

**ADVANCED INCOME DETERMINATION**

**SCENARIO 1**

Lennie and Skyler, unmarried, had two children, Lexis, age 12 and Daniel, age 16. The children lived with Skyler primarily, visiting Lennie on alternate weekends and alternate holidays. Daniel came out to his mother as trans which caused her to kick him out of the house. Daniel went to stay with his paternal grandparents (no custody order or guardianship). Mother was on aid, and continued to receive aid for Daniel not reporting to Welfare or DCSS about his being kicked out by her. Lennie continued to pay support for both children. Six months later when a Motion was filed to modify the support order due to a change in Lennie's income, Lennie and DCSS became aware of the living conditions. What, if anything, can be done about Skyler's failure to report the changed living arrangements? Provide support to the Paternal Grandparents? Recall and refund support paid for Daniel by Lennie for the last six months? Anything else?

**SCENARIO 2**

Ashley and Joseph, unmarried, share equal custody of their child, Michael. Ashley is unemployed and receives welfare under the Welfare to Work Program, receiving \$860 for TANF and \$555 for Cal Fresh (food stamps). Joseph is disabled and receives Social Security Disability (SSDI) benefits of \$1,100 per month. Ashley receives \$450 per month in derivative benefits for Michael as a result of Joseph's SSDI. Guideline child support is \$143 per month. What do you consider in making your order and what is your final order?

**SCENARIO 3**

Ahmed and Fatima were married and had two children, now ages 8 and 9 and attending public school. They separated after 10 years of marriage, sharing equal parenting time. Father worked during the marriage and immediately after separation at a medical device company earning \$1 million per year and mother was a stay-at-home mother. Father's employment was terminated two years after separation when the company he worked for shut their doors. Father now seeks a modification of child support, indicating that he has little income to support

himself and the children during his parenting time and cannot find adequate employment and also requests that mother be required to seek work and that income be imputed to her. At the trial (after significant discovery) evidence shows that father has for two years continued to pay his regular monthly expenses of approximately \$12,000 per month, but his testimony is that the funds are loans from friends and family, although there are no loan documents or supporting testimony on this issue. Father was also ordered to participate in a vocational evaluation but failed to cooperate, resulting in a report without his participation. The report found that father had the ability to work at positions available in the community paying between \$100,000 to \$200,000 per year. No evaluation was requested or performed for mother. What do you find father's income to be? What, if anything, do you do about mother's income?

#### **SCENARIO 4**

Brock and Martha were married and had a child, Fred. They divorced and agreed to share equal custody of little Fred. They had a trial on the issues of child support and spousal support and the trial judge found that Brock, a retired pro football player, had declined to take a job paying \$150,000 per year and based on that imputed income to him of that amount. Martha is a neurosurgeon and earned \$17,000 per month. The trial court ordered no spousal support and orders Brock to pay child support in the amount of \$250 per month. Two years after the trial, Brock comes before you asking that Martha pay him child support based on the fact that he is still not working. During discovery it is determined that Brock has made no effort to obtain employment since the trial other than to continue in his construction business, through which he estimates he makes "around \$20,000 per year." A review of his business bank records show that he is paying virtually all of his personal expenses, totaling \$6,000 per month, through the business plus paying for such things as a trip for 2 to Paris and a river boat cruise through that account. He is unable to provide any tax returns and has only a rough Profit and Loss Statement showing the \$20,000 per year income. What will you consider in determining whether to modify child support?

## SCENARIO 5

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 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?

## SCENARIO 6

Antonio Brady is an accomplished NFL player who made \$4.5 million per year as a player. He also fathered 8 kids with 7 women and pays child support for all of them. One case is in New Jersey, one case is in Florida and the other 5 are in California, all being enforced by DCSS. While playing he invested in real estate, accumulating several income producing rental properties, 3 Fidelity mutual funds and put money into an IRA and an NFL sponsored voluntary retirement account. While playing Antonio married Jane and had an additional 7 children with her.

Antonio retired from the NFL at age 34 and brought a motion to modify his 5 child support cases in California (after reaching stipulations in New Jersey and Florida) since he will only be receiving a relatively small income from his NFL pension (not the voluntary retirement) and the rental income from his real estate investments. Additionally, Jane pitched an idea for a reality TV show based upon Antonio and his multi-dimensional family dynamics, she took several meetings with networks and then she negotiated a deal with one in particular. The show was sold to a TV network who produced and broadcast the show paying Antonio and

each of his children with Jane a modest salary. Jane earns significantly more and has the credit of producer, writer, and on-air talent.

DCSS is contesting that Antonio is merely a salaried player because he was an NFL star and the draw for the network and that his true income is being paid to Jane to hide it. Further, they argue the court should find that there is a reasonable rate of return on all his investments and that should be used as additional income available for support. They also argue that he should make job contacts to find a job so that he can work to his ability. What is your ruling?

What if he only had one case and was a teacher who retired at age 72 with a STRS pension and, while teaching he invested in real estate, accumulating 2 income producing rental properties, 1 Fidelity mutual fund and he contributed to an IRA and a school sponsored voluntary retirement account. What would you use as income available for support? Would you order him to make job contacts to become reemployed as he still has minor children?