Child care: \$50 net payable from Mother to Father
- Children with father #2:
 - Total: \$324 payable Mother to Father with LIA
- Child in foster care: \$392

WARM-UP SCENARIOS:

First Scenario:

One child, CP mother receives cash assistance (aid case)

NCP father earns \$15/hr. working full-time; he does not see the child

No other add-ons, deductions, hardships (no other facts)

Second Scenario:

Same facts as first scenario, but now NCP father has a 2nd case (both on calendar)

Second CP mother also receives cash assistance (aid case)

NCP father does not see this child either, and no other facts

WARM-UP RESULTS:

Scenario 1: \$527

Scenario 2:

1st case \$422

2nd case \$422

HYPO #1:

2 kids – Timeshare with Bob (NCP):

10 yr. old Alice = 24%

5 yr. old Ted = 5%

Gross monthly incomes:

Bob: \$10K Self-employed + \$3K non-taxable income + \$1050 interest

Carol: \$5K W-2 + \$12K *annual* bonus

Tax filing status:

Bob: Single & one

Carol: Head of Household & three

Other factors:

Bob: \$2,200 mortgage interest, \$350 property tax + \$375 pre-tax health insurance + other child support of \$675

Carol: \$95 union dues + \$575 post tax health ins. + \$275 non Roth IRA, Texas resident (no state taxes)

Carol is seeking temporary guideline spousal support. You are sitting in Santa Clara County.

“Optimize” the results, i.e. release exemptions (aka “tactic 9”)

HYPO #2: [HANDOUT IN CLASS OF “Proposed” LCSA Calculation for Hypo#1]

The LCSA’s proposed calculation is different from your calculation above.

Having confirmed your calculation is correct, **review the LCSA calculation:**

WHERE DID THE LCSA GO WRONG?

HYPO #3: Two cases left – lines 3 and 4. Both have **same NCP** father, but **different CP** mothers, each with one child.

<u>Father (NCP):</u>	<u>Mother (line 3)</u>	<u>Mother (line 4)</u>
\$4,625/mo. (W-2)	\$2,627/mo. (W-2)	\$6,375/mo. (W-2)
Single 1	HH2	HH2
Timeshare → → → → →	3% w/F	→ → 25% w/F
\$375 health ins. (post-tax)	\$125 health ins. (pre-tax)	\$275 health ins. (post-tax)
\$50 Job related expenses	\$250/mo. Mand. Ret. (tax-deferred)	\$50 union dues
\$1,125 mortgage interest		
\$275/mo. property taxes		

What is the monthly guideline child support in each line item?

HYPO #4:

Two children – split custody. Both file HH & 2.

Father has the youngest child and is receiving CalWorks

Mother has the older child, and earns \$950 biweekly (W-2). Mother also has extraordinary medical expenses of \$75/mo.

Father does not see the older child at all. Mother sees the younger child 40% of the time.

Your order?

Guideline monthly child support: _____, payable from ____ to ____.

Allocation? (Payable in what direction for each?)

1st born _____ 2nd born _____

Query: What if the younger child emancipates **before** older child?

HYPO #5: [Oral presentation of case in class – compare your notes to these facts]

Three kids, split custody.

Father has youngest child, and Mom sees the child every other weekend, alternating holidays and two weeks each summer. Father sees his middle child three days each week, and Father sees the oldest child half time.

Father also has another daughter, Kim, living with him; he wants a hardship. (Yes) Mother doesn't dispute the above, but states she wants more time with her kids.

Father is HH & claims both his youngest child, and his other daughter on his taxes.

Father is a retired marine. He is now self-employed and earns (clears) \$4775/mo. He also receives \$1,375 from his military retirement, and \$775 in VA disability (which is not taxed). Father also pays \$475/mo. for health insurance after taxes.

Mother earns \$5,500/mo. in salary. She is HH & claims the two older kids on her taxes. She has monthly union dues of \$75; pre-tax health insurance of \$325/mo. and she contributes \$175 each month to her 401(k). She also pays monthly mortgage interest of \$1,235 and property taxes of \$225 each month.

What is guideline? (What amounts, and which direction?)

HYPO #6: The first three matters on your calendar involve the **same NCP mother, two separate CP fathers, and one child in foster care.**

NCP mother has split custody with CP F#1 of their two children in the first case; there is one child in the second case with CP F#2, in the third case, the child is in the dependency system (foster care).

Additional facts:

Mother: \$2,600 (W-2), HH & 2, \$335 post-tax health ins., \$298 in mandatory retirement, \$200 child care for child from Father #1 in her custody

Father #1: \$5,000 (W-2), HH & 2, \$576 health insurance (pre-tax), \$300 child care, mortgage interest \$1132, property tax \$208, the eldest child is with him 67% of the time, and father sees youngest child 5%

Father #2: \$1560, MFJ & 4, new spouse \$8760, mort. int. \$2342, prop. tax \$387, \$50 union dues, 90% time share with baby with new spouse

Foster Care case: Mother spends 0 time share with child in foster care.

Your rulings?

SUMMARY OF RESULTS
(Complete Answer Sheet to all Hypos)

WARM UP SCENARIOS:

Scenario 1: \$527

Scenario 2: 1st case - \$422; 2nd case - \$422

HYPO #1:

Non-Optimized Results:

Bob's net income: \$9,673

Carol's net income \$4,495

Child Support:

Ted support: \$1,668

Alice support: \$ 795

Total C/S: \$2,463

Spousal Support: \$1,578

Optimized Results: Bob S&1 / Carol HH &1

Bob's net income: \$9,892

Carol's net income: \$4,177

Child support:

Ted support: \$1,706

Alice support: \$826

Total C/S: \$2,532

Spousal Support: \$1,817

HYPO #3:

Father's net income:

Line 3: \$3,082

Line 4: \$2,557

Mother's net income:

Line 3: \$2,118

Line 4: \$4,622

Child Support Line 3: \$753

Child Support Line 4: \$228

HYPO #4:

Child Support: \$313 "net", payable from M to F

1st born: \$46 payable F to M

2nd born: \$359 payable M to F

If the younger child emancipates early (before older child), C/S = \$0
(not \$46 as allocated when there are 2 children)

HYPO #5:

C/S = \$231 payable M to F

1st born: \$81 payable from F to M

2nd born: \$271 payable from F to M

3rd born: \$583 payable from M to F

SUMMARY OF RESULTS - continued
(Complete Answer Sheet to all Hypos)

HYPO #6:

Mother's net monthly income:

#1: \$1174

#2: \$1498

#3: \$1228

Father #1 net monthly income: \$3822

Father #2 net monthly income: \$1228

Children with Father #1:

C/S = \$1,101, total "net" payable from F to M

1st born: \$219 payable from F to M

2nd born: \$882 payable from F to M

Child care \$50 "net" payable from M to F

Child with Father #2:

C/S = \$324 total payable M to F (with LIA)

Child in Foster Care:

C/S = \$392

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	527.00	0.00					
Basic Child Support Amount	527.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	2108.00	0.00					
Monthly Taxable & Non-Taxable Gross Income	2600.00	0.00					
Monthly Taxable Gross Income	2600.00	0.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	2600.00	0.00					
Federal Taxable Income	1754.00	0.00					
Net Income After Support	1581.00	527.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	1	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	1	2					
Federal Tax Liabilities	226.00	0.00					
State Tax Liabilities	41.00	0.00					
FICA (Social Security and/or Medicare)	199.00	0.00					
Self-Employment Tax	0.00	0.00					
CASDI	26.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	0.00	0.00					
Required Union Dues	0.00	0.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	0.00	0.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	0.0	0.00	527.00	527.00	0.00	0.00	0.00
Average % Time with Parent 1	0.0%	0.00	527.00	527.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$527.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child							
Child Name	Prior Period Date Range	Parent 1	Parent 1	Parent 1	Parent 2	Parent 2	Parent 2

		Add-Ons	Support	Total	Add-Ons	Support	Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	0	1
Number of Children for Earned Income Credits	0	1
Number of Children for Child Tax Credits	0	1
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	YES	YES
Number of Children for Child Tax Credits	0	1
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	2600.00	0.00
Parent 1: Based on earned income: \$15.00 HOURLY WAGE, 40 hours / week		
Parent 2: Based on earned income: \$0.00 MONTHLY		
Self-Employment Income	0.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	0.00	0.00
Short-Term Capital Gains	0.00	0.00

Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	0.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	0.00
Mortgage Interest	0.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductible Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	0.00	0.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	0.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	0.00
Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00

Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	422.00	0.00					
Basic Child Support Amount	422.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	1686.00	0.00					
Monthly Taxable & Non-Taxable Gross Income	2600.00	0.00					
Monthly Taxable Gross Income	2600.00	0.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	2600.00	0.00					
Federal Taxable Income	1754.00	0.00					
Net Income After Support	1264.00	422.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	1	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	1	2					
Federal Tax Liabilities	226.00	0.00					
State Tax Liabilities	41.00	0.00					
FICA (Social Security and/or Medicare)	199.00	0.00					
Self-Employment Tax	0.00	0.00					
CASDI	26.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	422.00	0.00					
Required Union Dues	0.00	0.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	0.00	0.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	0.0	0.00	422.00	422.00	0.00	0.00	0.00
Average % Time with Parent 1	0.0%	0.00	422.00	422.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$422.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child							
Child Name	Prior Period Date Range	Parent 1	Parent 1	Parent 1	Parent 2	Parent 2	Parent 2

		Add-Ons	Support	Total	Add-Ons	Support	Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	0	1
Number of Children for Earned Income Credits	0	1
Number of Children for Child Tax Credits	0	1
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	YES	YES
Number of Children for Child Tax Credits	0	1
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	2600.00	0.00
Parent 1: Based on earned income: \$15.00 HOURLY WAGE, 40 hours / week		
Parent 2: Based on earned income: \$0.00 MONTHLY		
Self-Employment Income	0.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	0.00	0.00
Short-Term Capital Gains	0.00	0.00

Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	422.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	0.00
Mortgage Interest	0.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	0.00	0.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	0.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	0.00
Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00

Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	2463.00	0.00					
Basic Child Support Amount	2463.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (Santa Clara Formula)	1578.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	9673.00	4495.00					
Monthly Taxable & Non-Taxable Gross Income	14050.00	6000.00					
Monthly Taxable Gross Income	10675.00	5725.00					
Monthly Non-Taxable Gross Income	3000.00	0.00					
Federal Adjusted Gross Income	9969.00	5725.00					
Federal Taxable Income	7089.00	3979.00					
Net Income After Support	7210.00	6958.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	1	3					
State Tax Filing Status	SAME AS FEDERAL						
Number of Tax Exemptions (State)	1	0					
Federal Tax Liabilities	1433.00	376.00					
State Tax Liabilities	481.00	0.00					
FICA (Social Security and/or Medicare)	0.00	459.00					
Self-Employment Tax	1413.00	0.00					
CASDI	0.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	675.00	0.00					
Required Union Dues	0.00	95.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	375.00	575.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	24.0	0.00	795.00	795.00	0.00	0.00	0.00
SECOND-BORN	5.0	0.00	1668.00	1668.00	0.00	0.00	0.00
Average % Time with Parent 1	15.0%	0.00	2463.00	2463.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$2463.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child
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Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		0	2
Number of Children for Earned Income Credits		0	2
Number of Children for Child Tax Credits		0	2
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	NO
California State Disability Insurance		YES	NO
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		NO	NO
Number of Children for Child Tax Credits		0	0
Include Other State Income Taxes		NO	YES
Other State Tax Rate		%	0.0%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		0.00	6000.00
Parent 1: Based on earned income: \$0.00 MONTHLY			
Parent 2: Based on earned income: \$6000.00 MONTHLY			
Self-Employment Income		10000.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		1050.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel,		0.00	0.00

Operating Losses, etc)		
Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	1050.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	3000.00	0.00
Other Non-Taxable Income	3000.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	675.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	350.00	0.00
Mortgage Interest	2200.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductible Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	95.00
Total Health Insurance Premium	375.00	575.00
Health Insurance (Pre-Tax)	375.00	0.00
Health Insurance (Post-Tax)	0.00	575.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	275.00

Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	275.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	2532.00	0.00					
Basic Child Support Amount	2532.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (Santa Clara Formula)	1817.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	9892.00	4177.00					
Monthly Taxable & Non-Taxable Gross Income	14050.00	6000.00					
Monthly Taxable Gross Income	10675.00	5725.00					
Monthly Non-Taxable Gross Income	3000.00	0.00					
Federal Adjusted Gross Income	9969.00	5725.00					
Federal Taxable Income	6431.00	4638.00					
Net Income After Support	7360.00	6709.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	3	1					
State Tax Filing Status	SAME AS FEDERAL						
Number of Tax Exemptions (State)	3	0					
Federal Tax Liabilities	1268.00	694.00					
State Tax Liabilities	427.00	0.00					
FICA (Social Security and/or Medicare)	0.00	459.00					
Self-Employment Tax	1413.00	0.00					
CASDI	0.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	675.00	0.00					
Required Union Dues	0.00	95.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	375.00	575.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	24.0	0.00	826.00	826.00	0.00	0.00	0.00
SECOND-BORN	5.0	0.00	1706.00	1706.00	0.00	0.00	0.00
Average % Time with Parent 1	15.0%	0.00	2532.00	2532.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$2532.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child
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Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		0	2
Number of Children for Earned Income Credits		0	2
Number of Children for Child Tax Credits		2	0
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	NO
California State Disability Insurance		YES	NO
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		NO	NO
Number of Children for Child Tax Credits		0	0
Include Other State Income Taxes		NO	YES
Other State Tax Rate		%	0.0%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		0.00	6000.00
Parent 1: Based on earned income: \$0.00 MONTHLY			
Parent 2: Based on earned income: \$6000.00 MONTHLY			
Self-Employment Income		10000.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		1050.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel,		0.00	0.00

Calculation Results Summary and Detail

HYP0 #2 "LCSA"
HANDOUT IGC Proposal

< FIND THE MISTAKES >
Compared to HYP0 1 facts
Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	2488.00	0.00					
Basic Child Support Amount	2488.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (Alameda Formula)	1596.00	0.00					
Monthly Tax/Income Information (Tax Year: 2012)	Parent 1	Parent 2					
Monthly Net Disposable Income	9793.00	4508.00					
Monthly Taxable & Non-Taxable Gross Income	14050.00	6000.00					
Monthly Taxable Gross Income	11050.00	5725.00					
Monthly Non-Taxable Gross Income	3000.00	0.00					
Federal Adjusted Gross Income	10439.00	5725.00					
Federal Taxable Income	7256.00	4050.00					
Net Income After Support	7305.00	6996.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	2	3					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	2	3					
Federal Tax Liabilities	1487.00	483.00					
State Tax Liabilities	499.00	0.00					
FICA (Social Security and/or Medicare)	0.00	339.00					
Self-Employment Tax	1222.00	0.00					
CASDI	0.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	675.00	0.00					
Required Union Dues	0.00	95.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	375.00	575.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	24.0	0.00	803.00	803.00	0.00	0.00	0.00
SECOND-BORN	5.0	0.00	1685.00	1685.00	0.00	0.00	0.00
Average % Time with Parent 1	15.0%	0.00	2488.00	2488.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$2488.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child

Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		0	1
Number of Children for Earned Income Credits		0	1
Number of Children for Child Tax Credits		0	1
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	NO
California State Disability Insurance		YES	NO
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		NO	NO
Number of Children for Child Tax Credits		0	1
Include Other State Income Taxes		NO	NO
Other State Tax Rate		%	%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		0.00	6000.00
Parent 1: Based on earned income: \$0.00 MONTHLY			
Parent 2: Based on earned income: \$6000.00 MONTHLY			
Self-Employment Income		1000.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		1050.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel,		1050.00	0.00

Operating Losses, etc)		
Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	3000.00	0.00
Other Non-Taxable Income	3000.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	675.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	350.00	0.00
Mortgage Interest	2200.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductible Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	95.00
Total Health Insurance Premium	375.00	575.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	375.00	575.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	275.00

Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	275.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	275.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	753.00	0.00					
Basic Child Support Amount	753.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	3082.00	2118.00					
Monthly Taxable & Non-Taxable Gross Income	4625.00	2627.00					
Monthly Taxable Gross Income	4625.00	2252.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	4625.00	2252.00					
Federal Taxable Income	2850.00	835.00					
Net Income After Support	2329.00	2871.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	1	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	1	2					
Federal Tax Liabilities	390.00	-93.00					
State Tax Liabilities	100.00	0.00					
FICA (Social Security and/or Medicare)	354.00	201.00					
Self-Employment Tax	0.00	0.00					
CASDI	46.00	26.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	228.00	0.00					
Required Union Dues	0.00	0.00					
Mandatory Retirement	0.00	250.00					
Job Related Expenses & Spousal Support Other Relationship	50.00	0.00					
Health Insurance Premium	375.00	125.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	3.0	0.00	753.00	753.00	0.00	0.00	0.00
Average % Time with Parent 1	3.0%	0.00	753.00	753.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$753.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child							
Child Name	Prior Period Date Range	Parent 1	Parent 1	Parent 1	Parent 2	Parent 2	Parent 2

		Add-Ons	Support	Total	Add-Ons	Support	Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	0	1
Number of Children for Earned Income Credits	0	1
Number of Children for Child Tax Credits	0	1
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	NO	YES
Number of Children for Child Tax Credits	0	1
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	4625.00	2627.00
Parent 1: Based on earned income: \$4625.00 MONTHLY		
Parent 2: Based on earned income: \$2627.00 MONTHLY		
Self-Employment Income	0.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	0.00	0.00
Short-Term Capital Gains	0.00	0.00

Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	228.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	275.00	0.00
Mortgage Interest	1125.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	375.00	125.00
Health Insurance (Pre-Tax)	0.00	125.00
Health Insurance (Post-Tax)	375.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	250.00
Mandatory Retirement (Tax-Deferred)	0.00	250.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00

Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	50.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	50.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	228.00	0.00					
Basic Child Support Amount	228.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	2557.00	4622.00					
Monthly Taxable & Non-Taxable Gross Income	4625.00	6375.00					
Monthly Taxable Gross Income	4625.00	6375.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	4625.00	6375.00					
Federal Taxable Income	2850.00	4958.00					
Net Income After Support	2329.00	4850.00					
Federal Tax Filing Status	SINGLE	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	1	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	1	2					
Federal Tax Liabilities	390.00	699.00					
State Tax Liabilities	100.00	178.00					
FICA (Social Security and/or Medicare)	354.00	488.00					
Self-Employment Tax	0.00	0.00					
CASDI	46.00	64.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	753.00	0.00					
Required Union Dues	0.00	50.00					
Mandatory Retirement	0.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	50.00	0.00					
Health Insurance Premium	375.00	275.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	25.0	0.00	228.00	228.00	0.00	0.00	0.00
Average % Time with Parent 1	25.0%	0.00	228.00	228.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$228.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child							
Child Name	Prior Period Date Range	Parent 1	Parent 1	Parent 1	Parent 2	Parent 2	Parent 2

		Add-Ons	Support	Total	Add-Ons	Support	Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	0	1
Number of Children for Earned Income Credits	0	1
Number of Children for Child Tax Credits	0	1
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	NO	YES
Number of Children for Child Tax Credits	0	1
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	4625.00	6375.00
Parent 1: Based on earned income: \$4625.00 MONTHLY		
Parent 2: Based on earned income: \$6375.00 MONTHLY		
Self-Employment Income	0.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	0.00	0.00
Short-Term Capital Gains	0.00	0.00

Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	753.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	275.00	0.00
Mortgage Interest	1125.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductible Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	50.00
Total Health Insurance Premium	375.00	275.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	375.00	275.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	0.00
Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00

Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	50.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	50.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals	Parent 1		Parent 2				
Monthly Child Support Amount	0.00		313.00				
Basic Child Support Amount	0.00		313.00				
Child Support Add-Ons Amount	0.00		0.00				
Child Care	0.00		0.00				
Visits/Travel Expenses	0.00		0.00				
School Expenses	0.00		0.00				
Uninsured Health Expenses	0.00		0.00				
Total Arrears Support Amount	0.00		0.00				
Temporary Spousal Support Amount (N/A)	0.00		0.00				
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1		Parent 2				
Monthly Net Disposable Income	0.00		2008.00				
Monthly Taxable & Non-Taxable Gross Income	0.00		2058.00				
Monthly Taxable Gross Income	0.00		2058.00				
Monthly Non-Taxable Gross Income	0.00		0.00				
Federal Adjusted Gross Income	0.00		2058.00				
Federal Taxable Income	0.00		641.00				
Net Income After Support	313.00		1695.00				
Federal Tax Filing Status	HEAD OF HOUSEHOLD		HEAD OF HOUSEHOLD				
Number of Tax Exemptions (Federal)	2		2				
State Tax Filing Status	SAME AS FEDERAL		SAME AS FEDERAL				
Number of Tax Exemptions (State)	2		2				
Federal Tax Liabilities	0.00		-203.00				
State Tax Liabilities	0.00		0.00				
FICA (Social Security and/or Medicare)	0.00		157.00				
Self-Employment Tax	0.00		0.00				
CASDI	0.00		21.00				
TANF/CalWORKS	NO		NO				
Other Monthly Deduction Totals	Parent 1		Parent 2				
Child Support Paid (Other Relationships)	0.00		0.00				
Required Union Dues	0.00		0.00				
Mandatory Retirement	0.00		0.00				
Job Related Expenses & Spousal Support Other Relationship	0.00		0.00				
Health Insurance Premium	0.00		0.00				
Hardship Deduction Amount	0.00		0.00				
Hardship Deduction Children	0.0		0.0				
Extraordinary Health Expenses	0.00		75.00				
Uninsured Catastrophic Losses	0.00		0.00				
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	0.0	0.00	46.00	46.00	0.00	0.00	0.00
SECOND-BORN	60.0	0.00	0.00	0.00	0.00	359.00	359.00
Average % Time with Parent 1	30.0%	0.00	46.00	46.00	0.00	359.00	359.00

PARENT 2 is required to pay PARENT 1 \$313.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child

Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		1	1
Number of Children for Earned Income Credits		1	1
Number of Children for Child Tax Credits		1	1
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	YES
California State Disability Insurance		YES	YES
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		YES	YES
Number of Children for Child Tax Credits		0	2
Include Other State Income Taxes		NO	NO
Other State Tax Rate		%	%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		0.00	2058.00
Parent 1: Based on earned income: \$0.00 MONTHLY			
Parent 2: Based on earned income: \$950.00 BI-WEEKLY			
Self-Employment Income		0.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		0.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel,		0.00	0.00

Operating Losses, etc)		
Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	0.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	0.00
Mortgage Interest	0.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	0.00	0.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	0.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	0.00	0.00

Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	75.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information		
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

Calculation Results Summary

Monthly Support Totals		Parent 1	Parent 2				
Monthly Child Support Amount		0.00	231.00				
Basic Child Support Amount		0.00	231.00				
Child Support Add-Ons Amount		0.00	0.00				
Child Care		0.00	0.00				
Visits/Travel Expenses		0.00	0.00				
School Expenses		0.00	0.00				
Uninsured Health Expenses		0.00	0.00				
Total Arrears Support Amount		0.00	0.00				
Temporary Spousal Support Amount (N/A)		0.00	0.00				
Monthly Tax/Income Information (Tax Year: 2014)		Parent 1	Parent 2				
Monthly Net Disposable Income		5216.00	4467.00				
Monthly Taxable & Non-Taxable Gross Income		6925.00	5500.00				
Monthly Taxable Gross Income		6150.00	5000.00				
Monthly Non-Taxable Gross Income		775.00	0.00				
Federal Adjusted Gross Income		5813.00	5000.00				
Federal Taxable Income		4067.00	2498.00				
Net Income After Support		5447.00	4236.00				
Federal Tax Filing Status		HEAD OF HOUSEHOLD	HEAD OF HOUSEHOLD				
Number of Tax Exemptions (Federal)		3	3				
State Tax Filing Status		SAME AS FEDERAL	SAME AS FEDERAL				
Number of Tax Exemptions (State)		3	3				
Federal Tax Liabilities		389.00	154.00				
State Tax Liabilities		94.00	4.00				
FICA (Social Security and/or Medicare)		0.00	421.00				
Self-Employment Tax		675.00	0.00				
CASDI		0.00	55.00				
TANF/CalWORKS		NO	NO				
Other Monthly Deduction Totals		Parent 1	Parent 2				
Child Support Paid (Other Relationships)		0.00	0.00				
Required Union Dues		0.00	75.00				
Mandatory Retirement		0.00	0.00				
Job Related Expenses & Spousal Support Other Relationship		0.00	0.00				
Health Insurance Premium		475.00	325.00				
Hardship Deduction Amount		77.00	0.00				
Hardship Deduction Children		1.0	0.0				
Extraordinary Health Expenses		0.00	0.00				
Uninsured Catastrophic Losses		0.00	0.00				
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	50.0	0.00	81.00	81.00	0.00	0.00	0.00
SECOND-BORN	43.0	0.00	271.00	271.00	0.00	0.00	0.00
THIRD-BORN	81.0	0.00	0.00	0.00	0.00	583.00	583.00
Average % Time with Parent 1	58.0%	0.00	352.00	352.00	0.00	583.00	583.00

PARENT 2 is required to pay PARENT 1 \$231.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child
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Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
THIRD-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	2	2
Number of Children for Earned Income Credits	2	2
Number of Children for Child Tax Credits	2	2
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	YES	NO
Number of Children for Child Tax Credits	0	3
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	0.00	5500.00
Parent 1: Based on earned income: \$0.00 MONTHLY		
Parent 2: Based on earned income: \$5500.00 MONTHLY		
Self-Employment Income	4775.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	1375.00	0.00
Social Security Income (Taxable)	0.00	0.00

Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	1375.00	0.00
Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	775.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	775.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	0.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	225.00
Mortgage Interest	0.00	1235.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	75.00
Total Health Insurance Premium	475.00	325.00
Health Insurance (Pre-Tax)	0.00	325.00
Health Insurance (Post-Tax)	475.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00

Retirement Contributions	0.00	175.00
Mandatory Retirement (Tax-Deferred)	0.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	175.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	77.00	0.00
Hardship Deduction Children	1.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information		
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

F#1

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	0.00	1051.00					
Basic Child Support Amount	0.00	1101.00					
Child Support Add-Ons Amount	0.00	-50.00					
Child Care	200.00	300.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	1174.00	3822.00					
Monthly Taxable & Non-Taxable Gross Income	2600.00	5000.00					
Monthly Taxable Gross Income	2302.00	4424.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	2302.00	4424.00					
Federal Taxable Income	885.00	2376.00					
Net Income After Support	2225.00	2771.00					
Federal Tax Filing Status	HEAD OF HOUSEHOLD	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	2	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	2	2					
Federal Tax Liabilities	-148.00	169.00					
State Tax Liabilities	0.00	0.00					
FICA (Social Security and/or Medicare)	199.00	383.00					
Self-Employment Tax	0.00	0.00					
CASDI	26.00	50.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	716.00	0.00					
Required Union Dues	0.00	0.00					
Mandatory Retirement	298.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	335.00	576.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.00	0.00					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	33.0	150.00	0.00	150.00	0.00	219.00	219.00
SECOND-BORN	95.0	0.00	0.00	0.00	100.00	882.00	982.00
Average % Time with Parent 1	64.0%	150.00	0.00	150.00	100.00	1101.00	1201.00

PARENT 2 is required to pay PARENT 1 \$1051.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child

Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
SECOND-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		1	1
Number of Children for Earned Income Credits		1	1
Number of Children for Child Tax Credits		1	1
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	YES
California State Disability Insurance		YES	YES
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		YES	NO
Number of Children for Child Tax Credits		0	2
Include Other State Income Taxes		NO	NO
Other State Tax Rate		%	%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		2600.00	5000.00
Parent 1: Based on earned income: \$2600.00 MONTHLY			
Parent 2: Based on earned income: \$5000.00 MONTHLY			
Self-Employment Income		0.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		0.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel,		0.00	0.00

Operating Losses, etc)		
Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	716.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	208.00
Mortgage Interest	0.00	1132.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	335.00	576.00
Health Insurance (Pre-Tax)	0.00	576.00
Health Insurance (Post-Tax)	335.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	298.00	0.00

Mandatory Retirement (Tax-Deferred)	298.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information		
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

F#2

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	324.00	0.00					
Basic Child Support Amount	324.00 to 337.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	1498.00	1228.00					
Monthly Taxable & Non-Taxable Gross Income	2600.00	1560.00					
Monthly Taxable Gross Income	2302.00	1560.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	2302.00	10320.00					
Federal Taxable Income	885.00	6174.00					
Net Income After Support	1174.00	1552.00					
Federal Tax Filing Status	HEAD OF HOUSEHOLD	MARRIED FILING JOINTLY (NOT WITH PARENT 1)					
Number of Tax Exemptions (Federal)	2	4					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	2	4					
Federal Tax Liabilities	-148.00	113.00					
State Tax Liabilities	0.00	35.00					
FICA (Social Security and/or Medicare)	199.00	119.00					
Self-Employment Tax	0.00	0.00					
CASDI	26.00	16.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	392.00	0.00					
Required Union Dues	0.00	50.00					
Mandatory Retirement	298.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	335.00	0.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	10.0	0.00	324.00	324.00	0.00	0.00	0.00
Average % Time with Parent 1	10.0%	0.00	324.00	324.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$324.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child

Child Name	Prior Period Date Range	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		Parent 1	Parent 2
Federal Tax Settings			
Include Self-Employment Taxes		YES	YES
Include FICA (Social Security and Medicare)		YES	YES
Include Medicare		YES	YES
Include Advanced Earned Income Credit		YES	YES
Number of Children for Child Care Credits		1	2
Number of Children for Earned Income Credits		1	2
Number of Children for Child Tax Credits		1	2
Parent is Blind		NO	NO
Parent is 65 or Older		NO	NO
New Spouse is Blind		NO	NO
New Spouse is 65 or Older		NO	NO
Married Filing Separately, Lived with Spouse Part of the Year		YES	YES
State Tax Settings			
Include California State Income Taxes		YES	YES
California State Disability Insurance		YES	YES
Dependency Credit for Dependent Parent(s)		NO	NO
Joint Custody Head of Household Credit		NO	NO
California Renter's Credit		YES	NO
Number of Children for Child Tax Credits		0	1
Include Other State Income Taxes		NO	NO
Other State Tax Rate		%	%
Other State Tax Amount			
Deduction type when Parent 1 and Parent 2 are Married Filing Separately			

Monthly Income Information		Parent 1	Parent 2
Wages/Salary		2600.00	1560.00
Parent 1: Based on earned income: \$2600.00 MONTHLY			
Parent 2: Based on earned income: \$1560.00 MONTHLY			
Self-Employment Income		0.00	0.00
Unemployment Compensation		0.00	0.00
Disability (Taxable)		0.00	0.00
Total Other Taxable Income		0.00	0.00
Social Security Income (Taxable)		0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)		0.00	0.00

Short-Term Capital Gains	0.00	0.00
Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	8760.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	392.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	387.00
Mortgage Interest	0.00	2342.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	50.00
Total Health Insurance Premium	335.00	0.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	335.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	298.00	0.00
Mandatory Retirement (Tax-Deferred)	298.00	0.00

Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00
Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

FC

Calculation Results Summary

Monthly Support Totals	Parent 1	Parent 2					
Monthly Child Support Amount	392.00	0.00					
Basic Child Support Amount	392.00	0.00					
Child Support Add-Ons Amount	0.00	0.00					
Child Care	0.00	0.00					
Visits/Travel Expenses	0.00	0.00					
School Expenses	0.00	0.00					
Uninsured Health Expenses	0.00	0.00					
Total Arrears Support Amount	0.00	0.00					
Temporary Spousal Support Amount (N/A)	0.00	0.00					
Monthly Tax/Income Information (Tax Year: 2014)	Parent 1	Parent 2					
Monthly Net Disposable Income	1566.00	0.00					
Monthly Taxable & Non-Taxable Gross Income	2600.00	0.00					
Monthly Taxable Gross Income	2302.00	0.00					
Monthly Non-Taxable Gross Income	0.00	0.00					
Federal Adjusted Gross Income	2302.00	0.00					
Federal Taxable Income	885.00	0.00					
Net Income After Support	1174.00	392.00					
Federal Tax Filing Status	HEAD OF HOUSEHOLD	HEAD OF HOUSEHOLD					
Number of Tax Exemptions (Federal)	2	2					
State Tax Filing Status	SAME AS FEDERAL	SAME AS FEDERAL					
Number of Tax Exemptions (State)	2	2					
Federal Tax Liabilities	-148.00	0.00					
State Tax Liabilities	0.00	0.00					
FICA (Social Security and/or Medicare)	199.00	0.00					
Self-Employment Tax	0.00	0.00					
CASDI	26.00	0.00					
TANF/CalWORKS	NO	NO					
Other Monthly Deduction Totals	Parent 1	Parent 2					
Child Support Paid (Other Relationships)	324.00	0.00					
Required Union Dues	0.00	0.00					
Mandatory Retirement	298.00	0.00					
Job Related Expenses & Spousal Support Other Relationship	0.00	0.00					
Health Insurance Premium	335.00	0.00					
Hardship Deduction Amount	0.00	0.00					
Hardship Deduction Children	0.0	0.0					
Extraordinary Health Expenses	0.00	0.00					
Uninsured Catastrophic Losses	0.00	0.00					
Monthly Support Amounts Per Child	% Time with Parent 1	Parent 1 Add-Ons	Parent 1 Support	Parent 1 Total	Parent 2 Add-Ons	Parent 2 Support	Parent 2 Total
FIRST-BORN	0.0	0.00	392.00	392.00	0.00	0.00	0.00
Average % Time with Parent 1	0.0%	0.00	392.00	392.00	0.00	0.00	0.00

PARENT 1 is required to pay PARENT 2 \$392.00 in CURRENT SUPPORT

Total Child Support Arrears Per Child							
Child Name	Prior Period Date Range	Parent 1	Parent 1	Parent 1	Parent 2	Parent 2	Parent 2

		Add-Ons	Support	Total	Add-Ons	Support	Total
FIRST-BORN	Not Applicable	0.00	0.00	0.00	0.00	0.00	0.00
		0.00	0.00	0.00	0.00	0.00	0.00

Guideline Calculation Results Detail

Tax Settings Information		
	Parent 1	Parent 2
Federal Tax Settings		
Include Self-Employment Taxes	YES	YES
Include FICA (Social Security and Medicare)	YES	YES
Include Medicare	YES	YES
Include Advanced Earned Income Credit	YES	YES
Number of Children for Child Care Credits	1	1
Number of Children for Earned Income Credits	1	1
Number of Children for Child Tax Credits	1	1
Parent is Blind	NO	NO
Parent is 65 or Older	NO	NO
New Spouse is Blind	NO	NO
New Spouse is 65 or Older	NO	NO
Married Filing Separately, Lived with Spouse Part of the Year	YES	YES
State Tax Settings		
Include California State Income Taxes	YES	YES
California State Disability Insurance	YES	YES
Dependency Credit for Dependent Parent(s)	NO	NO
Joint Custody Head of Household Credit	NO	NO
California Renter's Credit	YES	YES
Number of Children for Child Tax Credits	0	1
Include Other State Income Taxes	NO	NO
Other State Tax Rate	%	%
Other State Tax Amount		
Deduction type when Parent 1 and Parent 2 are Married Filing Separately		

Monthly Income Information		
	Parent 1	Parent 2
Wages/Salary	2600.00	0.00
Parent 1: Based on earned income: \$2600.00 MONTHLY		
Parent 2: Based on earned income: \$0.00 MONTHLY		
Self-Employment Income	0.00	0.00
Unemployment Compensation	0.00	0.00
Disability (Taxable)	0.00	0.00
Total Other Taxable Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Other Income (Retirement, Annuity, SS Other Rel, Operating Losses, etc)	0.00	0.00
Short-Term Capital Gains	0.00	0.00

Long-Term Capital Gains	0.00	0.00
Line 4e from IRS Form 4952	0.00	0.00
Unrecaptured Section 1250 Gains	0.00	0.00
Nonqualified Dividends	0.00	0.00
Qualified Dividends	0.00	0.00
Interest Received	0.00	0.00
Royalties	0.00	0.00
Rental Income	0.00	0.00
Other Taxable Income Adjustments	0.00	0.00
Total Other Non-Taxable Income	0.00	0.00
Other Non-Taxable Income	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Tax Exempt Interest	0.00	0.00
Disability	0.00	0.00
Worker's Compensation	0.00	0.00
Public Assistance and Child Support Received	0.00	0.00
Public Assistance	0.00	0.00
Child Support Received	0.00	0.00
New Spouse Income & Deductions		
Wages/Salary	0.00	0.00
Self-Employment Income	0.00	0.00
Social Security Income (Taxable)	0.00	0.00
Social Security Income (Non-Taxable)	0.00	0.00
Other Taxable Income	0.00	0.00
Spousal Support Paid Other Marriage	0.00	0.00
Retirement Contribution if Adjustments to Income	0.00	0.00
Required Union Dues	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00

Monthly Deduction Information		
	Parent 1	Parent 2
Child Support Paid (Other Relationships)	324.00	0.00
Spousal Support Paid This Relationship	0.00	0.00
Property Tax	0.00	0.00
Mortgage Interest	0.00	0.00
Other Itemized Deductions	0.00	0.00
Other Medical Expenses	0.00	0.00
Deductable Interest Expenses	0.00	0.00
Contribution Deduction	0.00	0.00
Miscellaneous Itemized	0.00	0.00
Required Union Dues	0.00	0.00
Total Health Insurance Premium	335.00	0.00
Health Insurance (Pre-Tax)	0.00	0.00
Health Insurance (Post-Tax)	335.00	0.00
Wage Deduction (Pre-Tax)	0.00	0.00
Wage Deduction (Post-Tax)	0.00	0.00
Retirement Contributions	298.00	0.00
Mandatory Retirement (Tax-Deferred)	298.00	0.00
Mandatory Retirement (Non-Tax-Deferred)	0.00	0.00

Voluntary Retirement (Tax-Deferred)	0.00	0.00
Other Guideline Deductions	0.00	0.00
Spousal/Other Partner Support Paid Other Relationship	0.00	0.00
Necessary Job-Related Expenses	0.00	0.00
State Adjustments		
State Adjustments to Income	0.00	0.00
State Adjustments to Itemized Deductions	0.00	0.00
Monthly Hardship Deduction		
Hardship Deduction Amount	0.00	0.00
Hardship Deduction Children	0.0	0.0
Hardship Deduction Expenses		
Extraordinary Health Expenses	0.00	0.00
Uninsured Catastrophic Losses	0.00	0.00
Other Tax Deductions	0.00	0.00
Adjustments to Income	0.00	0.00
Other Discretionary Deductions	0.00	0.00
Alternative Minimum Tax Information	0.00	0.00
Certain Interest on Home Mortgage	0.00	0.00
Investment Interest	0.00	0.00
Post-1986 Depreciation	0.00	0.00
Adjusted Gain or Loss	0.00	0.00
Incentive Stock Options	0.00	0.00
Passive Activities	0.00	0.00
Estates and Trusts, Schedule K-1	0.00	0.00
Tax Exempt Interest From Private Activity Bond	0.00	0.00
Other Preferences	0.00	0.00
Alternative Minimum Tax Operating Loss Deduction	0.00	0.00

DCSS CALCULATOR

<https://www.cse.ca.gov/ChildSupport/cse/guidelineCalculator>

MINIMUM WAGE LAW

<http://www.dol.gov/esg/minwage/america.htm>

STATE INDIVIDUAL TAX RATES 2000-2009

<http://www.taxfoundation.org/taxdata/show/228.html>

STATE BAR OF CALIFORNIA ATTORNEY SEARCH

<http://members.calbar.ca.gov/search/member.aspx>

DEPARTMENT OF DEFENSE – SCRA (to check if someone in military)

<https://www.dmdc.osd.mil/appj/scra/scraHome.do>

BAH (BASIC ALLOWANCE FOR HOUSING) FOR MILITARY

<http://www.defensetravel.dod.mil/perdiem/bah.html>

DEFENSE FINANCE AND ACCOUNTING CENTER – MILITARY PAY

<http://www.dfas.mil/militarypay/militarypaytables.html>

FEDERAL BUREAU OF PRISONS – INMATE LOCATOR

<http://www.bop.gov/iloc2/LocateInmate.jsp>

CALIFORNIA DEPARTMENT OF CORRECTIONS – INMATE LOCATOR

Phone 916-445-6713 Fax 916-322-0500

Deviations from Guideline Child Support

When deviating from guideline (whether it is up or down), the court must state in writing, or on the record:

1. The guideline amount [\$], and
2. That the application of the guideline amount would be unjust or inappropriate because (one or more of the following factors/grounds):
 - **Stipulated Agreement** [FC§4057(b)(1)] [Note: **non-welfare cases only**]
 - Court finds agreement to be in best interest of the children
 - Parties have declared (or agreed) that:
 - They have been informed/advised of their right to guideline support
 - The order is being agreed to without coercion or duress
 - The agreement is in the best interests of the children
 - The needs of the children will be adequately met by the stipulated amount
 - **Deferred sale of family residence** (rental value of residence where children resides exceeds mortgage) – adjustment to guideline cannot exceed the excess amount [FC§4057(b)(2)]
 - **Obligor has extraordinarily high income and the guideline support amount would exceed the needs of the children** [FC§4057(b)(3)]
 - **A Party is not contributing to the needs of the children at a level commensurate with that party's custodial time** [FC§4057(b)(4)]
 - **Due to special circumstances, application of the formula would be unjust or inappropriate in the particular case** [FC§4057(b)(5)]
 - Special circumstances include – *but are not limited to*:
 - (A) Cases where parents have different timeshare arrangements for different children
 - (B) Cases where both parents have substantially equal time-sharing of the children and one parent has a much lower or higher percentage of income used for housing than the other parent
 - (C) Cases where the children have special medical or other needs that could require child support that would be greater than the guideline amount
 - (D) Cases in which a child is found to have more than two parents
 - Other special circumstances: [Note: This is not by any means an exhaustive list]
 - Obligor's remaining net disposable income, if after paying guideline support, is insufficient to meet his/her basic minimum monthly living expenses – see, e.g., *City and County of San Francisco v. Miller* (1996) 49 CA4th 866
 - Basis living expenses = rent (must be reasonable), food for oneself (not others in household), basic utilities, basic phone service
 - Consideration of high consumer debt incurred for purpose of "living needs" of other child(ren) is a special circumstance rendering guideline inappropriate – see, e.g. *County of Lake v. Antoni* (1993) 18 CA4th 1102
 - Child has reached age of majority and is supporting himself/herself in college, and neither parent retains primary physical responsibility – see, e.g. *Edwards v. Edwards* (2008) 162 CA4th 136

OTHER TIPS

→ Pro-rate where appropriate (e.g. child care)

→ Use discretion if/when appropriate re: add-ons
start dates
step-up orders