

STATE OF MAINE  
SOMERSET, ss

SUPERIOR COURT  
CIVIL ACTION  
DOCKET NO. AP-99-017  
NM-SOM-5/26/2000

JANET GAUDET,

Plaintiff

v.

DECISION AND ORDER

GARY GAUDET,

Defendant

The defendant appeals the 12/3/98 decision of the CMO regarding child support. The decision was affirmed by the 8/12/99 decision of the District Court.

The defendant argues that the CMO erred in determining that 100% of the income from the business, which was established in his current wife's name but is operated by them together, can be allocated to the defendant for child support purposes. See R. at 81-83. The decision makes clear that the CMO did not find credible the testimony of the defendant regarding his income. See Defendant's Exhibit 1. She determined that his income for child support purposes was \$62,500.00. See Defendant's Exhibit 4. She further determined that the income from the business resulted primarily from the defendant's efforts. See R. at 57. Those conclusions are supported by the record. The CMO's order does not result in "a plain and unmistakable injustice." See Nicholson v. Nicholson, 2000 ME 12, ¶ 9, ---A.2d ----, ----.

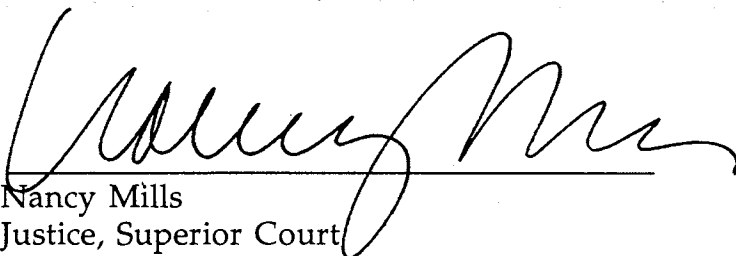
As noted in the District Court decision, if all of the deductions taken for the

business were added to the adjusted gross income of \$33,259.00, the total income from the business would be \$73,033.00. See Defendant's Exhibit 4. The figure used by the CMO, \$62,500.00 was, therefore, not 100% of the business's income.

The entry is

The Amended Divorce Judgment dated 12/3/98 is AFFIRMED.

Date: May 26, 2000



Nancy Mills  
Justice, Superior Court

AP-99-017

Action District Court Appeal

Janet Gaudet

vs.

Gary Gaudet II

Plaintiff's Attorney

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Date of Entry

10/13/99

The following documents were received and filed 10/08/99 under Appeal to the Somerset County Superior Court:

- 1 - Divorce Summons and Complaint for Divorce attached
- 2 - Attorney's Affidavit
- 3 - Appearance
- 4 - Divorce Judgment
- 5 - Plaintiff's Affidavit of Income and Assets
- 6 - Order for Post Judgment Relief
- 7 - Motion for Post Judgment Relief
- 8 - Defendant's Answer to Motion for Post Judgment Relief
- 9 - Defendant's Motion to Amend
- 10 - Court Mediation Service Domestic Case Report
- 11 - Defendant's Affidavit of Income and Assets
- 12 - Notification of Discovery Service
- 13 - Notification of Discovery Service
- 14 - Motion to Amend Divorce Judgment
- 15 - Plaintiff's Answer to Defendant's Motion to Amend Divorce Judgment
- 16 - Pretrial Order
- 17 - Plaintiff's List of Witnesses and Exhibits
- 18 - Amended Divorce Judgment with Child Support Order and Immediate Income Withholding Order
- 19 - Motion to Show Cause
- 20 - Order Requiring Defendant Gary Gaudet to Appear and Show Cause Why he Should Not be Found in Contempt
- 21 - Notification of Discovery Service
- 22 - Copy of Request for Service
- 23 - Sheriff's Return of Service
- 24 - Motion for Contempt
- 25 - Motion to Continue
- 26 - Stipulation for Judgment
- 27 - Defendant's Answer to Plaintiff's Motion for Contempt
- 28 - Motion for Contempt
- 29 - Notification of Discovery
- 30 - Motion for Protective Order
- 31 - Defendant's Answer to Plaintiff's Motion for Protective Order
- 32 - Child Support Worksheet
- 33 - Child Support Order