



TRAVERSING THE CHANGING TIDES OF CHILD SUPPORT



CHILD SUPPORT DIRECTORS ASSOCIATION



Case Law Update & Related Authorities

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Case Law Update



Format will be a bit different from past updates



We will still show you the new cases for your toolkit!





Case Law Update



But then...there's a second chapter to this....



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We're going to do a retro review!





Case Law Update



We will also survey a few “cornerstone” cases on these topics.

- ⚓ LCSA --- An indispensable party
- ⚓ Equity – How far can a court go? Is it limitless?
- ⚓ Parentage – Minimum contacts, conclusive presumption, the power of a POP declaration, rebuttable presumptions.
- ⚓ Deviation from guideline – what have courts said?





Case Law Update



Here we go! Let's break the mold!



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Case Law Update



⚓ https://www.youtube.com/watch?v=JJm_atlxoD0

⚓ (from :47)



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Case Law Update



⚓ First, some recent case decisions.....



Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

⚓ “What’s your frustration with my request for an evaluation?”





Case Law Update



Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

- ⚓ Michael Wolf (dad) filed a petition in March 2022 to determine him as the dad of Patricia Mercado's children.
- ⚓ He then filed an RFO for a vocational evaluation.
- ⚓ *Note: parties not dissolving a marriage, or legally separating in the underlying parentage action; no pending spousal support motion before the court.*





Case Law Update



Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

- ⚓ Mom opposed evaluation; dad files motion to compel. Trial court grants dad's motion.
- ⚓ Mom files amended petition for writ of mandate.
- ⚓ Appellate court – looks at what basis the trial court had for ordering mom to comply.





Case Law Update



Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

- ⚓ F.C. 3558 – no authority to order one here.
- ⚓ F.C. 4331- dad's motion to compel relied on this.
- ⚓ 4331 allows it, but there must be “good cause”
- ⚓ Of course, that begs the question.....





Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

⚓ What's considered "good cause?"





Case Law Update



[Mercado v. Superior Court \(2024\) 106 Cal.App.5th 1143](#)

⚓ <https://www.youtube.com/watch?v=9SwLgF-yYy0>

⚓ (from :51)



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Case Law Update



Mercado v. Superior Court (2024) 106 Cal.App.5th 1143

- ⚓ “Actually, case law says 4331’s good cause = spousal support inquiry before the court.
- ⚓ This was not pending.
- ⚓ F.C. 4058? -- it is permitted, but not automatic. What must the party seeking the evaluation order assert?
- ⚓ Vocational Evaluation **is not** a discovery tool.





Case Law Update



Now....on to a case that was published....then letters came in....and now....



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Case Law Update

Pateras v. Armenta (2025) 109 Cal.App.5th 542 (now unpublished)

⚓ “My benefits are need-based....please don’t count them as income...”





Case Law Update



Pateras v. Armenta (2025) 109 Cal.App.5th 542

⚓ **Depublished May 28, 2025!**

⚓ Not citable per CA Rule of Court 8.115.

⚓ But still plenty of citable authorities within the opinion.





Case Law Update



Pateras v. Armenta (2025) 109 Cal.App.5th 542

- ⚓ Cornerstone fact: Dad (Thomas Armenta) received \$5,000 per month from Chumash's "general welfare program."
- ⚓ Trial level: included as income. Dad appealed; said the benefits were "need based" & excludable from 4058's wide net.





Case Law Update



Pateras v. Armenta (2025) 109 Cal.App.5th 542

⚓ Appellate Court analysis:

- ◆ Statutory exceptions to 4058 are **narrow**.
- ◆ Only discernable requirement was to show that one is a “tribal descendant.”
- ◆ Testify as to specifics? “I’d rather make an argument than give evidence....” (!!!)





Case Law Update



⚓ https://www.youtube.com/watch?v=xCUGoy5A_8A

⚓ (from 1:46)



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Case Law Update



Pateras v. Armenta (2025) 109 Cal.App.5th 542

- ⚓ No conflict between CA state law and federal law & policy.
- ⚓ Legislative purpose of the statutory exclusion was to protect the poor from being financially overburdened, but not to allow parents with large incomes to escape their child support obligations. (See, e.g., IRMO Cheriton [2001] 94 Cal.App.4th 269, 293).
- ⚓ Domestic relations law belongs to the laws of the States and NOT the United States. Rose v. Rose (1987) 481 U.S. 619
- ⚓ Final Points....amicus brief & letters requesting de-publication.





Case Law Update



Now...for two quick bites before we move on....





Case Law Update



No

⚓ <https://www.youtube.com/watch?v=cFLttH5QOFU>

⚓ (from :15)





Case Law Update



In brief....

⚓ Mamer v. Weingarten (2025) 108 Cal.App.5th 169

- ◆ Parties agreed to split IVF costs prior to a court action being filed.
- ◆ Under the UPA, F.C. §7637 gives a trial court discretion to order a parent to pay costs for IVF which were incurred prior to the filing of the UPA action itself
- ◆ (matter remanded so trial court could consider the merits of dad's request).





Case Law Update



In brief...

⚓ **IRMO Goldman (2025) 107 Cal.App.5th 1258**

- ⚓ Wife tried to enforce provisions of an MSA against Husband years after divorce under F.C. §291. Husband claimed laches defense. Trial court said wife's delay prejudiced husband.
- ⚓ Invoking laches requires a finding of prejudice; appellate court held that trial court's conclusion lacked substantial evidentiary support. Matter remanded for further consideration of wife's claims.



Case Law Update

⚓ Now....on to the retro portion of the program!!





Case Law Update



⚓ <https://www.youtube.com/watch?v=h5zJA7qhKIQ>

⚓ (from 3:43)



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Case Law Update



Format for this next section....

- ⚓ Local child support agency as an indispensable party.
- ⚓ Equity – Limits on utilization; cases which discuss it.
- ⚓ Parentage – A quick overview of some key cases.
- ⚓ Deviation from guideline – Cases interpreting “special circumstances.”





Case Law Update



LCSA As An Indispensable Party



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Case Law Update



LCSA As An Indispensable Party

⚓ Back to 1985 and 1989.....

⚓ **IRMO Lugo** (1985) 170 Cal.App.3d 427

- ◆ affirmed that a county providing benefits under the AFDC program is an indispensable party to actions seeking to reduce or suspend child support obligations





Case Law Update



LCSA As An Indispensable Party

⚓ **IRMO Mena** (1989) 212 Cal. App. 3d 12

- ◆ County becomes indispensable party when a PRS's right to collect support is assigned as a condition of cash aid.





Case Law Update



LCSA As An Indispensable Party

⚓ Statutes give more authority than cases....

⚓ **F.C. 17400(a)** – “shall be responsible for....”

⚓ **F.C. 17400 (b)(1)** – “not limited to cases where the child is receiving public assistance...”

⚓ **F.C. 17304** – “LCSA...shall be responsible....”





Case Law Update



LCSA As An Indispensable Party

⚓ **F.C. 17404** – “LCSA shall control support and parentage litigation....”

⚓ **IMRO Lamoure** (2011) 198 Cal. App. 4th

- ◆ Obligor dad said “No public assistance? Then this is not a IV-D case....”
- ◆ Court cited 17400(a) in telling dad he was wrong.



Equity in the IV-D World

**RULE OF
EQUITY**





Case Law Update



- ⚓ What is the legal definition of “equity?”
- ⚓ Depends on the context in which it’s used.
- ⚓ However, it generally refers to:
 - ◆ principles of fairness and justice applied by courts to supplement or override strict legal rules when those rules would lead to unjust outcomes.





Case Law Update



⚓ <https://www.youtube.com/watch?v=fkFDKu54ZfU>

⚓ (from 5:16)



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Case Law Update



Equity in the IV-D World

⚓ Family law courts....are indeed courts of equity.

⚓ See, e.g., IRMO Saraye (2024) 106 Cal.App. 5th 348

- ◆ “child support proceedings are equitable proceedings in which the trial court is permitted the broadest discretion to achieve fairness and equity”
- ◆ However.....





Case Law Update



Equity in the IV-D World

⚓ Equity is not without its limits.....





Case Law Update



Equity in the IV-D World

- ⚓ Merely by citing to equitable principles, **a court cannot gain the authority to do indirectly what the applicable statutes prohibit it from doing directly.** IRMO Sawyer (2020) 57 Cal.App.5th 724.
- ⚓ Principles of equity cannot be used to override statutory mandates.
 - ◆ Jiagbogu v. Mercedes-Benz USA (2004) 118 Cal.App.4th 1235;
Niedermeier v. FCA US, LLC (2024) 15 Cal.5th 792





Case Law Update



Equity in the IV-D World

⚓ Let's (quickly) survey some equity cases...much of what we have in California IV-D equity goes back to....





Case Law Update



Equity in the IV-D World

⚓ ...the year **1975!!**

⚓ There were several important events in that year....





Case Law Update



Equity in the IV-D World

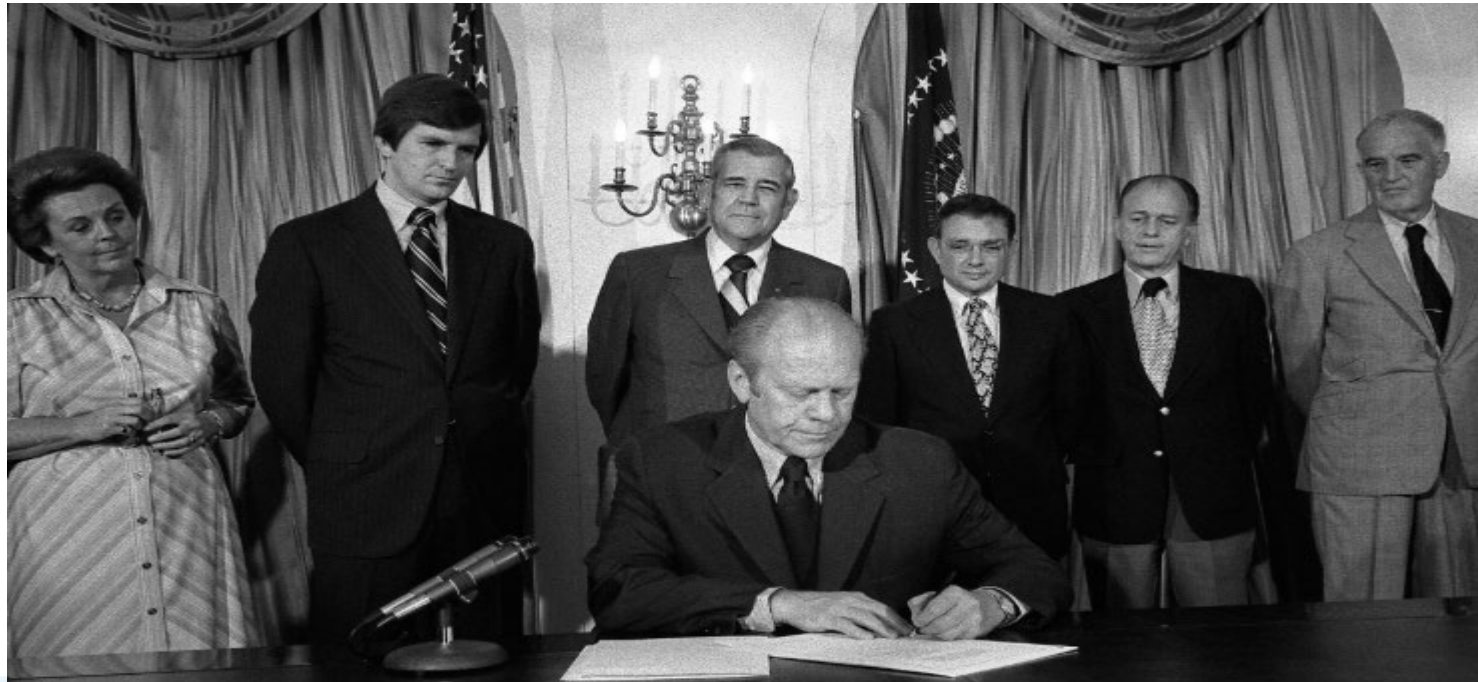
- ⚓ End of the Vietnam War
- ⚓ “Jaws” and “Saturday Night Live” both debuted
- ⚓ Altair 8800 went on sale



Case Law Update

Equity in the IV-D World

⚓ Title IV-D of the Social Security Act was signed into law by President Ford on January 4, 1975.





Case Law Update



Equity in the IV-D World

⚓ There was another important debut that year...





Case Law Update



⚓ https://www.youtube.com/watch?v=bM_rvKV7KWg

⚓ *Start at (:00)*



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- ⚓ It openly discussed the concept of child support for the first time in a network show.





Case Law Update



⚓ <https://www.youtube.com/watch?v=OK9u4yOeIRM>

⚓ (from :28)



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Case Law Update



Equity in the IV-D World

⚓ **IRMO Jackson** (1975) 51 Cal.App. 3d 363

- ◆ Quick facts.
- ◆ Appellate Court:
 - Court cannot retro-mod accrued payments, but it could deny enforcement of them on equitable grounds.
 - “Dad discharged his obligation on the basis of equitable considerations.”
 - Can’t change terms, but can change method of enforcement.





Case Law Update



Equity in the IV-D World

⚓ **IRMO Trainotti** (1989) 212 Cal. App. 3d 1072

- ◆ Quick facts.
- ◆ Appellate Court:
 - Trial court retains jurisdiction to determine an appropriate remedy for enforcing the order...
 - Matter remanded. Did obligor father satisfy his obligation for support by furnishing his son with a home & support that was equal to the court ordered amount?





Case Law Update



Equity in the IV-D World

⚓ **Helgestad v. Vargas** (2014) 231 Cal. App. 4th 719

- ◆ Quick facts.
- ◆ Trial Court had disallowed any credits (“No dissolution..., only a period of co-habitation, no reversal of custody...”)
- ◆ Appellate Court: “Mechanical application of a no-retro modification rule is inconsistent with the entire Jackson line [of cases]”





Case Law Update



Equity in the IV-D World

⚓ A few more quick “equitable” bites....





Case Law Update



Equity in the IV-D World

- ⚓ **IRMO Sawyer** (2020) 57 Cal. App. 724 --- example of statutory mandate overruling equity.
- ◆ Trial court's equitable ruling allowed obligor a chance to contest arrears owed at the time of registration (see F.C. 5700.606 & 608)
 - ◆ Not timely raising a challenge at the time of registration precludes re-litigation on the arrears issue, even regarding possible equitable credits.





Case Law Update



Equity in the IV-D World

⚓ **IRMO Boswell** (2014) 225 Cal. App. 4th 1172

- ◆ “Those who seek equity...must do equity, and have ‘clean hands.’”
- ◆ “We hold that a family law court, in the exercise of its broad equitable discretion, and upon a finding of “unclean hands,” may decline to enforce a child support arrearage judgment.”



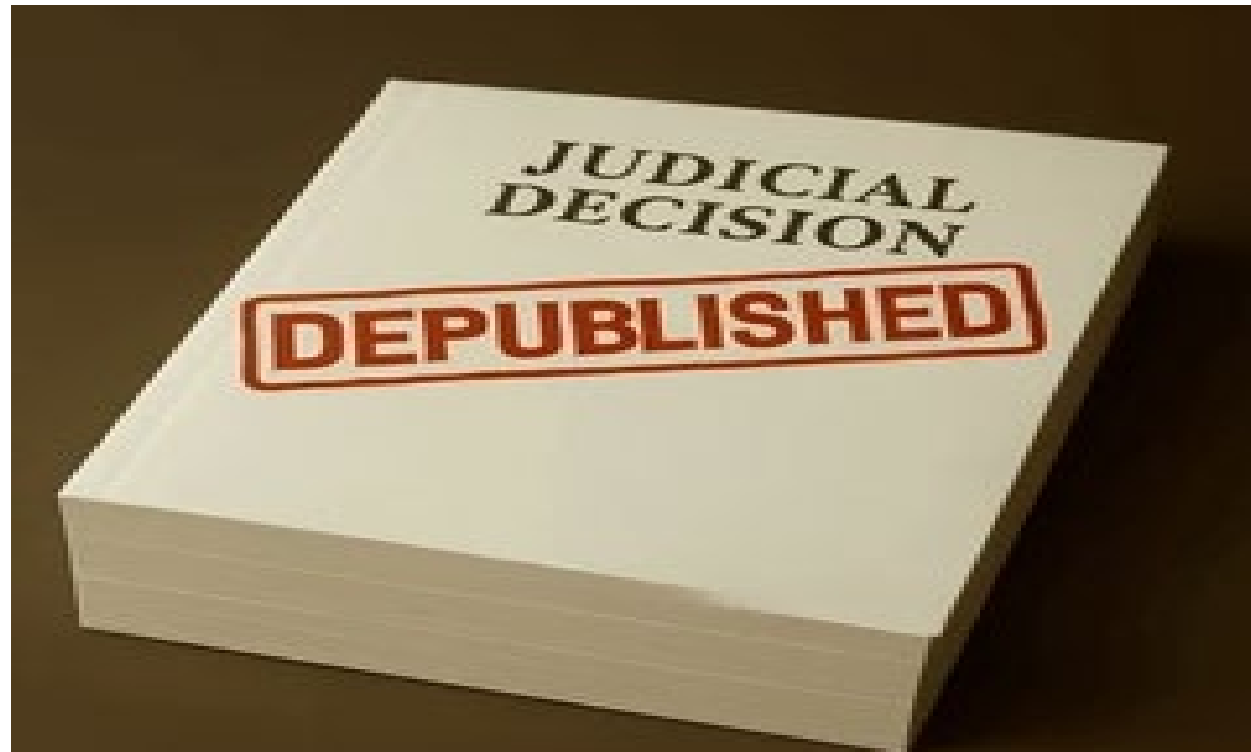


Case Law Update



Equity in the IV-D World

⚓ Last one on equity....





Case Law Update



Equity in the IV-D World

⚓ **IRMO Siva** (2020) (formerly 53 Cal. App. 5th 1170)

- ◆ Obligor father paid full c/s obligation while having full custody of minor child.
- ◆ Dad filed mod, but only after 10 months of custody & full payment of support to mom.
- ◆ Appellate Court upheld trial court's order of a refund from mom to dad.
- ◆ Dissenting opinion – “no support for a ‘Jackson refund.’”





Equity in the IV-D World

⚓ More Siva

- ◆ DCSS, CSDA sought de-publication, and effort succeeded.
- ◆ “no legal notice that money needs to be repaid.”
- ◆ Undermine confidence in support orders. Jackson should not extend to refund of support.





Case Law Update



Time to Transition Over to.....

⚓ Some key cases in the area of PARENTAGE!



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Case Law Update



Parentage in IV-D

⚓ <https://www.youtube.com/watch?v=vG-R0HGI10s>

(from 4:50)



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Case Law Update



Parentage in IV-D

⚓ Overarching authority: Uniform Parentage Act (“UPA”)

- ◆ Adopted by CA in 1975, incorporated into Family Code 1994 (See. F.C. §7600, et. seq).
- ◆ Under F.C. §17404(a) – “DCSS may bring an action...to determine parentage.”





Case Law Update



Parentage in IV-D

⚓ Now...for the sampling of case law....





Case Law Update



Parentage in IV-D

⚓ **County of Humboldt v. Harris** (1988) 206 Cal. App. 3d 857

- ◆ Sexual intercourse or causing conception with the intent to become a legal parent by assisted reproduction = minimum contacts.
- ◆ Same goes for entry into an assisted reproduction agreement for gestational carriers.





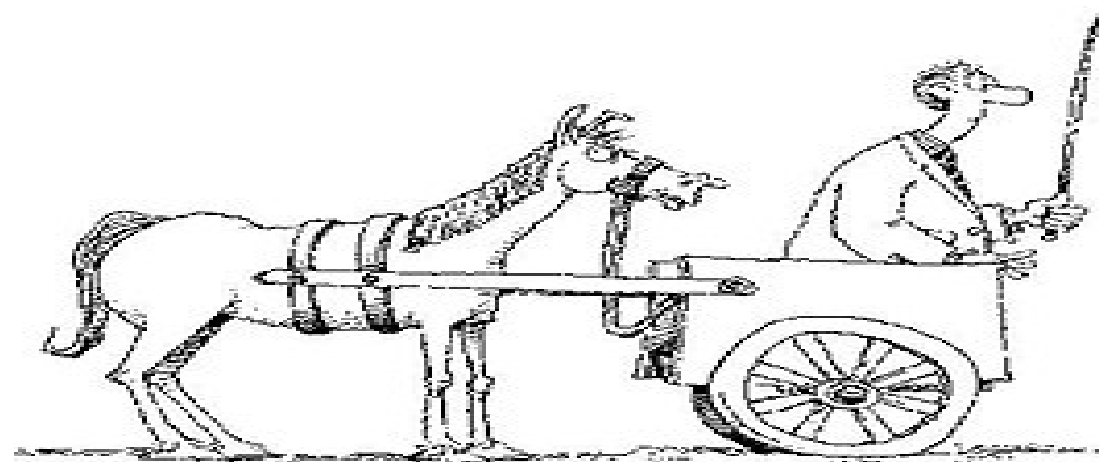
Case Law Update



Parentage in IV-D

⚓ **Thomas B. v. Superior Court** (1985) 175 Cal. App.3d 255

- The establishment of parentage is a prerequisite to an order of child support.



Hang on.. I must be doing something wrong..
How does that saying go again?





Case Law Update



Parentage in IV-D

Conclusive Presumption – as seen in F.C. §7540

- ⚓ **In re: Elijah V.** (2005) 127 Cal. App. 4th 576 – Spouses must be cohabitating both when child conceived and when child is born.
- ⚓ **Brian C. v. Ginger K.** (2000) 77 Cal. App. 4th 1198 – presumption not applied if no substantive cohabitation occurred and where policies underlying the preservation of family unit are not furthered.





Case Law Update



Parentage in IV-D

⚓ **Rebuttable Presumptions** – as seen in F.C. §7611, et.seq.

⚓ Special attention paid to: 7611 (d) – A presumed parent is one who:

- ◆ Receives child into his/her home AND
- ◆ Openly holds out child as his/her natural child

Sufficiently unambiguous as to constitute a clear declaration regarding the nature of the relationship. Can be rebutted, but only in an appropriate action.





Case Law Update



Parentage in IV-D

⚓ **Charisma R. v. Kristina S.** (2009) 175 Cal. App.4th 361

- ♦ Living in a family unit during child's first 3 months of life was sufficient to become a presumed parent given extensive involvement in insemination, birth, and infant raising processes.





Case Law Update



Parentage in IV-D

⚓ **Dawn D. v. Superior Court (Jerry K.)** (1998) 17 Cal. 4th 932

⚓ **In re: Bryan D.** (2011) 199 Cal. App. 4th 127

- ◆ Both cases: presumption will not apply if one of the two criteria is not met.
- ◆ Dawn D. – man was unable to receive child into his home.
- ◆ Bryan D. – Grandmother did not hold child out as her son.





Case Law Update



Parentage in IV-D

⚓ **Competing presumptions!**





Case Law Update



Parentage in IV-D

⚓ **Steven W. v. Matthew S.** (1995) 33 Cal. App. 4th 1108 --- both men found to be presumed fathers.

- ◆ The presumption which (on the facts) is founded on weightier considerations of policy & logic will control.

⚓ **In re: Jesusa V.** (2004) 32 Cal. 4th 588

- ◆ Biological parentage by a competing presumed parent does not necessarily defeat a non-biological parent's presumption.





Case Law Update



Parentage in IV-D

⚓ Now...the **Power** of a Parental Opportunity Program (“POP”) declaration.





Parentage in IV-D

⚓ **Kevin Q. v. Lauren W.** (2009) 175 Cal. App. 4th 1119

- ◆ Presumption under 7611(d) is rebutted by a judgment establishing parentage of the child by another person. (See, e.g., **In re: Cheyenne B.** [2012] 203 Cal. App. 1361)
- ◆ This includes a VDOP, which has the same force and effect as a judgment.
- ◆ Brent signed valid VDOP; surpassed Kevin's status as a presumed father under 7611(d).



Case Law Update



Parentage in IV-D

⚓ DNA testing





Case Law Update



Parentage in IV-D

- ⚓ In general, courts look to F.C. 7551 for the provisions regarding an order for DNA testing in child support matters.
- ⚓ F.C. 7552.5 – Genetic testing results can be admitted into evidence without testimony of an expert as long as they are served upon all parties no later than 20 days prior to the hearing via declaration of the custodian of records or other qualified employee of the laboratory





Case Law Update



Deviation from Guideline!



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Case Law Update



Deviation from Guideline

⚓ Start with F.C. §4057 –

- ◆ The presumption that the guideline formula is correct may be rebutted by evidence that application would be unjust or inappropriate due to “special circumstances.”
- ◆ Include, but not limited to: high income of obligor, formula amount exceeds children’s needs, special medical or social needs.





Case Law Update



Deviation from Guideline

⚓ One more thing as far as statutes go....





Case Law Update



Deviation from Guideline

⚓ F.C. §4056

- ◆ Court must state in writing (or on record, in open court):
 - Amount of support GLC yielded.
 - Reason(s) court-ordered amount differs from GLC.
 - Reason(s) deviation is consistent with child/children's best interests.

*If court deviates, these findings are **mandatory**.*





Case Law Update



Deviation from Guideline

⚓ Now....for some cases involving judicial interpretation of “special circumstances” which warrant a deviation.





Case Law Update



Deviation from Guideline

⚓ **IRMO Macilwaine** (2018) 26 Cal. App. 5th 514

- ◆ Guideline amount is presumed to be correct.
- ◆ Courts must adhere to procedural requirements when deviating from GLC amount.
- ◆ Statement or writing by court for deviation reason ensures transparency & fairness.





Deviation from Guideline

⚓ **Y.R. v. A.F.** (2017) 9 Cal. App. 5th 974

- ◆ If court does not follow the procedural requirements for deviation, it could be grounds for appellate reversal.





Deviation from Guideline

⚓ **Y.R. v. A.F.** (2017) 9 Cal. App. 5th 974

- ◆ The trial court found the monthly guideline amount was \$25,325 but awarded \$8,500 in child support.
- ◆ It failed to state, either in its written order or on the record, its reasons for deviating from the guideline or why it believed the amount awarded was in child's best interests.
- ◆ Reversed and remanded for the court to provide the omitted reasoning from the guideline amount



Case Law Update



Deviation from Guideline

- ⚓ There is a case involving deviation which concerns an actor with which many of us are familiar....





Case Law Update



Deviation from Guideline

⚓ <https://www.youtube.com/watch?v=oRTmohqWwE8>

⚓ (from :07)





Case Law Update



Deviation from Guideline

⚓ **IRMO Cryer** (2011) 198 Cal. App. 4th 1039

- Trial court has “broad discretion” to determine when special circumstances apply.
- “Not supposed to just punch numbers into a computer...”
- Must consider if the circumstances in a particular case would make that [guideline] order unjust or inequitable...”





Case Law Update



Deviation from Guideline

⚓ **IRMO Williams** (2007) 150 Cal. App. 4th 1221

⚓ **IRMO Smith** (2005) 132 Cal. App. 4th 1434

- Disparities in housing costs between parents could constitute special circumstances which warranted a deviation.
- *(Williams trial court deviated upward not only on housing costs, but disparities in overall lifestyle between parents.)*





Case Law Update



Deviation from Guideline

⚓ **IRMO Rodriguez** (2018) 23 Cal. App. 5th 625

- ◆ Appellate court upheld an upward deviation from GLC support based on:
 - Children's special needs; and
 - Financial burden on the custodial parent to provide care.





Case Law Update



Deviation from Guideline

⚓ That brings us to the end of this presentation....





Thank You!

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Please be sure to fill out the session feedback on the mobile app Whova!



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