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BETTY JEAN BOWSER, PLAINTIFF -vs- MICHAEL S.  
BOWSER, DEFENDANT

Franklin County branch, Civil Action - Law No. F.R. 1994 - 487

*Alimony Pendente Lite - Child Support*

*Defendant, primary custodian of children of his marriage to plaintiff, was ordered to pay Alimony Pendente Lite to plaintiff in an amount offset by the plaintiff's child support obligation to the defendant. The defendant sought entry of separate orders for the obligations for income tax purposes. The court denied the request for separate orders but required the single order be drafted in a fashion which fully credits the parties for their respective contributions toward the net recomputed support award.*

1. Pa.R.C.P. 1910.16-5(j) provides for a means of combining all of the payments made by the parties into one transaction, and only one order should be entered which reflects the recomputed amount.
2. The computation required by Pa.R.C.P. 1910.16-5(j) does not change the nature or the amounts of the payments but merely incorporates them into one net transaction.
3. Although one order is called for by Pa.R.C.P. 1910.16-5(j) that order should fully reflect each transaction incorporated into the bottom-line recomputed figure.

*Michael J. Toms, Esq., attorney for plaintiff*

*Janice M. Hawbaker, Esq., attorney for defendant*

### **OPINION**

Michael S. Bowser ("defendant") is the father and primary custodian of two children born to this marriage to Betty Jean Bowser ("plaintiff"). He is currently under an obligation to pay alimony pendente lite ("APL") to plaintiff, but the amount of that obligation is currently offset by plaintiff's child support obligation to him, so that he pays the resultant difference in those two obligations. In the instant action, he seeks entry of separate orders for the two obligations to enable him to obtain the full deduction available for tax purposes from the APL payment. The parties stipulated to the facts presented, and oral argument was held.

### **FACTS**

Betty Jean Bowser, "plaintiff," and Michael S. Bowser, "defendant," were married in 1977. They separated in April of 1994. On or about October 28, 1994 the defendant filed for divorce. On February 27, 1995 plaintiff filed a request for Alimony Pendente Lite. The parties had two children born of their marriage, who have continued to reside with the defendant

since the parties' separation. Subsequent to a support conference, a hearing officer from Franklin County Domestic Relations determined that under Pa.R.C.P. 1910.16-5(j):

a. The spousal support obligation of the Defendant (the custodial parent) to the Plaintiff (the non-custodial parent) based upon their net income of \$870.00 for the Plaintiff (non-custodial parent) and \$2,200.00 for the Defendant (custodial parent) from the grid for spouse only would be \$520.00.

b. Recomputing the net income of the parties assuming the payment of the spousal support so that \$520.00 is subtracted from the custodial parent's net income, now \$1,680.00 and added to the non-custodial parent's net income, now \$1,390.00.

c. The child support obligation of the non-custodial parent based upon the reconfigured net income in b. above from the grid for two children only would be \$354.00.

d. The recomputed support obligation of the custodial parent by subtracting the non-custodial parent's child support obligation (\$354.00) from the original support obligation determined in step a. (\$520.00) thereby arriving at a recomputed spousal support of \$166.00 a month.

The parties agree with the above computation, but defendant requests separate orders be entered to recognize the defendant's \$520.00 monthly APL payment and the plaintiff's \$354.00 per month child support payment, while the plaintiff seeks entry of a single order requiring that the defendant pay her \$166.00 a month as APL.

#### DISCUSSION

The hearing officer properly followed the guidelines for determining support obligations when the custodial parent owes spousal support as set forth in Pa.R.C.P. 1910.16-5(j). The rule provides for the following steps:

1. Determine the spousal support obligation of the custodial parent to the non-custodial parent based upon their net incomes from the grid for spouse only[.]

2. Recompute the net income of the parties assuming the payment of the spousal support...

3. Determine the child support obligation of the non-custodial parent based upon the recomputed net incomes in Step 2 from the grid...

4. Determine the recomputed support obligation of the custodial parent to the non-custodial parent be subtracting the non-custodial parent's child support obligation from Step 3...from the original support obligation determined in Step 1...

Pa.R.C.P. 1910.16-5(j).

The rule provides for a means of combining all of the payments that must be made by the parties into one transaction. According to the rule, the amount thereby transferred is called the "recomputed spousal support." This procedure directs that only one order, rather than two, should be entered. The effect is to reduce the number of payments which the domestic relations office must enforce. The recomputed support amount results from the spousal support payment made by one party, set off by the child support payment coming back to that payor. This computation does not change the nature or the amount of the payments, it merely incorporates them into one net transaction, necessitating only one order.

Although only one order is called for by the rule, that order should fully reflect each transaction incorporated into the bottom-line "recomputed" figure. Therefore the Court denies the defendant's request for separate orders, but will require that the order be drafted in a fashion which fully credits the parties for their respective contributions toward the net recomputed support award.

#### ORDER OF COURT

January 15, 1996, following hearing, submission of briefs, and oral argument, the Court hereby orders and decrees that the order

of court entered in this matter on May 12, 1995, shall be clarified and modified to the following extent only:

1/ Plaintiff shall pay to defendant for the support of the parties' two minor children a sum equivalent to \$354.00 per month;

2/ Defendant shall pay to plaintiff as alimony pendente lite a sum equivalent to \$520.00 per month;

3/ The net obligation resulting from the foregoing, i.e. the monthly equivalent of \$166.00, shall be paid by defendant to plaintiff pursuant to the Pennsylvania Rules of Civil Procedure, together with service charges attendant thereto.

All other provisions of the order of court dated May 12, 1995 shall remain in full force and effect.

## **DENIAL**

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