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FAMILY LAW NEWS

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RULE 74

As I am sure you are all aware the changes to Rule 74 of the Arizona Rules of Family Law Procedure (Parenting Coordinator) were adopted by the Supreme Court in August of 2015.

This new version of Rule 74 does not apply to Parenting Coordinator Appointments made before January 1, 2016 and only applies to appointments or reappointments of Parenting Coordinators that occur on or after January 1, 2016. However, commencing January 1, 2016, here are some of the changes you will need to know prior to considering whether to appoint a parenting coordinator or motioning the Court to appoint a Parenting Coordinator.

- A Parenting Coordinator can only be appointed *after* entry of a legal decision-making or parenting time order.
- A Parenting Coordinator can only be appointed if *both* parties agree to the appointment either by written stipulation or orally on the record in open court. Parenting Coordinators cannot be appointed over one or both parents' objection.
- Also, keep in mind the requirements of what a stipulation to appoint a parenting coordinator must include or state:
 - + Each parent understands how the parenting coordinator bills, the hourly rate and that the parents can afford the services;
 - + How fees will be allocated;
 - + Method by which parenting coordinator will be selected or the name of the parenting coordinator;



- + Each parent agrees to release documents the parenting coordinator deems necessary;
- + The term of the appointment;
- + That the parents agree to be *bound* by the decisions made by the parenting coordinator.

■ Yes, that is correct, a Parenting Coordinator’s Report is binding. There is no objection process and the Report is final provided that the parenting coordinator acted within the scope of his/her authority.

○ However, if a party believes the Parenting Coordinator exceeded his/her authority an objection must be filed within 20 days of the report being filed with the Court. The Objection must include and

explain in detail why the parent believes the parenting coordinator exceeded his/her authority and whether a hearing is being requested.

- A Parenting Coordinator cannot be reappointed unless both parents and the parenting coordinator agree to the appointment.
- For those of you interested in becoming a Parenting Coordinator, you may want to take a look at Paragraph (N).

The full text of the amended Rule can be found on the Supreme Court’s website at www.ascourts.gov/rules.

Kiilu Davis | Section Chair

SUPREME COURT

In the Matter of:

PETITION TO AMEND RULES 74, 76, 79, 97, and FORMS 2, 4, 5, 7 and 8; and ADD FORM 16, ARIZONA RULES OF FAMILY LAW PROCEDURE

AMENDING RULES 74, 76, 79, 97, NEW FORM 16, ARIZONA

A petition having been filed and Forms 2, 4, 5, 7 and 8; and Procedure, and the comment period.

IT IS ORDERED that Rules 74, 76, 79, 97, and Forms 2, 4, 5, 7 and 8; and ADD FORM 16, Arizona Rules of Family Law Procedure, and the comment period of the same set of rules be adopted hereto, effective January 1, 2019.

DATED this _____ day of _____, 2019.

TO:
Rule 28 Distribution

mwa

Supreme Court No. R-08-0031
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ATTACHMENT¹

Arizona Rules of Family Law Procedure

Rule 74. Parenting Coordinator

A.-I. [No change in text.]

J. Court Action. The court, upon receipt of a report and recommendation from a Parenting Coordinator, may: (1) approve the recommendation and adopt it as an interim order of the court, subject to either party objecting or requesting a hearing within ten (10) days from the date the report and recommendation is submitted to the court not later than 10 days after the date of filing of the court’s order; (2) modify the recommendation and adopt the modified recommendation as an interim order of the court, subject to either party objecting or requesting a hearing within ten (10) days from the date the report and recommendation is submitted to the court not later than 10 days after the date of filing of the court’s order; (3) reject the recommendation report in whole or in part and affirm the current order, subject to either party objecting or requesting a hearing within ten (10) days from the date the report and recommendation is submitted to the court not later than 10 days after the date of filing of the court’s order; or (4) set a hearing on the assigned judicial officer’s calendar. The court may use Form 10, Order Regarding Parenting Coordinator’s Report and Recommendations, for purposes of this paragraph.

K.-L. [No change in text.]

COMMITTEE COMMENT

This rule is based on Maricopa County Local Rule 6.12, Pima County Local Rule 8.11 and Coconino County Local Rule 20. The term “Parenting Coordinator” replaces the terms “special master” and “family court advisor” previously used in Arizona based on a national trend. Further, the Association of Family and Conciliation Courts (AFCC) has promulgated guidelines for the appointment of Parenting Coordinators. The appointment of a Parenting Coordinator is appropriate when parents have ongoing conflicts related to enforcement of custody and parenting time orders, which without a Parenting Coordinator would result in protracted litigation. The appointment of such persons to assist the court is authorized pursuant to A.R.S. § 25-405, and shall also comply with the requirements of A.R.S. § 25-406. Parenting Coordinators are used throughout the country to assist in the effective resolution of the ongoing conflicts surrounding custody and parenting time issues. This rule is not intended to transfer the authority and jurisdiction of the superior court to make custody decisions or substantially modify parenting time.

For purposes of example only, and not by limitation, short-term, emerging, and time-sensitive situations governed by paragraph G might be: 1) temporarily changing exchange day, time, or place due to an immediate need; 2) attendance at or participation in an unexpected special event or occasion by the child or a parent; 3) responsibility for care of a sick child or accompaniment to medical treatment; or 4) another unpredictable and significant need of the child or a parent.

¹ Changes or additions in rule text are indicated by underscoring and deletions from text are indicated by ~~strikeouts~~.



click on the image to see the full document



By Beth Jo Zeitzer, Esq.

Balancing Act: using receiverships to settle family law disputes

Family law and marital dissolution matters require a delicate balancing act between the parties as well as the required legal steps to bring them to resolution. The court appointment of a Receiver, which injects a neutral third party into the process, is a powerful yet underutilized tool when traditional processes fall short—either due to complexity or inability to reach agreement.

Receivership can be considered a Swiss Army knife when it comes to a wide range of family law issues, including preservation and protection of community property and closely held assets, as well as probate and trust disputes. It's a tailor-made solution for attorneys and litigators who need to create balance in the resolution and settlement process.

Receivership, Step by Step

A Receiver is a court-appointed officer, charged with taking possession of, and protecting assets for the benefit of all interested parties—as set forth in A.R.S. § 12-1242 and Rule 66, Arizona Rules of Civil Procedure. With oversight and re-

porting duties, a Receiver is an objective third party who is responsible for marshaling, managing, protecting, preserving and enhancing the Receivership assets for the benefit of the Receivership estate, with court oversight, and not for any specific party. In Arizona, the right to appoint a Receiver is statutory, with specific duties set forth in the Receivership order issued by the court.

In a practical sense, Receivers are skilled turnaround consultants with an inherent sense of the law. In addition to being quick on their feet and resourceful, they need to be savvy business/operations managers and, in many cases, sophisticated real estate professionals capable of performing physical





Balancing Act:

USING RECEIVERSHIPS TO SETTLE FAMILY LAW DISPUTES

and financial forensics.

As an overview, the Receivership process generally follows these three steps:

Triage: The first mandate for a Receiver is to preserve and protect, making sure that money and tangible assets do not disappear due to improper controls over community money/resources or business assets. In many instances, this arises through an imbalance/lack of access to information, and in many instances, this may be information related to an operating business. For example, you might have one spouse running a business, and the other spouse is not involved. Suddenly, money is going to other individuals or businesses, but the spouse without control/knowledge may have no access to even know where assets are going, and how the business is doing. Other examples might include failure to pay mortgage obligations, temporary alimony or support, or other mismanagement of community assets. With a court order and a Receiver who is authorized to seize control of the assets, all parties are able to access the same information, which will enable both parties to have more parity in information critical to the marital estate, including assets and liabilities.

Corrective Action: In a family law situation, the Receiver can take action to ensure that community assets are not dissipated or otherwise threatened. If there is a business involved in the proceedings, the Receiver can gain control over the operations, bank accounts, books and records, and take steps to provide information to both parties and the court, as well as implement systems and procedures to ensure that the community estate assets are maximized, while liabilities are minimized. This process may include building an accounting system that provides all of the information to all interested parties, and submitting reports to the court, while doing the ongoing operational tasks and monitoring that is required.

Additionally, the Receiver can be used to enforce a judgment issued by a court including, but not limited, to the sale of real property or a business and distribute the proceeds therefrom to the respective parties.

Resolution: In a divorce proceeding, the Receivership order can provide for a wide-range of issues for the Receiver to

tackle. The Receivership Order may provide for limited authority, such as seizing control of books/records. Alternatively, the court order appointing the Receiver may provide for more broad-ranging authority, including seizing control of bank accounts, preserving/protecting assets, paying invoices, collecting accounts payable, developing financial statements, or even running the business. This authority may also include the sale of assets in Receivership. In the case of a business, this may include valuation, management and sale options, or mediating a new operational agreement.

Orders including the sale of assets in Receivership, or alternatively, through a Special Commissioner, may be beneficial to the marital estate. Through hands-on management, a Receiver should be able to stabilize the assets during Receivership, negotiate more favorable contracts and leases, and develop a meaningful and comprehensive due diligence package, leading to highest/best pricing, and a controlled sale environment.

All Receivership activity is completed with court oversight, and the Receiver must be prepared for individual party, and judicial scrutiny.

Striking a Balance

Family law matters are rife with suspicion and distrust. Receivership is a court-appointed and supervised remedy that has consistently proven to be an effective way for parties get to the bottom of things and bring them to resolution in a balanced fashion.

As with so many legal matters, California is leading the way in Receivership law, with a body of statutory provisions and case law that lead to, and guide, such appointments. We don't have that body of case law in Arizona yet, and while Receivership appointments are very common in loan default proceedings, many attorneys are now utilizing this remedy in marital divorces, closely held business disputes, and contested estates, where there may be a need to seize control of assets, manage and marshal same, and potentially operate business/real estate assets. A well-executed Receivership is neither as complex, nor as expensive, as many lawyers and judges may think, and can actually be less costly than extended litigation, as Receiverships level the playing field among parties, and as a result, aid in equitable resolution, on a more expedited basis. [FL](#)

about the author

Beth Jo Zeitzer, Esq. is the owner and designated broker of R.O.I. Properties, a full-service real estate brokerage firm serving business owners, investors and property owners in the valuation, marketing and sale of commercial and residential properties. She also serves as Receiver, Special Commissioner/Special Master, and Chapter 11 Trustee.

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The Writ

The Official Publication of The Pima County Bar Association

The Association of Family & Conciliation Court (AFCC): Arizona Chapter

by Lisa Abrams | Commissioner, Arizona Superior Court | Pima County

The Association of Family & Conciliation Courts (AFCC) is an interdisciplinary association of professionals dedicated to improving the lives of children and families through resolution of family conflict. As part of its mission, the Arizona chapter hosts free continuing education seminars which provide an opportunity for judges, lawyers, social workers, mediators, therapists and psychologists to learn through inquiry, discussion and debate.

On August 20, 2015, the Arizona chapter of AFCC hosted a seminar titled **"Overview of the Adverse Childhood Experiences (ACE) Study: The Impact of Physical, Mental, and Social-Emotional Health"** with speaker Sarah Daffron of Arizona's Children's Association.

The origins of the ACE study date back to the 1980's. Dr. Vincent Felitti, now the director of the California Institute of Preventative Medicine, began to see a correlation between adult obesity and sexual child abuse. Dr. Felitti joined forces with Dr. Rob Anda, an epidemiologist from the Centers for Disease Control and prevention. Together, they explored the idea that childhood abuse and neglect could affect adult health by developing a set of questions to trace how difficult childhood experiences might impact adult health. They titled their work the study of Adult Childhood Experiences (ACE). The idea was to look at the associations between childhood maltreatment and health, and well-being later in life.

The doctors surveyed over 17,337 patients who were primarily middle class, middle-aged, white people. The participants were asked to think about their childhoods and to document how many of the different types of adverse experiences applied to them. The adverse experiences included: sexual, physical or emotional abuse; neglect; loss of a parent due to death, divorce or incarceration; mental illness in a parent; and drug or alcohol abuse by a parent.

The ACE questionnaire can be completed in just a few minutes. Essentially, the study showed that the higher a person's score, the higher the risk for later health problems like cancer, addiction, depression, diabetes, and stroke, etc. The study has been replicated with more diverse participants numerous times with similar results. Bear in mind that not everyone who had a hard childhood will develop a serious illness. Genetics, resiliency, the presence of at least one nurturing caregiver, diet, and lifestyle all play a part in overall physical and mental health.

Nonetheless, often times, risky behaviors (smoking, having greater than 50 sexual partners, etc) are actually coping mechanisms used as solutions to heal adverse childhood experiences. Humans are designed to tolerate a certain amount of stress; learning to cope with stress is a



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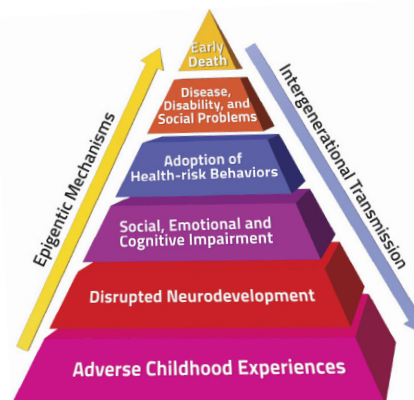
part of healthy development. Nevertheless, when children are exposed to strong, frequent prolonged adversity such as neglect and violence, this exposure will result in toxic stress or childhood trauma. The trauma is exacerbated by the lack of a adequate support from a caregiver.

The architecture of the brain is established early in life. If a child is exposed to prolonged adversity, the brain is literally scarred and development is disrupted. Cell growth is impaired, healthy neural circuits are not created, and the brain is flooded with an overdose of stress hormones. The necessary foundation required for optimal future learning, behavior, and health is damaged.

The findings suggested that negative childhood experiences are major risk factors for the leading causes of illness and death in the United States. Interestingly, the ACE study results were not embraced by the medical community and received very little attention until recently. It is now widely believed that some of the worst health and social problems in our nation can be linked to childhood experiences. By understanding the association, communities and individuals are able to focus on prevention and recovery. Treatment agencies, therapists, early childhood professionals, and physicians are using the ACE questionnaire to develop intervention plans and to put in place trauma informed therapeutic support. Increasing the health and well-being of individual children and families supports the community's health as a whole.

The ACE study is not, however, a crystal ball. It suggests that having a difficult childhood is one risk factor to consider in addressing physical health and emotional well-being.

To learn more about the Arizona Association of Family and Conciliation Courts, please visit www.azafcc.org.



Sources: *Take The ACE Quiz® And Learn What It Does And Doesn't Mean*, NPR, Laura Starecheski, March 2, 2015; www.cdc.gov/violenceprevention/acestudy/outcomes.html; *Can Family Secrets Make You Sick*, NPR, Laura Starecheski March 2, 2015; Sarah Daffron, MC, LPC, NCC, Arizona's Children Association; Centers for Disease Control and Prevention; The ACE Pyramid

Imputing Income to

By Michael Black, CFP, CDFA

The courts have been imputing earned income to an unemployed or underemployed person for years, regardless of whether that spouse is the supporting or the supported spouse and in the context of both spousal and child support. By the same token, a party is not expected nor permitted to underutilize financial capital. In other words, the same can be said for asset based capital as human capital. The *Miller* case in New Jersey, 160 N.J. 480 (1999) cemented the concept and established that a reasonable rate of return can be imputed to a payor's (or payee's) investment assets, different from the actual rate of return and "the income available to either party through investment of any assets held by that party is to be considered in the alimony calculus".

In *Aronson v. Aronson*, 245 N.J. Super. 354 the court made it clear that interest income from an inheritance could also be considered in the alimony calculation. In *Stiffler v. Stiffler*, 304 N.J. Super 96 went further and held that income could be imputed to an asset inherited by the supporting spouse, which had been converted into a non-income bearing asset, to reflect interest that could have been realized had the funds been invested differently.

What Assets?

Both marital and nonmarital assets are part of the support equation. In assessing both the need and ability to pay alimony, the court is required to consider all relevant economic factors, including the financial resources of each party, the assets and liabilities distributed to each, the nonmarital holdings and all sources of income available to either party. That's a fairly broad dictate. Is a vacation home treated the same as a stock portfolio? What about the house? The answer is YES. ... all assets represent the potential for income, regardless if income is being realized. Regarding the house, if a spouse uses property settlement assets (or inheritance for that matter) to purchase a home post-divorce, the value of the home that exceeds the previous marital home should be considered available for income imputation, under the concept of maintenance of lifestyle. In other words, a spouse cannot buy an expensive home and say they have no assets to produce income. Other planning options are discussed below regarding the home and income imputation. In general, all assets can potentially produce income, the next question is how much?

What Return?

Some states have established what is considered a reasonable rate of return for the imputation of income to assets by statute.

Ohio Rev. Code Ann. 3119.01 C(11)(b) states that:

Interest rate determined from local passbook savings rate, not to exceed statutory rate.

West Virginia Code 48-1-205(d) states that:
assets considered underperforming if they do not produce income at a rate equivalent to current six-month certificate of deposit rate or such other rate the court determines is reasonable.

Vermont Stat. Tit. 15 653(5)(A)(i) states:
current rate for long term US Treasury Bills.

Historically, an interest rate assumption has been used to determine the prudent investment standard. Since the Great Recession and the deliberate reduction in interest rates, it does not make sense to project future returns based on objectively manipulated historically low interest rates. As a testifying financial expert, I've presented testimony utilizing a total return assumption over a dozen times in the Arizona Superior Court with the majority of judges accepting my analysis. In other words,

Assets in Divorce

the prudent investment standard should be the *total return* of a diversified portfolio of Stocks, Bonds and Cash.

Also, the assumption in imputation of income to assets is that the spouse would *not* have to invade principal, but rather a return calculation that imputes the income that is potentially available from an asset while maintaining the asset value. Accordingly, the use of Monte Carlo simulation software can determine what a specific portfolio of stocks, bonds and cash can produce over a long period of time by determining the historic returns of this hypothetical portfolio and calculating a probability that the hypothetical portfolio can maintain portfolio value and distribute a projected amount (Monte Carlo simulations are used to show how variations in rates of return each year can affect portfolio survival results. A Monte Carlo simulation calculates the results of the plan by running it many times, each time using a different sequence of possible returns, based on actual historic ranges of returns of the proposed asset allocation. These multiple trials provide a range of possible results).

By using this approach, we can with a high probability (above 95%), project the stream of payments an asset has the potential to earn, while maintaining portfolio value. The distribution rate may or may not be the actual

historical total return. In one notable case recently, the judge reviewed my analysis, which showed a portfolio of approximately \$4 million dollars could provide a distribution of \$264,000 or a distribution rate of 6.6%. The historic rate of return used to determine that distribution rate, utilizing Monte Carlo simulation, was 6.9%. The judge accepted the *historical rate of return*, or 6.9% to impute income to the assets. In other cases, the judge has accepted the *distribution rate*, or 6.6%, in this example.

Taxes and Inflation

Currently, child support calculations in Arizona are based on Gross Earned income, not income net of taxation, or take home pay. Therefore, I conclude, taxation should not be considered in determining the potential imputed income to assets for support purposes, both child and spousal. In addition, tax rates are both manipulative and speculative. For instance, a person may be able to use municipal bonds, which are currently tax free for federal income tax purposes, and state free if issued by an Arizona entity. Also, many investment options generate tax sheltered income or possibly taxable losses that can offset other taxable incomes within a portfolio, such as real estate, oil and gas, equipment leasing, and others.

Personal spending habits could also affect tax rates on investment income, such as charitable contributions and charitable planning trusts, which provide tax deductions that could be used to offset taxable income. Most investors take advantage of tax planning strategies to reduce and manage taxes incurred on all income. It is impossible to project what rate someone will pay in the future given all the tax issues currently being discussed in congress and anticipated in the future, some of which include a flat tax, national sales tax and other deviations from our current income tax system.

With regards to Inflation, I do not assume that the income stream imputed to an asset should be annually adjusted for inflation, as I have seen from other financial experts, because it is speculative and cannot be projected based on past economic environments or future expectations. For instance, we've had periods of deflation (negative inflation is deflation) as well as inflation: 1818-21 when prices declined by almost 50%, 1830s to 1843, following the Panic of 1837, when the currency in the United States contracted by about 33%, Between 1875 and 1896, according to Milton Friedman,

prices fell in the United States by 1.7% a year. The most recent period of major deflation was between 1930–1933 when the rate of deflation was approximately 10 percent/year. The current effects of the Great Recession cause more uncertainty in the global economic future and financial markets, increasing the possibility for deflation, inflation or stagflation, and each is impossible to project.

Observations

Imputing income to assets is relevant to both the supporting and supported spouse. The theory is there is potential income from every asset, even use assets such as a home. Generally, the home is not included in income imputation, but possibly should. It's a choice to purchase a home for cash vs. financing vs. renting. If a spouse rented or financed a home, those funds would be available for income. Of course, if a spouse rented or financed, their cash flow needs would increase and be included in the calculus for support from a "needs" perspective, but they would also have assets available for income to offset that need. The two issues may net out, but analysis could prove otherwise.

For instance, renting/financing a \$200,000 home might cost \$1,400 per month to rent/finance, or 8.4% of the value. Assuming the imputed income rate is 6%, the attorney for the supporting spouse *should not* assume the entire property settlement is

available for imputation, but rather allocating \$200,000 from the property settlement to the home (assuming that was a similar value as the previous marital home) and imputing income on the balance. In this situation, the *net spousal support would be less* (established support need minus imputed income from assets). See *Table A*.

On the other hand, renting a \$550,000 home might cost \$2,400 per month, or 5.2% of the value, or below the imputed income rate. In this case, the attorney for the supporting spouse should assume the entire settlement is available for income imputation and the rent/mortgage payment would increase the spousal support need, allowing more assets to impute income to offset, which would result in *less spousal support from the supporting spouse*. See *Table B*. **FL**

Tables A and B assume a 1 million dollar property settlement:

		\$1,000,000		
		RENT/FINANCE	BUY	
TABLE A	Home Purchase		\$200,000	
	Annual Rent	\$16,800		
	Assets to Impute	\$1,000,000	\$800,000	
	Imputation Rate	6%	6%	
	Imputed Income	\$60,000	\$48,000	
	LIVING EXPENSES			
	(No Mortgage/Rent)	\$100,000	\$100,000	
	Rent/Mortgage Payment	\$16,800	\$0	
	Total Support Needed	\$116,800	\$100,000	
	Imputed Income	(60,000)	(\$48,000)	
Spousal Support	\$56,800	\$52,000		

		\$1,000,000		
		RENT/FINANCE	BUY	
TABLE B	Home Purchase		\$550,000	
	Annual Rent	\$28,800		
	Assets to Impute	\$1,000,000	\$450,000	
	Imputation Rate	6%	6%	
	Imputed Income	\$60,000	\$27,000	
	LIVING EXPENSES			
	(No Mortgage/Rent)	\$100,000	\$100,000	
	Rent/Mortgage Payment	\$28,800	\$0	
	Total Support Needed	\$128,800	\$100,000	
	Imputed Income	(60,000)	(\$27,000)	
Spousal Support	\$68,800	\$73,000		

about the author

Michael Black graduated from the University of Arizona, where he majored in both Accounting and Finance, and from the Investment Training Institute. He achieved his Certified Financial Planner designation from the College of Financial Planning in Denver, Colorado. Additionally, he achieved his Certified Divorce Financial Analyst designation from the Institute of Divorce Financial Analysts in Durham, North Carolina. He began his career in 1980 in the Public Accounting field specializing in tax planning for both individuals and businesses. He has since redirected his practice to encompass comprehensive financial planning, money management, and litigation support. As a professional financial planner, he holds licenses in both life and health insurance in addition to his securities' licenses.



The “Other” Documents Needed For Business Valuations In A Family Law Case

By David Cantor, CPA/ABV

Everybody knows that in order to prepare a business valuation, certain financial documents are always needed; income tax returns, financial statements, general ledgers, etc. However, it is the other documents reviewed (or not reviewed) that may have a significant impact on the ultimate conclusion of value. It’s these other documents that I will be talking about.

First, a little business valuation background. In the world of business valuations there are two types of valuations; family law valuations ... and all other business valuations. Business valuations for a divorce case are their own little monster. In most non-family law valuations, the person preparing the valuation is relying on the documents provided as being accurate. Obviously, certain accounting/valuation adjustments are made during the course of their work, but these adjustments are usually not out of the ordinary in the business valuation world.

Now let’s look at a family law valuation. Besides the standard adjustments that are made, we have to start looking at the “divorce” adjustments, and what documents are needed to find any of these adjustments.

RELATED PARTY TRANSACTIONS

Often times in small, family run businesses, the business may act as bank for the owners and family members. If you suspect that this is the case, then it will be necessary to request documents that may detail these transactions such as payroll for the non-owner family members, leases, automobile expense documents, family and shareholder loans detail, health insurance records and any other documentation that may detail money being paid to or on behalf of family members.

UNREPORTED INCOME ISSUES

Now I know that this hardly ever comes up in a divorce, but on those rare occasions that it does, there are additional records that should be reviewed. Obviously, these documents are industry specific, such as appointment books for professionals (to match appointments vs. reported income), cash receipts journals, bank records and sales invoices to attempt to match sales to actual deposits, inventory and cost of sales records to see if the cost of sales is consistent with the actual sales (for example, if a painter spends more money on paint than he collects in revenue, something may be amiss). These types of documents can really have an impact either on the value or to assure your client that their suspicions may be unfounded.

PERQUISITES

These expenses that are paid *and* deducted by the businesses will have an impact on the business as they will increase the true income of the business and in all probability increase the value. One of the most important documents needed for this analysis are the actual paid bills. However, before you ask for every paid bill from the business for the last several years, it would be beneficial to first review the general ledger and cash disbursements ledgers to fine tune your request.

OWNERSHIP DOCUMENTS

In some cases, there may be some ownership changes immediately preceding the filing for divorce. If this happens, you will want to see all documents related to this transfer of ownership as well as the overall history of the ownership.



The “Other” Documents Needed For Business Valuations In A Family Law Case

BALANCE SHEET ITEMS

The balance sheet is part of the financial statement that shows all of the assets and liabilities of the business. I feel that it is important to document the balance sheet when I am preparing a full valuation report. This means getting the supporting documentation for all items on the balance sheet such as bank statements, credit card statements, asset and related depreciation schedules (let's see if any of the family vehicles are in the business), loan schedules, accounts receivable and accounts payable reports as well as support for any other balance sheet items.

SHAREHOLDER LOANS

Let's assume that there is a loan on the books from the owner/spouse. When this exists, please remember one thing; for every

shareholder receivable/payable there is an equal personal payable/receivable. In other words, if the business books show a liability to the owner, then there is an equal receivable to the owner on the personal side. Often times this is overlooked. If this issue is missed, then the value of the business is too low and the community may not be equitably compensated if the loan receivable on the personal side is not assigned to the business owner.

The above items are by no way meant to be all inclusive. But knowing that there are additional documents that need to be reviewed for a family law valuation will put you in a position of knowledge to better serve your clients. Remember, the facts and circumstances of every case are different. There is no such thing as a “one-size fits all” document request list. **FL**

about the author

David Cantor, CPA/ABV is the founder of Cantor Forensic Accounting, PLLC and has been practicing in the area of Family Law accounting since 1990.

David has worked on close to one thousand Family Law cases, ranging from small businesses to entertainers, professional athletes and executives from international companies. His experience covers all aspects of Family Law issues including; income determination, business valuations, separate property tracings, reimbursement claims and community waste issues. David has testified in Court as an Expert Witness over 100 times.

David graduated from Marshall University (Go Herd!!) in 1984 with a Bachelors of Business Administration degree.

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CASE LAW : UPDATE

The Family Law Section regularly prepares a summary of recent Arizona family law decisions. Summaries are located on the Section's web page at:

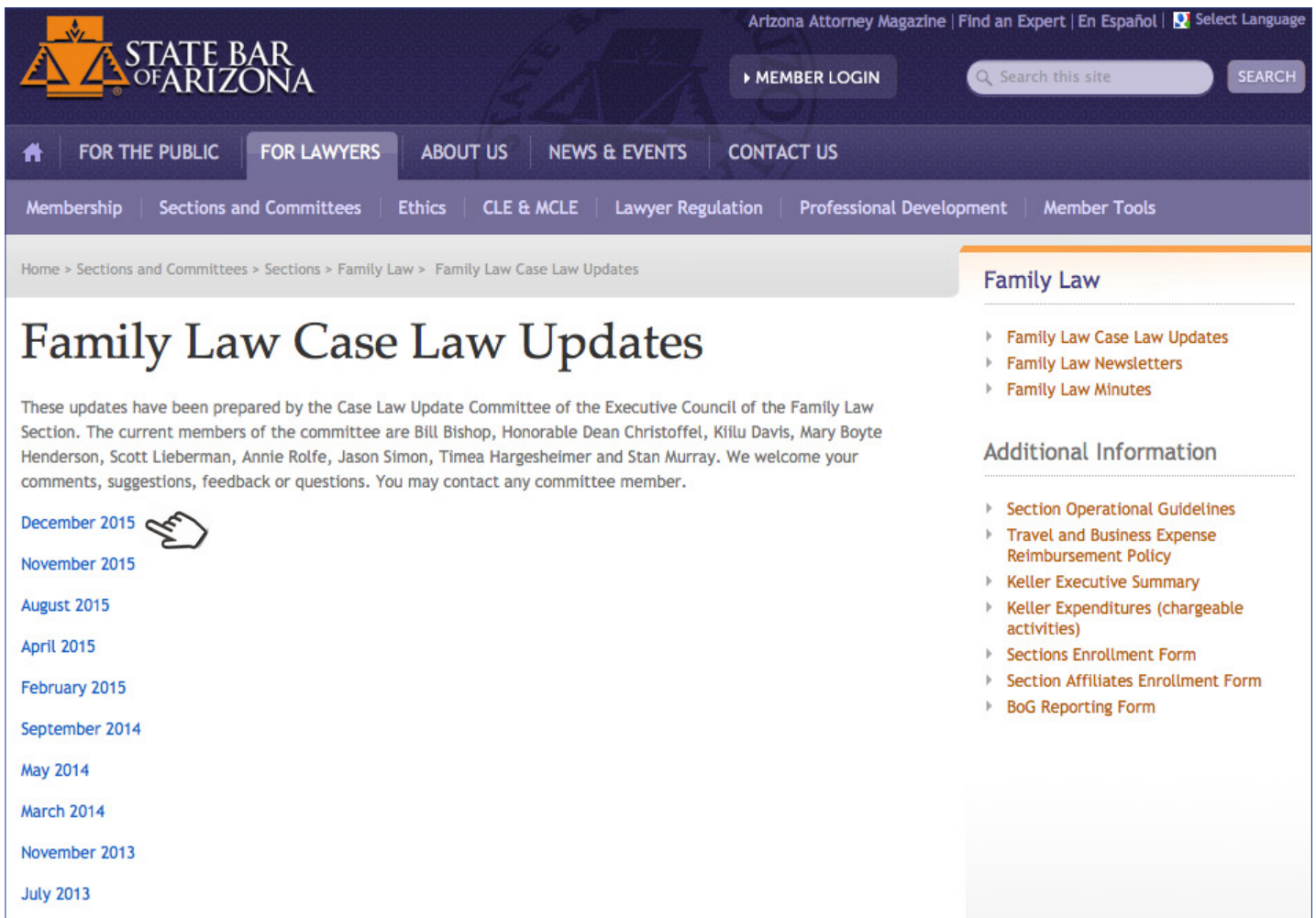
www.azbar.org/sectionsandcommittees/sections/familylaw/familylawcaselawupdates/ 

The most recent update – from December, 2015 – can be viewed here:


www.azbar.org/media/1032614/caselawupdatesoct-dec2015.pdf 

Additionally, the previous update – from November, 2015 – can be viewed here:

www.azbar.org/media/1012299/case_law_update_nov._2015.pdf 



The screenshot shows the State Bar of Arizona website. The header includes the logo, navigation links (FOR THE PUBLIC, FOR LAWYERS, ABOUT US, NEWS & EVENTS, CONTACT US), and a search bar. The main content area is titled "Family Law Case Law Updates" and includes a list of updates from December 2015 to July 2013. A sidebar on the right contains "Family Law" and "Additional Information" sections with links to various resources.

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Family Law Case Law Updates

These updates have been prepared by the Case Law Update Committee of the Executive Council of the Family Law Section. The current members of the committee are Bill Bishop, Honorable Dean Christoffel, Kilu Davis, Mary Boyte Henderson, Scott Lieberman, Annie Rolfe, Jason Simon, Timea Hargesheimer and Stan Murray. We welcome your comments, suggestions, feedback or questions. You may contact any committee member.

[December 2015](#) 

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Family Law

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Additional Information

- ▶ [Section Operational Guidelines](#)
- ▶ [Travel and Business Expense Reimbursement Policy](#)
- ▶ [Keller Executive Summary](#)
- ▶ [Keller Expenditures \(chargeable activities\)](#)
- ▶ [Sections Enrollment Form](#)
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Want to contribute to the next issue of Family Law News?
... If so, the deadline for submissions is June 15, 2016.



Would you like to...

- ▶ Express yourself on family law matters?
- ▶ Offer a counterpoint to an article we published?
- ▶ Provide a practice tip related to recent case law or statutory changes?
- ▶ Tell us about a humorous, family court-related proceeding?

WE WANT TO HEAR FROM YOU!

We invite lawyers and other persons interested in the practice of family law in Arizona to submit material to share in future issues.

PLEASE SEND YOUR SUBMISSIONS TO:

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Contact us!

A close-up of a fountain pen nib, likely a Montblaster Meisterstück, pointing towards the handwritten text 'Contact us!'.

We reserve the right to edit submissions for clarity and length and the right to publish or not publish submissions.