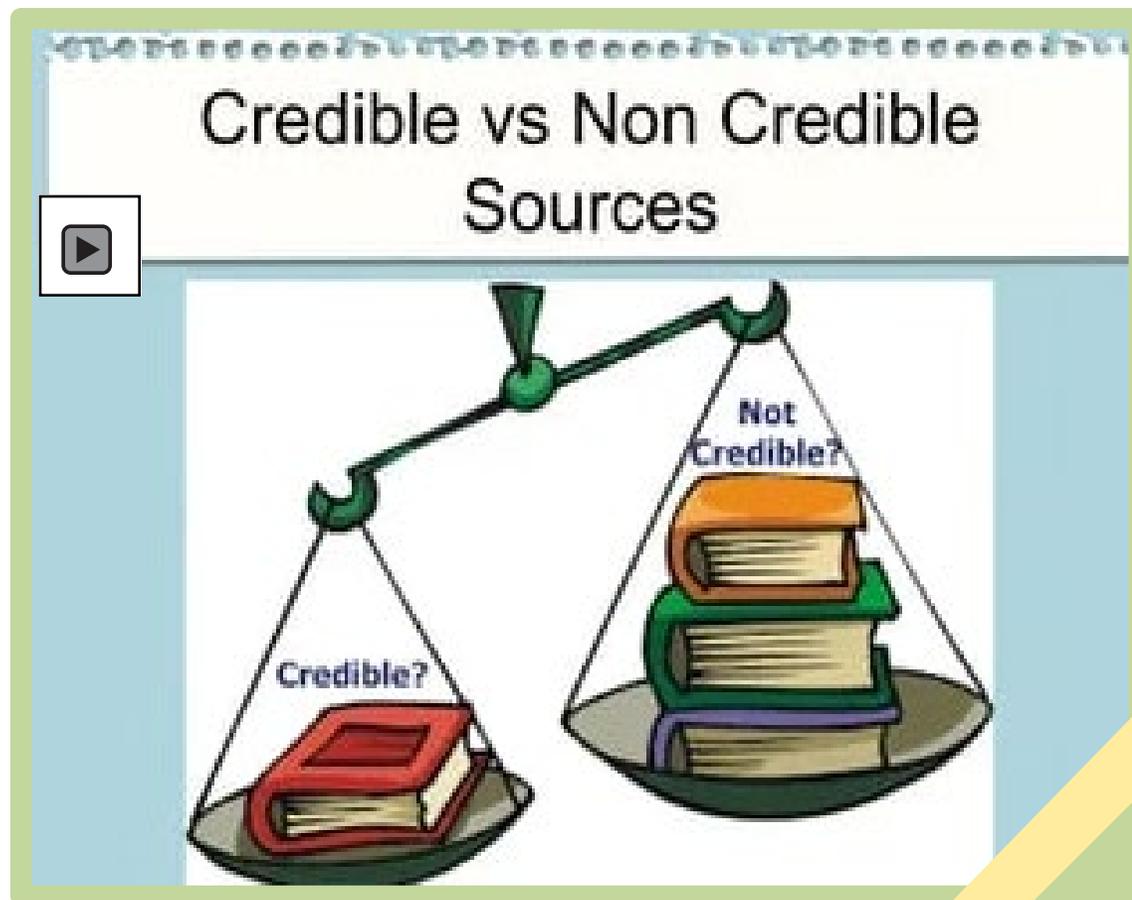


Crossing the bridge to our last stop....



Swan v. Hatchett (2023) 92 Cal.App.5th 1206

“And you expect me to believe that?”



Swan v. Hatchett

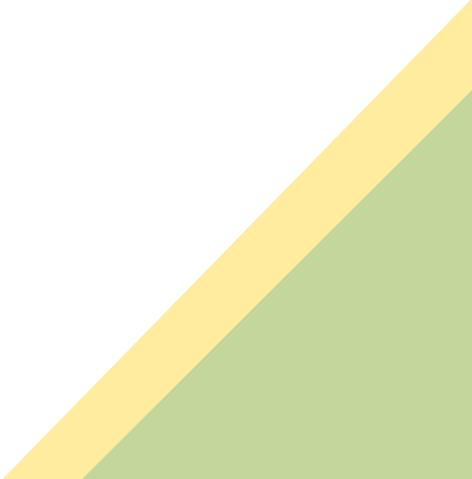
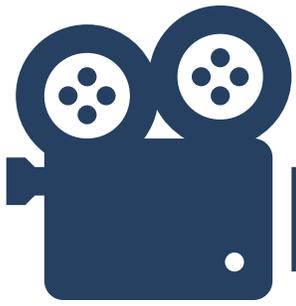
- To what extent can a trial court ignore evidence of an obligor's purported earnings if obligor lacks credibility?
- Charles Swan (Dad) and Krystal Hatchett (Mom) are the parents of triplets (!!!)
- Nov. 2017 – Dad ordered to pay support. (\$2350.00 per month based mostly on Dad earning \$110,940/year)



Swan v. Hatchett

- Sept. 2018: Dad files RFO to modify custody and support. Hearing held on 14 separate court days between May 2019 and August 2020.
- Dad's professional background.
- Dad was not the most knowledgeable person nor the best keeper of records.





Swan v. Hatchett

- Swan's expert was Jeff Stegner. Says he relied on taxes & ledgers (prepared by Swan) for his forensic report.
- Jan. 2021: tentative decision by trial court. Dad failed to meet his burden showing change of income. Dad not credible. Rejected Stegner's report.



Swan v. Hatchett

- April 2021: new tentative decision. More expansive than the last one. Swan moves for new trial.
- Nov. 2021: final hearing. Swan argues about disparity in incomes, yet court essentially made no finding as to his income.
- Jan. 2022: denial of motion for new trial and motion to modify. Mom awarded attorney fees.



Swan v. Hatchett

- Matter proceeds to appellate court as Dad appeals.



Swan v. Hatchett

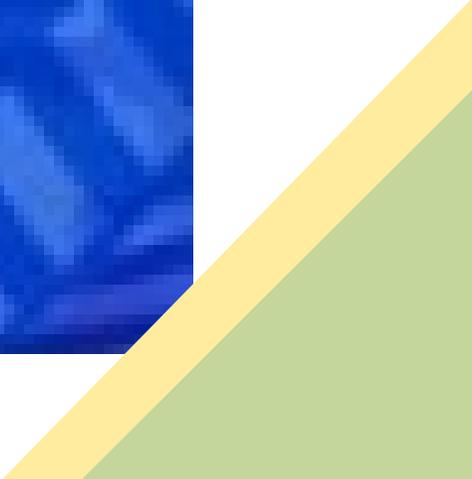
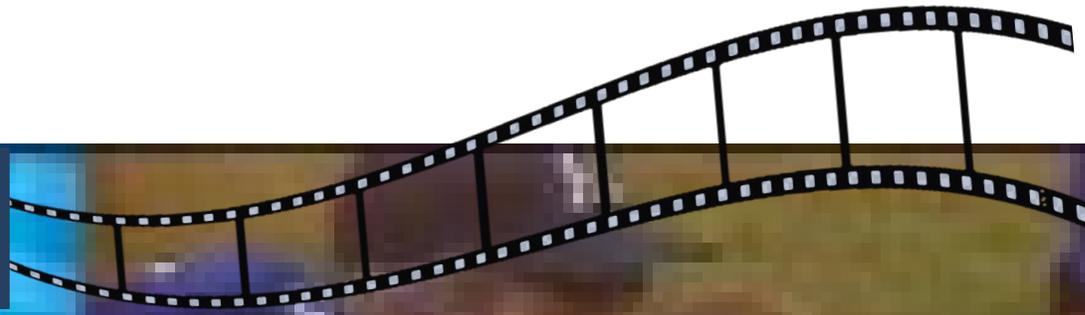
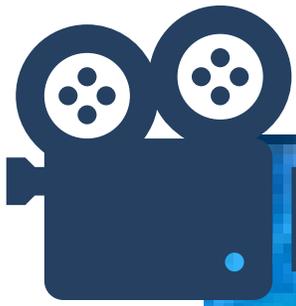
- Factual findings reviewed for substantial evidence.
- Trial court's findings regarding evidence normally not second guessed. See, e.g.: Williams v. Saunders (1997) 55 Cal.App.4th 1158, 1162)



Swan v. Hatchett

- However...upon further review....





IRMO D.H. & B.G.

- “Substantial evidence does not support the [trial] court’s decision to ignore all of his evidence...”
- We need not decide....”
- Appellate court acknowledged Swan’s “evasiveness.” (“Even from a cold transcript...”)



IRMO D.H. & B.G.

- Trial court had other options available.
 - Impute income if stated income did not match his earning capacity.
 - Add back amounts for improper business deductions.
 - Impute income necessary to fulfill the expenses of the Caribbean trips.
 - (Could have done any or all of these).



IRMO D.H. & B.G.

- No other reported cases have completely disregarded testimony and evidence of obligor as this court did.
- Court cites IRMO Barth (2007) 210 Cal.App.4th 363
- Trial court could not ignore 2021 I&E from Swan (yet use its info for need based attorney fee award).
- Had to put SOME number in the GLC for Swan....



Questions or comments?



The gates are going up. We are finished!



**Thank you for
your time and
attention**



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