Complex Support Cases

RECOGNIZE THE COMPLEXITY. FIND THE NUMBER. PROVE IT.

Presenters:

The Honorable David Workman
Maria P. Cognetti, Esquire

Roadmap to Success

1

Recognize

How do you know the case is complex?

2

Investigate

When do you need an expert?

3

Prove

How do you effectively present the evidence?

THE FUNDAMENTAL QUESTION IS …

What is a party's actual income available for support?

Under Pa.R.C.P. 1910.16-2

"Income" includes income from any source

Gross income ordinarily uses at least a six-month average

Support is based upon monthly <u>net</u> income

Simple Case vs. Complex Case

- **Straightforward**
  - ✓ W-2 Employee
  - ✓ Fixed Salary
  - ✓ One Employer
  - ✓ Regular Pay
  - ✓ Complete records
  - ✓ Actual earnings undisputed

- **Potentially Complex**
  - ✓ Business owner
  - ✓ Variable compensation
  - ✓ Multiple income streams
  - ✓ Bonuses/Commissions/Stock Options
  - ✓ Missing/Inconsistent financial records
  - ✓ Earning capacity disputed

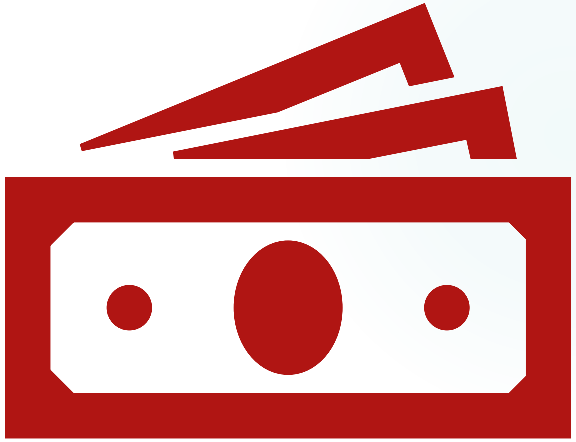
Recognizing the Complex Case

WHEN TO LOOK BEYOND THE NUMBERS

Indicators of Complexity

- Self-employment
- Closely held business
- S corporation/partnership
- Cash-intensive business
- Multiple entities
- Variable compensation
- Significant bonuses
- Equity compensation (RSUs, Stock Options, etc)
- Rental/investment income
- Lifestyle inconsistent with reported income
- Sudden reduction in earnings

What constitutes income?



Key Rule: 1910.16-2

wages/salaries	bonuses, fees and commissions	net business income
interest, rents, royalties and dividends	pensions/retirement	estate/trust income
certain disability and unemployment benefits	other entitlements to money and lump-sum awards	

Business Owners

Taxable Income
≠
Income Available for Support

Questions to ask:

- Who controls the business?
- Who controls distributions?
- What expenses does the business pay?
- Are personal expenses deducted?
- Are there shareholder loans?
- Are distributions consistent with reported income?
- Is depreciation distorting cash flow?
- Are funds retained in the business?
- Is there a legitimate use/reason for those retained earnings?
- Are related entities transferring money among themselves?

High Income ≠ Automatically Complex

…BUT IT CAN CHANGE THE ANALYSIS

Do I need an expert?

WHAT DO I NEED TO PROVE THAT I CANNOT EFFECTIVELY ESTABLISH THROUGH ORDINARY RECORDS AND TESTIMONY?

When you may need a forensic accountant…

- multiple business entities
- personal expenses run through the business
- complicated distributions
- shareholder loans
- retained earnings
- cash businesses
- questionable business deductions
- unexplained transfers
- complicated depreciation
- income inconsistent with lifestyle
- or sadly, because you know your opponent has hired one.

You've determined you need an expert …now what?

Make sure you clearly define the assignment

Use the expert to help shape discovery

Time to present your evidence!

WHAT INCOME ARE YOU ASKING THE COURT TO USE?

START WITH THE ANSWER!

Make it easy for the Hearing Officer or Judge

SMITH v. SMITH			
Anne Smith v. Michael Smith			
Michael Smith Disposable income (Cash Flow) Analysis			
Disposable Income Available for Support			
SUMMARY			
	Income or Deduction Description	2025	2024
	Wages, salaries, tips, etc.	$164,526.00	$165,794.00
	Interest	$226.00	$48.00
	Dividends	$0.00	$0.00
	Capital gain or (loss)	$0.00	$0.00
	Other gains or (losses)	$0.00	$0.00
	Rental real estate, royalties, partnerships, S corporations, trusts, etc.		
	ABC, Inc.	$89,343.00	$53,355.00
	GROSS DISPOSABLE INCOME	$254,095.00	$219,197.00
	Income Based Taxes	($78,608.00)	($69,827.00)
	TOTAL DEDUCTIONS	**($78,608.00)**	**($69,827.00)**
	NET DISPOSABLE INCOME - Annual	$175,487.00	$149,370.00
	NET DISPOSABLE INCOME - Monthly	$14,624.00	$12,448.00

Be Prepared with Source Documents and Proof

Source

Proof

Tax Return

Schedule E –

Pass Through Income

General Ledger

Vehicle Account –
Personal Expense

Organize by Issue

You may need 400 pages in the exhibit binder, but that doesn't mean you need to walk the Court through 400 pages.

Instead of:

X Exhibit 1 – Tax Return

X Exhibit 2 – Bank Statements

X Exhibit 3 – General Ledger

Try:

Issue 1 – Salary

Issue 2 – Bonus

Issue 3 – Distributions

Issue 4 – Personal Expense

Issue 5 – Claimed Deductions

Make the Expert Teach

Direct examination should answer:	What did you review? ↓ What did you find? ↓ What adjustments did you make? ↓ Why? ↓ What is your conclusion?

Important Rule of Evidence

Rule 1910.29(b) - Documentary Evidence.

(1) The court shall admit into evidence statements contained in a verified petition, affidavit, document, or a document incorporated by reference that would not be excluded under the hearsay rule if the declarant testified in person, when:

(i) the proponent has provided the other party written notice at least 20 days prior to the hearing of the intention to offer the document into evidence, together with the document to be offered;

(ii) the other party does not object to the document's admission into evidence; and

(iii) the proponent offers the evidence under oath.

(2) A party objecting pursuant to subdivision (b)(1)(ii) shall serve the proponent with the written objection within 10 days of the date of service of the notice of intention to offer the evidence.

(3) If a party properly objects, the Pennsylvania Rules of Evidence shall apply to determine the document's admissibility.

The Complex Support Case Checklist

Recognize

☐ Identify every income source
☐ Identify business interests
☐ Look for variable compensation
☐ Compare lifestyle to reported Income

Investigate

☐ **Retain the right expert early**
☐ Obtain baseline financial documents
☐ Identify missing records
☐ Determine whether additional discovery is needed

Prove

☐ Determine the income figure sought
☐ Tie each adjustment to evidence
☐ Prepare summaries/demonstratives
☐ Address admissibility
☐ Anticipate objections
☐ **Make the numbers understandable**

Three important Takeaways

1

1. Hire your expert as soon as you recognize the need.

2

2. Don't confuse reported income with available income.

3

3. Don't give the court documents. Give the court a roadmap.

Questions?