



TRAVERSING THE CHANGING TIDES OF CHILD SUPPORT



CHILD SUPPORT DIRECTORS ASSOCIATION



Earning Capacity Hearing:

Navigating Below the Surface

Writers: Jennifer A. Coultas, Attorney IV

Suzy Semerdjian, Attorney III

Los Angeles County Child Support Services



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Setting the Stage

<https://youtu.be/mloli11taSY?si=DFwzW0RZzT8Ekda2>



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Earning Capacity Default

Scene: LCSA pled earning capacity as Deck/Hand/Water Transportation Worker.

⚓ Actors:

- ◆ Commissioner.....Kelly McLaughlin
- ◆ LCSA Atty.....Suzy Semerdjian
- ◆ PRS Ginger Grant.....Lynn Torres



Hearing #1

Earning Capacity Default

Debrief

- ⚓ Family Code § 17430 (b)(2)-court shall permit appearance and participation of the defendant and other parent at the hearing, including but not limited to sworn testimony and introduction of evidence, regardless if answer has been filed.
- ⚓ Family Code § 17430(b)(3)-if no answer filed and defendant fails to appear at the hearing, the court may set support lower than the proposed judgment amount after consideration of the factors and evidence by the LCSA and other parent.



Earning Capacity Greater than Actual Income

Scene: LCSA pled earning capacity of teacher. PPS appears and states he earns \$2,500.00 a month as a Uber/Lyft driver.

⚓ Actors:

- ◆ Commissioner.....Kelly McLaughlin
- ◆ LCSA Atty.....Suzy Semerdjian
- ◆ PPS Professor Roy Hinkley.....Brian Tabatabaie



Hearing #2

Earning Capacity Greater Than Actual Income

Debrief

- ⚓ Does the LCSA need to show that the Professor has acted in bad faith and has purposely lowered his income to avoid support?
- ⚓ *IRMO of Padilla (1995) 38 Cal.App.4th, 1212*, held that showing an obligor acted in bad faith in reducing income is no longer necessary.



General Earning Capacity

Scene: LCSA pled earning capacity based upon PPS's historical income of \$70,000.00 per year.

⚓ Actors:

- ◆ Commissioner.....Kelly McLaughlin
- ◆ LCSA Atty.....Suzy Semerdjian
- ◆ PRS Lovey Wentworth Howell.....Donelda Smith Carter
- ◆ PPS Skipper.....Manuel Villegas
- ◆ PPS Attorney.....Victoria Parks Tuttle



Hearing #3

General Earning Capacity

Debrief

⚓ Should the LCSA also ask for an alternative to the imputation of income based on a marine transportation worker?





Thank You!

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