



**Welcome to the 27<sup>th</sup> Annual  
AB 1058 Child Support  
Training Conference**

# Advanced Income Determination

Hon. Scott Harman, Sacramento County Superior Court

Hon. Adam Wertheimer, (San Diego County Superior Court)

August 31, 2023



# HYPOTHETICAL #1

Amanda and Raul have one child, Max, who lives with his mother 72% of the time. Raul has income of \$3,000 per month. Amanda, who was previously employed as a receptionist earning \$1,950 per month, recently married Harvey, who has full custody of a child from a former relationship, and they have decided that Amanda will return to school and be a stay-at-home mother for both children. Harvey earns \$4,200 per month.

What, if anything, do you use as Amanda's income?

If you impute/attribute income to her, do you consider what she and Harvey would have to pay for child care?



## Hypothetical #2

Sheri and Don have two children of their marriage and share custody 65% to Sheri and 35% to Don. Don has retired and receives social security benefits. Sheri 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 party's respective incomes provides for Don to pay \$894 per month for both children.

What do you order for support?



## Hypothetical #2

Sheri and Don have two children of their marriage and share custody 65% to Sheri and 35% to Don. Don has retired and receives social security benefits. Sheri 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 party's respective incomes provides for Don to pay \$894 per month for both children.

What do you order for support?



## HYPOTHETICAL #3

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 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 their divorce, the "loans" became the subject of written promissory notes, although John has never made a payment on these obligations.



## HYPOTHETICAL #3 (CONT.)

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.

What, if anything, do you use for John's income?



## HYPOTHETICAL # 4

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.

What do you consider in making your order for child support?





# HYPOTHETICAL #5

Hi and Lois have a child together, Daisy. Hi is ordered to pay guideline child support for Daisy in the amount of \$650 per month. Hi subsequently remarries and has another child with his wife, and then they get divorced. In the Marital Settlement Agreement Hi agrees to pay \$1,000 per month as child support for the child of the marriage and another \$500 as spousal support. His income is the same as it was when he was ordered to pay support for Daisy. Hi now requests a modification of child support based on his having to pay child support for his second child.

What do you do about the child support order?

Deduction?

What if the second case is not a stipulation but an order from another AB 1058 court in another county or state?



## HYPOTHETICAL # 6

Carly and James are unmarried. They have equal custody of their child, Roscoe. Carly is unemployed and receives welfare under the Welfare to Work Program, receiving \$560 for TANF and \$555 for Cal Fresh (food stamps). James is disabled and receives Social Security Disability (SSDI) benefits of \$1,100 per month. Carly receives \$450 per month in derivative benefits for Roscoe as a result of James' SSDI. Guideline child support is \$143 per month.

What do you consider in making your order and what is your final order?



# HYPOTHETICAL #7

Donald and Hilary marry and have two children together during their marriage, Marco and Chris. After 10 years of marriage, during which Hilary was a stay-at-home mom and Donald was the CEO of a large and very profitable real estate company, they separate and are divorced. Hilary receives primary custody of the children and Donald is given parenting rights on alternate weekends. Donald is also ordered to pay child support of \$5,000 per month and spousal support of \$7,500 per month based on his income from the corporation. Donald later resigns his position as CEO when he seeks elective office, successfully. He now lives in a rent-free mansion with numerous servants, maintenance workers, security guards, etc. to take care of his every need, but his salary for his elective office is substantially lower than when he was a CEO and by virtue of his office he is no longer able to draw income from the company.

What do you consider in the Request For Order filed by Donald to modify child and spousal support?



# HYPOTHETICAL # 8

Rusty and Veronica lived together for seventeen years, siring 3 children. The oldest, Zoe, age 16, lives with Rusty (mom has too many rules!) and rarely visits mother. The other children, David, age 14, and Graham, age 10, live with the mother and spend alternate weekends and half the summer with father. Father is a self-employed contractor and his tax return reports annual taxable income of \$90,000. Mother is also self-employed as a hair stylist and her tax return reports annual taxable income of \$50,000. On his Schedule C he reports car and truck expenses of \$75,000, depreciation of \$100,000, rent for a home office of \$35,000, utilities of \$5,000, meals and entertainment of \$50,000, and other expenses for wifi, telephone and cable of \$6,500. Veronica on her Schedule C reports rent for a chair at a salon of \$12,000, car and truck expenses of \$6,000, meals and entertainment of \$5,000 and other expenses for wifi, telephone and cable of \$3,500.

What do you consider in establishing income for support purposes?



## HYPOTHETICAL #9

Brent and Mary Beth were unable to conceive a child so they adopted two children from the Dependency Court, Tom, and Jane, both of whom had special needs. When they separated, Brent was the primary caretaker with Mary Beth having 35% parenting time. The Adoption Assistance (AAP) funds for the children have, since separation, been paid to Brent.

How do you treat that in establishing child support?

What if, instead of AAP, Brent was receiving SSI for the children?



# Thank you for joining us!

Hon. Scott Harman

[HarmanS@saccourt.ca.gov](mailto:HarmanS@saccourt.ca.gov)

Hon. Adam Wertheimer

[Adam.Wertheimer@SDCourt.CA.Gov](mailto:Adam.Wertheimer@SDCourt.CA.Gov)

