

# **The Divorce Agreement Newsletter**

Wednesday, March 15, 2017

## **The Nature of Problems with Child Support Negotiations**

Since we have the statewide guidelines, child support should be the easiest issue to decide – right? Except for maybe dividing the household stuff. So why do we keep seeing cases where two parents are willing to spend much more on legal fees than the support amounts in controversy?

The legal reasons are understandable. A stay-at-home parent doesn't want to restart a career even though the youngest child is 13. A self-employed parent routinely hides income. Another parent thinks overtime or bonuses shouldn't be considered. A shared custody parent gets "sticker shock" from the guidelines figure. A parent's commission income resembles the roller coaster at King's Dominion.

Then there are the more emotional issues. A fight over the parenting schedule may really be about whether the shared custody guidelines should apply. The parent who is explaining why commissions and bonuses are so much lower this year is driving a new BMW. The stay-at-home parent is angry about having to seek employment after an earlier agreement that there wouldn't be "latchkey kids." A parent who is struggling financially has just found out about the other parent's trip to Las Vegas, and guess who it was with?

There's another aspect of these child support disputes. Suppose that the primary parent had to take an involuntary cut in pay and needs an increase in child support. The other parent has remarried, and the new spouse doesn't think they should have to make up for the financial loss. To lock in the date of an increase in support, a petition gets filed with the court. The response to that is a big discovery request and a motion to modify the parenting schedule. The war is on, with the spouse on one side and the grandparents on the other footing the bill. The adversarial system has a logic all its own.

When Judge Dennis Smith was a family lawyer, he used to say to some of his clients, "You can put your children through college, or you can contribute to college for mine."

The point of this article is simple. Whatever our role, whether as a lawyer for one party, a collaborative attorney, or a mediator, it's up to us to understand the extent to which the dispute is just about proper disclosure and applying the child support guidelines, or whether there are emotional issues that make the matter less straightforward. We also need to recognize those special conflict cases where both parties seem to be involved in keeping the conflict alive. Some of these child support disputes are classic cases about the mix of law and what Betty Thompson used to call "litigating their emotions."