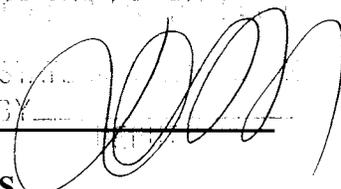


No. 36109-4-II

FILED  
BY: 

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**IN THE COURT OF APPEALS  
OF THE STATE OF WASHINGTON  
DIVISION NO. II**

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**In the Matter of**

**GINA FLEMETIS**

**v.**

**ANDREW FLEMETIS**

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**APPEAL FROM THE SUPERIOR COURT OF THE STATE OF  
WASHINGTON  
FOR GRAYS HARBOR COUNTY  
No. 02-3-00084-9**

---

**THE HONORABLE JUDGE GOELZ**

---

**BRIEF OF APPELLANT**

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## **ASSIGNMENTS OF ERROR**

- I. The Superior Court erred when it set the appellant's child support without considering actual earned tax credit as recurring income.
- II. The Superior Court erred when it failed to consider all relevant requested deviations, including an obligation to support children from other relationships and the residential schedule.
- III. The Superior Court erred when it failed to enter Findings of Fact as to why the requested deviations were accepted or denied.
- IV. The Superior Court erred when it signed final orders without notice to the appellant and included terms not adjudicated.

## **ISSUES**

- I. Whether the trial court based child support on the actual incomes of the parties, including consideration of actual earned tax income?
- II. Whether the trial court considered all requested relevant deviations from the standard calculations of child support?

- a. Whether the trial court considered a parents obligation to support children from another relationship, including adopted children?
  - b. Whether the trial court properly considered the obligor parents residential time with the child, when calculating child support?
- III. Whether the trial court erred when it failed to enter Findings of Facts supporting the reasons for granting or denying each requested deviation?
- IV. Whether the trial court erred when Final Orders were entered without notice to all parties and contained language not previously argued?

### **STATEMENT OF THE CASE**

Andrew Flemetis and Gina Wilson (Formerly known as Gina Flemetis) divorced in January 2003. During the course of their marriage they had one child, Bailey Flemetis. Bailey was Mr. Flemetis's second child, as he had a daughter from a previous relationship. On January 3, 2003, final orders regarding child support and parenting plan were entered. On July 20, 2006, a modified parenting plan was entered, which allowed Mr. Flemetis visitation with Bailey from Sunday to Wednesday every

week. On October 26, 2006, a petition to modify child support was submitted by Mr. Flemetis based on the change of the residential schedule, change of incomes, and the adoption of Mr. Flemetis two step-daughters. R 1-8-2007, 2.

The first hearing regarding the modification occurred January 8, 2007. R 1-8-2007, 1-12. Mr. Flemetis's counsel argued that three factors played into a modification of child support. R 2. The three factors addressed were changes regarding income, and deviations based on an increased residential schedule and the obligation to support two additional children. R 2. After hearing the argument, the judge stated that "I don't like to diminish child support when a parent chooses to increase contact...--- the residential parent chooses to increase contact with the non-residential parent." R 6-7. In addition, the judge stated that "I'm very loathe to, quote, "punish", unquote, a parent for allowing what is clearly in the best interest of the child." R 7. After addressing residential time, the judge was clear that he did not want to "deprive the current child, Bailey, with – because Mr. Flemetis chose to increase his responsibilities with adopting two other children." R 7 The judge ruled that from a legal standpoint Mr. Flemetis was not obligated to take on the two additional children and therefore Bailey shouldn't be punished because he chose to do so. R 7. Therefore, the judge ruled that Mr. Flemetis would only

receive residential credit of \$30 per month and he was not going to deviate in regards to the adoption because there was a significant lose to the mother. R 9. The judge recognized that Mr. Flemetis had many more responsibilities but refused to grant the deviation based on adoption. R 11.

The second hearing occurred January 25, 2007. R 1-25-2007, 1-12. In which the court once again considered the parties incomes. R 2. At that hearing, Mr. Flemetis's counsel addressed the fact that Ms. Wilson's income was understated by \$200 because of a deduction for earned income credit, of which she would actually owe nothing. R 11. At that time the court asked for both parties current pay stubs and the previous two years tax returns. R 4. In addition, Ms. Wilson addressed tax exemptions and her wish to be able to claim Bailey every year. R 6. The court also became aware of Mr. Flemetis's daughter from another relationship which he pays actual child support at \$387.00 a month. R 8. The judge concluded that he wanted to look at pay stubs prior to making a decision. R 12.

In a Memorandum opinion dated January 26, 2007, the judge ruled that Mr. Flemetis could not decrease his support obligation amount to one child and favor another child by paying an increase amount of child support. CP 28-29. The Memorandum also addressed the credit for residential time at \$30 per month but did not give any specific facts to

support the deviation. CP 29. The Memorandum failed to address the denial of the deviation based on the adopted children. CP 28-29.

The last hearing occurred February 22, 2007. R 2-22-2007, 1-7. Mr. Flementis counsel stated that Findings addressing the requested deviations or denials of them should be entered. R 6-7. The court concluded that proposed Findings and Orders should be sent and reviewed. R 7.

On February 22, 2007, the court issued a second memorandum opinion. CP 28-29. The judge ruled that the petition for modification is denied because of insufficient information to support a reduced income. Id. The memorandum also stated that they would not give Mr. Flementis more than \$30 per month credit in regards to residential credit because of the difference in lifestyles at the two homes and because the court believed that Ms. Wilson is only able to provide just beyond the basic needs of the child. Id.

On February 27, 2007, Mr. Flementis's counsel received copies of an Order of Child Support with an attached Child Support Worksheet and a copy of the Findings of Fact and Conclusions of Law. However, no notice was given to counsel in regards to presentation of final orders. Neither Mr. Flementis nor his counsel waived notice of presentment. On March 12, 2007, final orders were entered and Mr. Flementis and counsel

were not present. CP 42-53. Mr. Flemetis filed a Notice of Appeal on March 22, 2007. An amended Notice of Appeal was filed on April 18, 2007. CP 54-67.

### **STANDARD OF REVIEW**

The trial court has broad discretion in child support matters. *In re Marriage of Blickenstaff*, 71 Wn. App. 489, 859 P.2d 464 (Div. II 1993). However, the trial court's discretion is not unlimited; the appellate court determines whether the trial court abused its discretion in setting child support. *In re Marriage of Littlefield*, 133 Wn. 2d 39, 46-47, 940 P.2d 1362, 1366 (1997). The appellate court "will not substitute its own judgment for that of the trial court where the record shows that the trial court considered all relevant factors and the award is not unreasonable under the circumstances." *In re Marriage of Fiorito*, 112 Wn. App. 657, 663-64, 50 P.3d 298 (Div. I 2002).

When the Court of Appeals reviews an award of child support, it must determine whether substantial evidence supports the findings of fact and whether the court made an error of law. *In re Marriage of Peterson*, 80 Wn. App. 148, 153, 906 P.2d 1009, 1011 (Div. I 1995). However, when the trial court ignores "the equities and statutory guidelines set forth

for its consideration,” conclusions of law are reviewed de novo. *King v. King*, 2 Wn. App. 354, 355, 481 P. 2d 458 (Div. I 1971).

## ARGUMENT

### **I. CHILD SUPPORT SHOULD BE DETERMINED BASED ON THE ACTUAL INCOMES OF THE PARTIES, INCLUDING EARNED INCOME TAX CREDIT.**

The trial court abused its discretion when it failed to consider all current income information to set child support. Actual earned income tax credit is a recurring income and therefore should be considered when setting child support. RCW 26.19.075(1)(b). When setting child support, the court must consider each parent’s income and resources. RCW 26.19.071(1). To verify income, the court shall look at current pay stubs and the proceeding two year tax returns. RCW 26.19.071(2). If tax returns and pay stubs verify the income then a parent’s actual income may not be calculated in disregard of the evidence in the record. *State ex rel. Stout v. Stout*, 89 Wn. App. 118 (1997). A courts failure to consider all source of income is reversible error. *In re Marriage of Bucklin*, 70 Wn. App. 837 (1993).

If the court excludes actual income because it is non-recurring, findings of fact must be entered to support exclusions of income as non-recurring. *In re Marriage of Hawthorne*, 91 Wn. App. 956 (1998). In order

to determine whether income is non-recurring, the court must review the previous two calendar years. RCW 26.19.075(1)(b).

Under RCW 26.19.065(5), the courts determine net income by deducting certain expenses from the gross monthly income in order to determine the net. RCW 26.19.065(5). One of the expenses listed under RCW 26.19.065(5)(a) are Federal and State income taxes.

Here, the court failed to consider all sources of income when it did not consider actual earned income tax, supported by the previous two calendar years. R 1-25-2007, 11. Ms. Wilson understated her income by approximately \$200 a month when she deducted earned income tax that would have been returned to her at the end of the year. R 11. This is evidenced through the previous two years tax returns which were before the court. The court failed to consider this when calculating her basic support obligation and did not consider whether the earned income tax credit was recurring. R 11. The court erred when it deducted the earned income tax even though it was recurring income. RCW 26.19.075.

**II. BEFORE THE TRIAL COURT CAN SET CHILD SUPPORT THEY MUST APPROPRIATELY CONSIDER ALL REQUESTED RELEVANT DEVIATIONS FROM THE STANDARD CALCULATIONS OF CHILD SUPPORT.**

Deviations are exceptions to the rule that a parent should pay the standard calculation. *In re Marriage of Oakes*, 71 Wn. App. 646 (1993).

However, two reasons where it would be inequitable not to deviate would include the obligation to support children from other relationships and the residential schedule. *Id.*

**1. The court may deviate from the standard calculation when a parent has a duty to support children from other relationships.**

A parent's duty to support other children will likely sustain a deviation. RCW 26.19.075 (1)(e). "The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support." *Id.* The court "must consider the total circumstances of both households" including the needs of all the children to whom the parent seeking deviation owes a duty of support. *In re Marriage of Bell*, 101 Wn. App. 366, 373 (2000); RCW 26.19.075(1)(e). "All child support obligations paid, received, and owed for all children shall be disclosed and considered." *Id.*

More important than equity of support between the parents is adequacy of the support for the children. *In re Marriage of Griffin*, 114 Wn.2d 772 (1990). The trial judge failed to consider all children that Mr. Fletmetis had an obligation to support. R 9. The judge stated that he understood that Mr. Fletmetis had many more additional responsibilities but failed to factor

them into the deviation. R 7. Instead, the court tried to equalize the standard of living in both households. By doing so the court failed to look at the totality of the circumstances and all of his support obligations, including obligations to his adopted children.

**2. The court shall consider a deviation when an obligor parent has a significant amount of residential time with the child.**

RCW 26.19.075 gives the trial court discretion to deviate from the basic child support obligation based on the amount of residential time the children spend with the parents. RCW 26.19.075.

In Graham, there was a shared residential situation in which both parents were responsible for the same children and the same needs. *State ex Rel. M.M.G. v. Graham*, 159 Wn.2d 623 (2007). Here, the trial court used its discretion to deviate from the basic child support based on the facts of a particular case including residential time. *Id.* The State Supreme court ruled that a specific formula is neither necessary nor statutorily requires to ensure that child support is properly allocated. *Id.*

The court did allow deviation based upon the residential schedule and the amount of overnights that the child was spending with the father, however the court did not allow a full deviation because “there’s a significant lost to the mother.” R 9. Under Washington State law, the purpose of child support is to assure that the child’s needs are met. RCW

26.19.001. The legislature does not address a loss to a residential parent but does look to the parents' income and standard of living. *Id.* The legislature intends that the support obligation be equitably apportioned between the parents. *Id.* The court credited Mr. Flemetis only \$30 a month to compensate for the extra residential time. R 11. The court erred when it based a decision to deviate on residential schedule on whether the obligee parent would suffer a loss rather than the child.

**III. THE TRIAL COURT MUST ENTER FINDINGS OF FACT SUPPORTING THE REASONS FOR GRANTING OR DENYING EACH REQUESTED DEVIATION.**

“An order of child support shall be supported by written findings of fact upon which the support determination is based and shall include the reasons for denial of a party's request for deviation from the standard calculation.” RCW 26.19.035(2). Washington courts have held that a worksheet must be filed and specific reasons for the deviations must be stated. *In re Marriage of Sacco*, 114 Wn.2d 1, 784 P.2d 1266 (1990). However, the courts have stated that in the absence of written findings of fact, the appellate court may consider the trial court's oral opinion to determine the basis of the court's decision not to deviate. *Griffin*, 114 Wn.2d at 772.

In *Sacco*, the judge deviated below the presumed amount of child support and did not support this decision through any findings of fact. *In re Marriage of Sacco*, 114 Wn.2d 1, 784 P.2d 1266 (1990). Although the judge in *Sacco* indicated that six different factors were considered, the court did not see nor infer any specific reasons to deviate from the standard child support calculation. *Id.* Here, the Washington State Supreme Court upheld the requirements that a worksheet must be filed out and that specific reasons for the deviation need to be stated. *Id.*

The facts in our case show that three deviations were requested.

R 2. The Findings of Fact and Conclusions of law written into the memorandums and final orders fail to adequately address the specific reasons for the denial to deviated from the from standard support calculation. CP 42-53 Although the court addressed the residential schedule and court never fully explained its denial for deviation in regards to the adopted children. *Id.* Therefore the court erred when it failed to set forth specific explanations for reasons to deviate or not to deviate.

**IV. NOTICE OF PRESENTMENT SHALL BE GIVEN TO ALL PARTIES AND ORDERS SHOULD NOT CONTAIN ISSUES NOT ADJUDICATED.**

The prevailing party shall prepare final orders and give the opposing party copies of their proposed orders and notice of the hearing. Under CR

52(c) and CR 54(f), the court shall not sign findings of fact or conclusions of law until the defeated party or parties have received 5 days notice of the time and place of the submission, and have been served with copies of the proposed findings and conclusions. CR 52(c), CR 54(f). The only exceptions are if there is an emergency, opposing counsel has waived notice of presentment in writing, or if counsel is in open court. CR 52(c), CR 54(f).

Here, Ms. Wilson failed to give Mr. Flemetis, or his attorney notice that final orders were being entered. Although Ms. Wilson did supply counsel with a copy her proposed final orders regarding an Order of Child Support with the child support schedule and the Findings and Conclusions, she failed to give Mr. Flemetis and his counsel notice that those documents were going to be entered five days prior to presentment. CP 42-53

In addition to the lack of notice, the final orders that were entered allotted things that were not ruled on nor stated in court, such as awarding Ms. Wilson tax exemptions on Bailey. *Id.* Because of the lack of notice and improper language in the order, final orders should be resubmitted with notice for presentment.

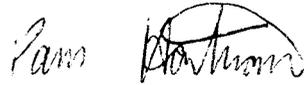
## CONCLUSION

The purpose of child support is to support children and to see that their basic needs are met. The trial court failed to consider all income, including recurring earned tax credit. The trial court erred when it failed to consider Mr. Flemetis's obligation to support all of his children, including his two adopted children. In addition, the court erred when it calculated residential credit based a set method or formula rather than considering the facts within this particular case. Lastly the court erred when it did not adequately address the reasons for the acceptance or denial of the requested deviations and when final orders were entered without any notice of presentation.

Mr. Flemetis requests that this Court apply the correct law and deviations to this case and set child support at an appropriate level based on the parents' actual income, the children to whom they own an obligation to support and the residential schedule. In addition, Mr. Flemetis asks that the Final Orders entered on March 12, 2007 be vacated; as no notice was given as to presentment and these orders include language that was not ruled on.

Respectfully re-submitted this 15<sup>th</sup> day of August, 2007.

MICHEAU & ASSOCIATES

Handwritten signature of Pamela M. Hartman in cursive script.

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Pamela M. Hartman, WBA# 38273

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Jack Micheau, WBA # 13784

## Appendix

RCW 26.19.001

Legislative Intent and finding.

The legislature intends, in establishing a child support schedule, to insure that child support orders are adequate to meet a child's basic needs and to provide additional child support commensurate with the parents' income, resources, and standard of living. The legislature also intends that the child support obligation should be equitably apportioned between the parents.

The legislature finds that these goals will be best achieved by the adoption and use of a statewide child support schedule. Use of a statewide schedule will benefit children and their parents by:

(1) Increasing the adequacy of child support orders through the use of economic data as the basis for establishing the child support schedule;

(2) Increasing the equity of child support orders by providing for comparable orders in cases with similar circumstances; and

(3) Reducing the adversarial nature of the proceedings by increasing voluntary settlements as a result of the greater predictability achieved by a uniform statewide child support schedule.

RCW 26.19.035

Standards for application of the child support schedule.

(1) Application of the child support schedule. The child support schedule shall be applied:

(a) In each county of the state;

(b) In judicial and administrative proceedings under this title or Title 13 or 74 RCW;

(c) In all proceedings in which child support is determined or modified;

(d) In setting temporary and permanent support;

(e) In automatic modification provisions or decrees entered pursuant to RCW 26.09.100; and

(f) In addition to proceedings in which child support is determined for minors, to adult children who are dependent on their parents and for whom support is ordered pursuant to RCW 26.09.100.

The provisions of this chapter for determining child support and reasons for deviation from the standard calculation shall be applied in the same manner by the court, presiding officers, and reviewing officers.

(2) Written findings of fact supported by the evidence. An order for child support shall be supported by written findings of fact upon which the support determination is based and shall include reasons for any deviation from the standard calculation and reasons for denial of a party's request for deviation from the standard calculation. The court shall enter written findings of fact in all cases whether or not the court: (a) Sets the support at the presumptive amount, for combined monthly net incomes below five thousand dollars; (b) sets the support at an advisory amount, for combined monthly net incomes between five thousand and seven thousand dollars; or (c) deviates from the presumptive or advisory amounts.

(3) Completion of worksheets. Worksheets in the form developed by the administrative office of the courts shall be completed under penalty of perjury and filed in every proceeding in which child support is determined. The court shall not accept incomplete worksheets or worksheets that vary from the worksheets developed by the administrative office of the courts.

(4) Court review of the worksheets and order. The court shall review the worksheets and the order setting support for the adequacy of the reasons set forth for any deviation or denial of any request for deviation and for the adequacy of the amount of support ordered. Each order shall state the amount of child support calculated using the standard calculation and the amount of child support actually ordered. Worksheets shall be attached to the decree or order or if filed separately shall be initialed or signed by the judge and filed with the order.

Standards for establishing lower and upper limits on child support amounts.

(1) Limit at forty-five percent of a parent's net income. Neither parent's total child support obligation may exceed forty-five percent of net income except for good cause shown. Good cause includes but is not limited to possession of substantial wealth, children with day care expenses, special medical need, educational need, psychological need, and larger families.

(2) Income below six hundred dollars. When combined monthly net income is less than six hundred dollars, a support order of not less than twenty-five dollars per child per month shall be entered for each parent unless the obligor parent establishes that it would be unjust or inappropriate to do so in that particular case. The decision whether there is a sufficient basis to deviate below the presumptive minimum payment must take into consideration the best interests of the child and the circumstances of each parent. Such circumstances can include comparative hardship to the affected households, assets or liabilities, and earning capacity. A parent's support obligation shall not reduce his or her net income below the need standard for one person established pursuant to RCW 74.04.770, except for the presumptive minimum payment of twenty-five dollars per child per month or in cases where the court finds reasons for deviation. This section shall not be construed to require monthly substantiation of income.

(3) Income above five thousand and seven thousand dollars. The economic table is presumptive for combined monthly net incomes up to and including five thousand dollars. When combined monthly net income exceeds five thousand dollars, support shall not be set at an amount lower than the presumptive amount of support set for combined monthly net incomes of five thousand dollars unless the court finds a reason to deviate below that amount. The economic table is advisory but not presumptive for combined monthly net incomes that exceed five thousand dollars. When combined monthly net income exceeds seven thousand dollars, the court may set support at an advisory amount of support set for combined monthly net incomes between five thousand and seven thousand dollars or the court may exceed the advisory amount of support set for combined monthly net incomes of seven thousand dollars upon written findings of fact.

RCW 26.19.071

Standards for determination of income.

(1) Consideration of all income. All income and resources of each parent's household shall be disclosed and considered by the court when the court determines the child support obligation of each parent. Only the income of the parents of the children whose support is at issue shall be calculated for purposes of calculating the basic support obligation. Income and resources of any other person shall not be included in calculating the basic support obligation.

(2) Verification of income. Tax returns for the preceding two years and current paystubs shall be provided to verify income and deductions. Other sufficient verification shall be required for income and deductions which do not appear on tax returns or paystubs.

(3) Income sources included in gross monthly income. Except as specifically excluded in subsection (4) of this section, monthly gross income shall include income from any source, including:

- (a) Salaries;
- (b) Wages;
- (c) Commissions;
- (d) Deferred compensation;
- (e) Overtime;
- (f) Contract-related benefits;
- (g) Income from second jobs;
- (h) Dividends;
- (i) Interest;
- (j) Trust income;
- (k) Severance pay;
- (l) Annuities;
- (m) Capital gains;

- (n) Pension retirement benefits;
- (o) Workers' compensation;
- (p) Unemployment benefits;
- (q) Spousal maintenance actually received;
- (r) Bonuses;
- (s) Social security benefits; and
- (t) Disability insurance benefits.

(4) Income sources excluded from gross monthly income. The following income and resources shall be disclosed but shall not be included in gross income:

- (a) Income of a new spouse or income of other adults in the household;
- (b) Child support received from other relationships;
- (c) Gifts and prizes;
- (d) Temporary assistance for needy families;
- (e) Supplemental security income;
- (f) General assistance; and
- (g) Food stamps.

Receipt of income and resources from temporary assistance for needy families, supplemental security income, general assistance, and food stamps shall not be a reason to deviate from the standard calculation.

(5) Determination of net income. The following expenses shall be disclosed and deducted from gross monthly income to calculate net monthly income:

- (a) Federal and state income taxes;
- (b) Federal insurance contributions act deductions;
- (c) Mandatory pension plan payments;
- (d) Mandatory union or professional dues;

(e) State industrial insurance premiums;

(f) Court-ordered spousal maintenance to the extent actually paid;

(g) Up to two thousand dollars per year in voluntary pension payments actually made if the contributions were made for the two tax years preceding the earlier of the (i) tax year in which the parties separated with intent to live separate and apart or (ii) tax year in which the parties filed for dissolution; and

(h) Normal business expenses and self-employment taxes for self-employed persons. Justification shall be required for any business expense deduction about which there is disagreement.

Items deducted from gross income under this subsection shall not be a reason to deviate from the standard calculation.

(6) Imputation of income. The court shall impute income to a parent when the parent is voluntarily unemployed or voluntarily underemployed. The court shall determine whether the parent is voluntarily underemployed or voluntarily unemployed based upon that parent's work history, education, health, and age, or any other relevant factors. A court shall not impute income to a parent who is gainfully employed on a full-time basis, unless the court finds that the parent is voluntarily underemployed and finds that the parent is purposely underemployed to reduce the parent's child support obligation. Income shall not be imputed for an unemployable parent. Income shall not be imputed to a parent to the extent the parent is unemployed or significantly underemployed due to the parent's efforts to comply with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child. In the absence of information to the contrary, a parent's imputed income shall be based on the median income of year-round full-time workers as derived from the United States bureau of census, current populations reports, or such replacement report as published by the bureau of census.

Standards for deviation from the standard calculation.

(1) Reasons for deviation from the standard calculation include but are not limited to the following:

(a) Sources of income and tax planning. The court may deviate from the standard calculation after consideration of the following:

(i) Income of a new spouse if the parent who is married to the new spouse is asking for a deviation based on any other reason. Income of a new spouse is not, by itself, a sufficient reason for deviation;

(ii) Income of other adults in the household if the parent who is living with the other adult is asking for a deviation based on any other reason. Income of the other adults in the household is not, by itself, a sufficient reason for deviation;

(iii) Child support actually received from other relationships;

(iv) Gifts;

(v) Prizes;

(vi) Possession of wealth, including but not limited to savings, investments, real estate holdings and business interests, vehicles, boats, pensions, bank accounts, insurance plans, or other assets;

(vii) Extraordinary income of a child; or

(viii) Tax planning considerations. A deviation for tax planning may be granted only if the child would not receive a lesser economic benefit due to the tax planning.

(b) Nonrecurring income. The court may deviate from the standard calculation based on a finding that a particular source of income included in the calculation of the basic support obligation is not a recurring source of income. Depending on the circumstances, nonrecurring income may include overtime, contract-related benefits, bonuses, or income from second jobs. Deviations for nonrecurring income shall be based on a review of the nonrecurring income received in the previous two calendar years.

(c) Debt and high expenses. The court may deviate from the standard calculation after consideration of the following expenses:

(i) Extraordinary debt not voluntarily incurred;

(ii) A significant disparity in the living costs of the parents due to conditions beyond their control;

(iii) Special needs of disabled children;

(iv) Special medical, educational, or psychological needs of the children; or

(v) Costs incurred or anticipated to be incurred by the parents in compliance with court-ordered reunification efforts under chapter 13.34 RCW or under a voluntary placement agreement with an agency supervising the child.

(d) Residential schedule. The court may deviate from the standard calculation if the child spends a significant amount of time with the parent who is obligated to make a support transfer payment. The court may not deviate on that basis if the deviation will result in insufficient funds in the household receiving the support to meet the basic needs of the child or if the child is receiving temporary assistance for needy families. When determining the amount of the deviation, the court shall consider evidence concerning the increased expenses to a parent making support transfer payments resulting from the significant amount of time spent with that parent and shall consider the decreased expenses, if any, to the party receiving the support resulting from the significant amount of time the child spends with the parent making the support transfer payment.

(e) Children from other relationships. The court may deviate from the standard calculation when either or both of the parents before the court have children from other relationships to whom the parent owes a duty of support.

(i) The child support schedule shall be applied to the mother, father, and children of the family before the court to determine the presumptive amount of support.

(ii) Children from other relationships shall not be counted in the number of children for purposes of determining the basic support obligation and the standard calculation.

(iii) When considering a deviation from the standard calculation for children from other relationships, the court may consider only other children to whom the parent owes a duty of support. The court may consider court-ordered payments of child support for children from other relationships only to the extent that the support is actually paid.

(iv) When the court has determined that either or both parents have children from other relationships, deviations under this section shall be based on consideration of the total circumstances of both households. All child support obligations paid, received, and owed for all children shall be disclosed and considered.

(2) All income and resources of the parties before the court, new spouses, and other adults in the households shall be disclosed and considered as provided in this section. The presumptive amount of support shall be determined according to the child support schedule. Unless specific reasons for deviation are set forth in the written findings of fact and are supported by the evidence, the court shall order each parent to pay the amount of support determined by using the standard calculation.

(3) The court shall enter findings that specify reasons for any deviation or any denial of a party's request for any deviation from the standard calculation made by the court. The court shall not consider reasons for deviation until the court determines the standard calculation for each parent.

(4) When reasons exist for deviation, the court shall exercise discretion in considering the extent to which the factors would affect the support obligation.

(5) Agreement of the parties is not by itself adequate reason for any deviations from the standard calculation.



Sherry Carlson  
SHERRY CARLSON

SUBSCRIBED AND SWORN to before me this 15th day of August, 2007.

**PAMELA M. HARTMAN**  
**NOTARY PUBLIC**  
**STATE OF WASHINGTON**  
My Commission Expires May 25, 2011

Pamela M. Hartman  
NOTARY PUBLIC in and for the  
State of Washington,  
Residing at Aberdeen, WA  
My Commission Expires: 5/25/2011

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