

Family Law Focus

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A review of In re Marriage of Mosley, (165 Cal.App.4th 1375– Fourth District.)

CASE SUMMARY

This case examines how base salary and bonus income are treated in determining child and spousal support.

Base income must be separated from bonus income for the purposes of determining child and spousal support.

The California Court of Appeal, District Four, emphasized the importance of separating base income from bonus income for purposes of child and spousal support in the case of *In re Marriage of Mosley*, (2008) 165 Cal.App.4th 1375 Dawn and Paul Mosley, both attorneys, were married in 1982. A marital status-only judgment was entered in 1999 followed by a judgment on reserved issues in 2002 which included child custody, child support and spousal support. The couple had five children.

Paul earned \$447,150 for his work as a real estate partner in a law firm. The parties agreed that Dawn would stay home and raise the children. The court ordered Paul to pay \$6,810 plus 21% of his gross income over his base of \$447,150 to Dawn as child support and \$4,100 plus 15% of his gross over \$447,150 to Dawn as spousal support for the year 2001.

Paul filed a motion to reduce support in 2006 after he lost his job at the law firm in 2005 due to the slowdown in the housing market. Paul went to work as in-house counsel for a home builder. Paul's income for 2005 from the home builder included a base salary of

\$205,000 and a bonus of \$342,000. The trial court denied Paul's request for a reduction in support after finding that he had not established a change of circumstances. The trial court found that the 2005 income exceeded the 2001 income (the year the judgment was issued) therefore there was no change of financial circumstances.

The appellate court disagreed and found that there was a change in financial circumstances since Paul's base salary of \$205,000 was significantly below his

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income upon which the judgment was based of \$447,150. The appellate court held that it would be a miscarriage of justice to order Paul to pay nearly his entire base salary to Dawn as support and require Paul to borrow money to make ends meet and leave him hoping that he will be paid a discretionary bonus.

The court remanded the matter to the trial court with an instruction to recalculate child and spousal support using Paul's base salary and child custody timeshare with additional payments when and if he received bonus income.



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