



Divorce Digest

September 2011

The Reape-Rickett Law Firm
25152 Springfield Court, Suite 100
Valencia, California 91355
661-288-1000
<http://divorcedigest.com>



Greetings! In this month's newsletter, we have included articles written by attorneys David E. Rickett, Kale K. Heiman, Russell H. Thaw, and law clerk Charlotte Thaw regarding timeshare during school time, property division, and the exchange of children. Mr. Rickett's article provides insight on the calculation of timeshare during school hours as it influences child support, while Ms. Heiman's article discusses the division of property in California. Mr. and Mrs. Thaw's article is about good public places to exchange children after visitation. We hope you find these articles informative and we encourage you to visit our website 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 and periodically in The Signal's "It's the Law" section.

Sincerely,
James Reape and David Rickett
The Reape-Rickett Law Firm

Allocating School Time in Timeshare Calculation



By **David E. Rickett, Esq.**

Child support, while based on several inputs into the computer program that calculates child support, is largely influenced by the two main factors; the time share each party has with the children and the amount of income of the parties.

Generally, one party or the other will have weekend visitation. This generally makes for an easy calculation of the time share percentage associated to the custodial and non-custodial parent. However, on occasion when the visitation is during the week, and especially if the child is in school, who is allocated the school time since neither parent has the physical custody of the child? The case of *DaSilva vs. DaSilva* took a look at this very issue. At issue was who should be credited with the time the child was in school. The dispute arose because mom had primary custody of child. However, during school time the parties shared the transportation of getting the child to and from school thus father felt that he should be allocated some school time.

The Court of Appeal found that the child support calculation formula is intended to be an approximation of the time the parents's have the "primary responsibility" for the child which may or may not be the same as "primary custody". The court went on to state that the time share percentage is the approximate percentage of time that the high earner has or will have primary physical responsibility of the child as compared to the other parent. Thus, the court indicated that the school time can be given to a parent that may not have the physical custody but they have the physical responsibility during that time. Such factors may include : (1) who pays for transportation or who transports the child; (2) who is designated to respond to medical or other emergencies; (3) who was responsible for paying tuition (if

Staff Spotlight



Charlotte Hochstim-Thaw, received her Juris Doctorate from the University of West Los Angeles School of Law in June 2010. Before attending law school, Ms. Thaw received her paralegal certificate from the ABA approved program at Pasadena City College. Ms. Thaw graduated Magna Cum Laude from the University of Mary with a Bachelor of Science Degree in Social and Behavioral Sciences.

Ms. Thaw is a member of many professional associations including the San Fernando Valley Bar Association, Phi Alpha Delta Law Fraternity, the National Association of Legal Assistants (NALA) and the Los Angeles Paralegal Association (LAPA).

Ms. Thaw also taught Legal Assisting classes at Pasadena City College. In addition, Ms. Thaw volunteered at the Los Angeles City Attorney's office, the Self-Help Centers in Lancaster and San Fernando and the Domestic Violence Clinic in San Fernando.

in school activities, fundraisers, or other school-related functions. Thus, while in some cases the time share allocation can be straightforward in other cases time share calculation can be more problematic.

Property Division in California



By **Kale K. Heiman, Esq.**

The purpose of California property division laws is to make sure that California marital property is allocated equally to each spouse, generally in a 50-50 split. If a 50-50 division would not be equitable, the courts may choose to divide the California divorce property in a more equitable fashion as permitted under California case law.

California is a community property state. This means that with regard to California divorce assets, each spouse has a 1/2 vested interest in the property of the other spouse that should be considered in dividing California divorce assets or California divorce property. The only property that does not come into the court's distribution is that which is listed as an exception outside of California Family Code §760.

What is Considered Marital and Non-Marital Property?

California marital property is defined under California Family Code §760 as "all property, real or personal, wherever situated, acquired by a married person during the marriage while domiciled in this state." Property acquired during the marriage is presumed to be community property unless proven otherwise.

Non-marital property is any property specifically defined in another statute as not being community property. One example is property acquired during marriage by "gift, bequest, device, or descent". Such property is the acquiring

Hot Topics on the Interactive Forum

View the hot topics, ask a question, or voice your opinion on The Reape-Rickett Law Firm's [Divorce Digest Message Forum](#).

Quick Links

[Helpful Websites](#)

[Bookstore](#)

[More About the Firm](#)

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

"Thank you very much for all your hard work... Lovette, you were wonderful! It was a stressful, long day today... but I couldn't have asked for more."

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

Dividing Assets and Debt

After the court decides which property is available for distribution, the next step is property valuation. The last step is either a 50-50 division of property or the most equitable division as determined by the California trial court. This may include the assignment of entire assets and/or debts to each of the parties. It is important to note that a Court's decision regarding division and assignment of assets and debts is based upon many factors.

Places for Exchange of Your Child After a Visit



**By Russell H. Thaw, Esq. and
Charlotte Thaw, Law Clerk**

Normally, when children go from one parent to the other during pick up or drop off after visitation with the other parent, no problems occur during exchange of children.

But what if there is high conflict between the two parents, and either a criminal protective order, domestic violence restraining order or family law restraining order in place prohibiting contact between parents?

In these cases, parents might want to select a location for exchange of the children which of itself promotes peaceful exchange, while at the same providing a safe environment for the protected party.

In my experience, the following places are reasonably suited for exchange of children.

Pick-up and/or drop-off curbside at the home of either parent is not good in high conflict situations. Pick-up and

between parents. If this is inconvenient, exchange in a public place, such as a local McDonald's, is a good alternative.

If there's an issue regarding late arrival, remember places such as McDonald's offer time-stamped purchase receipts to indicate arrival time. Present your receipt to the Court and that way there's no question as to when you arrived for pick-up or drop-off.

Also, keep in mind courts allow third persons to perform pick-up and/or drop-off, such as a grand parent, relative or a significant other. For that matter, bringing a third person to exchanges can be helpful if there's a need for accurate reconstruction of disputed events.

Other good locations for exchange are Churches on Sunday, the office of a therapist or doctor when convenient, or, in a worst case scenario, at a local LAPD or Sheriff's substation. People are generally on their best behavior at these locations.

Keep in mind you want the exchanges to occur at a place with the least amount of stress on your child, while at the same time providing reasonable security for yourself. Take reasonable steps to provide for your own safety. If you have a spiteful or bitter ex-spouse, pick a location for the exchanges providing the best protection for you and your children.

The past is a good indicator of the future. If there's been a lack of impulse control, angry outbursts or violence, always exchange at a police station. Safety for everyone is the paramount concern.

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.

