



## Divorce Digest

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Greetings! In this month's newsletter, we have included articles written by attorneys Russell H. Thaw, Lovette T. Mioni, and Kale K. Heiman regarding spousal support, the DissoMaster, and paternity. Mr. Thaw's article examines how a court determines temporary spousal support and permanent spousal support, while Ms. Mioni's article discusses how various financial factors influence the DissoMaster's calculation of child and spousal support. Ms. Heiman's article provides insight on paternity in family law courts. We hope you find these articles informative and we encourage you to visit our website [www.divorcedigest.com](http://www.divorcedigest.com) to review other articles written by attorneys at The Reape - Rickett Law Firm. You can also find our articles in The Magazine of Santa Clarita. Also please check out our blog, [www.divorcedigest.com/blog/](http://www.divorcedigest.com/blog/).

Sincerely,

James Reape and David Rickett  
The Reape-Rickett Law Firm

## How Does a Court Determine the Amounts to be Paid for Temporary Spousal Support as Opposed to Permanent Spousal Support?

### Staff Spotlight



**Megan Muszalski**, Director of Media Relations, received her Associates in Arts Degree in Social Science from College of the Canyons in 2007. She received her



**By Russell H. Thaw, Esq.**

First, it must be noted that Courts have broad discretion to fashion spousal support awards, and no order for spousal support, either pendente lite (temporary), or permanent support will be overturned on appeal unless for abuse of discretion.

Keeping that in mind, immediately after separation, an award of temporary spousal support is utilized to maintain the living conditions and standards of the parties in as close to the status quo position as possible pending trial and the division of their assets and obligations.

The purposes of pendente lite allowances to a wife or former wife are to maintain her in her accustomed manner of living pending the outcome of the action and to enable her to present her side of the controversy fully. On the other hand the object of permanent allowances is to make an equitable apportionment between the parties.

The Court may use "Guideline" (DissoMaster) support schedules when fashioning an award of pendente lite spousal support (temporary spousal support), but one schedule of guidelines for support cannot be used for both temporary and permanent spousal support orders, since the purpose of a temporary order of spousal support is far different than that of a permanent order. Temporary spousal support is utilized to maintain the living conditions and standards of the parties in as close to the status quo position as possible pending trial and the division of their assets and obligations.

The purpose of permanent spousal support is not to preserve the pre-separation status quo but to provide financial assistance, if appropriate, as determined by the financial circumstances of the parties after their dissolution and the division of their community property.

But even these general principles give way to the broad discretion of the Court to fashion a spousal support award when meeting the needs of individuals involved in the litigation before the Court. See, for instance, *In re Marriage of Winter* (1992) 7 Cal.App.4th 1926, 10 Cal.Rptr.2d 225,

California State University, Northridge in 2009. Ms. Muszalski is continuing her education and is currently enrolled in the Paralegal Studies program at College of the Canyons. Ms. Muszalski has 5 years of professional office experience in the insurance field.

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**\*Testimonial of the Month Comment from a Current Client:**

"Thank you very much for your professional and compassionate service through this process. You will be highly recommended!"

**\*This testimonial does not constitute a guarantee, warranty, or prediction regarding the outcome of your legal matter.**

need where parties' lifestyle included use of discretionary income for savings and investment, thus the temporary order preserved status quo].

There are fundamental differences in the functions and purposes of pendente lite support and permanent support orders. The court, in making each award, is governed by different authority.

[There is more to learn about temporary and permanent spousal support, just click here.](#)

## **DissoMaster: Making Sure all the Deductions are Accounted for**



### **By Lovette T. Mioni, Esq.**

Just about everyone who is going through a divorce or has gone through a divorce is familiar with the "DissoMaster" and its infinite wisdom of computing child and spousal support. For those not so familiar, the DissoMaster computes support amounts based on parties income, a variety of tax deductions and a few other miscellaneous financial factors.

The amount of support paid can be dramatically different even while the income of the parties stays the same if certain items are omitted from the DissoMaster calculations. This could impact how much support you are paying or being paid by thousands of dollars depending on what information is omitted.

There are items that are always included in the DissoMaster calculations and other items that attorneys or propria personas (parties representing themselves) often detrimentally forget to include. Basic items that are always included in any DissoMaster is the income of both parties, the number of children, and what percentage of time each party spends with the children. These are considered the "no brainers" when calculating support.

It can get a little more tricky when you start adding in tax

things that could potentially be included in the calculations, below is a list of things that could potentially significantly impact the amount of support paid:

Health Insurance: The amount you and the other party pay for health insurance should be included on your respective sides of the calculations. This includes the health insurance premiums you pay for yourself and the children and the other party if you are currently paying a premium on their behalf as well. Typically, adding your health insurance premiums will increase the amount of support you receive if you're the payee and decrease the amount of support you pay if you are the payor.

Union Dues: If you pay union dues, this should be included on your side of the calculations. Typically, adding union dues will increase the support you receive if you're the payee and decrease the amount of support you pay if you are the payor.

Mandatory Retainment: This usually only applies to government employees who are required to contribute to their retirement plans. Government employees usually are required to contribute large amounts monthly so it is important to make sure this is added to the calculations if you are the one with the mandatory retirement contribution.

Property Tax and Deductible Interest Expense: In my experience, this is the one that gets left off most often but could potentially have the largest impact in changing support obligations. If the other party pays property tax and has a deductible interest expense, you want to include it in the DissoMaster calculations. These numbers can be found on a tax return and as such are very easy to prove. Once you have the numbers from the tax return, that number needs to be divided by twelve (12) and added as an itemized deduction.

I should note, if the other party forgot to add one of these deductions, sometimes it is your best interest not to point this out to them. If the other party did forget to add a deduction it might be helpful to talk to an attorney familiar with DissoMaster to run the numbers before and after the deduction was added to see if it is in your best interest to bring it to the attention of the other party.

## What is "Paternity" and How is it Taken Up in Family Law Court?



**By Kale K. Heiman, Esq**

Paternity is defined in family law as the legal establishment of the identity of a child's father - often via DNA testing. Establishment of paternity is a key factor in cases involving child support, custody, adoption, and inheritance. The establishment of paternity is a pre-requisite for any orders regarding child custody/visitation and support in a case where the child's parents are unmarried.

An action to establish paternity is a civil proceeding and most states require that paternity be established by a "preponderance of the evidence" which means that it must be more likely than not that the man is the child's father. However, due to DNA testing which is highly accurate, the standards of proof have less real world impact. In other words, a DNA test will determine paternity with far greater accuracy than required by preponderance or even a clear and convincing standard.

DNA testing is used to establish paternity when either the mother or father contests paternity. For instance, the alleged father may demand proof of paternity before he will make child support payments. Or a mother may allege that a man is not her child's father and require a DNA test to prove he should be given custody and visitation of the child. Most often, the parents do not contest paternity and can thus agree to its establishment voluntarily.

One may also establish paternity via circumstantial evidence. Thus, in instances where a man takes care of a child and holds it out to be his child and when a married man's wife has a baby during their marriage, paternity is presumed.

After paternity is established, the father has rights to seek custody and visitation of the child. Further, depending on the parties' financial circumstances, the father may be ordered to pay child support to the mother as she is likely the primary custodian in cases where paternity is at issue.

## The Reape-Rickett Law Firm

Our mission is to provide Family Law legal services that are second to none. We conduct ourselves in accordance with the highest ethical standards and are committed to providing quality services. Each firm member takes special care to understand the unique and individual concerns of our clients. Our team approach to each case ensures efficient and timely responses to simple or complex issues. We empower our clients with knowledge and information, enabling them to make reasoned and results-oriented decisions. The Reape-Rickett Law Firm is the firm of choice when results matter.



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