

How can a Forensic Financial Expert Assist a Family Court Litigant?

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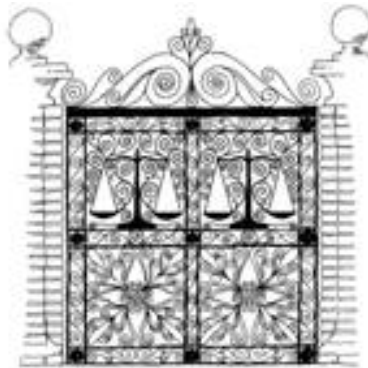
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*Helping Individuals
Cross Thresholds
to New Lives*

Case Links

Below is a selection of 2009 Published Opinions from the South Carolina Supreme Court and South Carolina Court of Appeals. These cases were chosen based on their relevance to forensic financial experts and are discussed further in the accompanying PowerPoint presentation.

2009 Alimony Cases:

- ❖ Browder v. Browder, Ct. App., March



<http://m.sccourts.org/opinions/displayOpinion.cfm?caseNo=4524>

- ❖ King v. King, Ct. App., June



<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4565>

- ❖ Serowski v. Serowski, Ct. App., January

<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4482>

- ❖ Gartside v. Gartside, Ct. App., April



<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4537>

- ❖ Butler v. Butler, Ct. App., August



<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4577>

- ❖ Fiddie v. Fiddie, Ct. App., June



<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4567>



2009 Equitable Distribution Cases:

- ❖ Browder v. Browder (see pg. 1 for link)
- ❖ King v. King (see pg. 1 for link)



- ❖ Edwards v. Edwards, Ct. App., June
<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4568>



- ❖ Carpenter v. Burr, Ct. App., January
<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4483>



- ❖ Gainey v. Gainey, Ct. App., March

2009 Child Support Cases:



- ❖ Floyd v. Morgan, Supreme Ct., July
<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=26681>
- ❖ Spreeuw v. Barker, Ct. App., July
<http://www.judicial.state.sc.us/opinions/displayOpinion.cfm?caseNo=4602>

Helpful Links*:

SC Supreme Court Published Opinions
<http://www.judicial.state.sc.us/opinions/indexSCPub.cfm>

SC Court of Appeals Published Opinions
<http://www.judicial.state.sc.us/opinions/indexCOAPub.cfm>

*The two links listed above provide access to all published opinions from the South Carolina Supreme Court and Court of Appeals, organized by month, from 1997 to date and also include a very brief synopsis of each case.



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Forensic Financial Experts assist Family Law Attorneys in a Multitude of Ways

- **Determine parties' incomes**
- **Value the marital estate**
- **Calculate child support**
- **Extrapolate child support**
- **Calculate parties' monthly budgets**
- **Calculate financial needs**
- **Value businesses**
- **Trace non-marital assets**
- **Value financial contributions of each spouse to the acquisition of marital assets**
- **Value present day value of retirement accounts**
- **Serve as an expert witness**

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2009 Alimony Cases



This year, case topics relevant to the forensic financial expert include:

- **Determination of Alimony**
- **Modification of Alimony**
- **Imputation of Income**
- **Termination of Alimony**

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2009 Equitable Distribution Cases



This year, case topics relevant to the forensic financial expert include:

- **Apportioning Marital Property**
- **Transmutation**
- **Special Equity**
- **Valuation/Expert's Testimony**
- **Intrinsic/Extrinsic Fraud**

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2009 Child Support Cases



This year, case topics relevant to the forensic financial expert include:

- **Modification of Child Support**
- **Imputing Income to Calculate Child Support**

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2009 Alimony Cases



Determination of Alimony

- *Browder v. Browder*, Ct. App., March

Husband:   Wife:  

- *King v. King*, Ct. App., June



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Alimony Statutory Factors

S.C. Code Ann §20-3-130(C)

- 1) Duration of marriage
- 2) Health of each party
- 3) Educational background of each spouse and additional training needed to reach income potential
- 4) Employment histories and earning potentials
- 5) Established standard of living
- 6) Anticipated earnings

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Alimony Factors, Continued...

- 7) Anticipated expenses
- 8) Marital and non-marital properties of parties
- 9) Custody
- 10) Marital misconduct
- 11) Tax consequences of awarded support
- 12) Support from previous marriages
- 13) Other factors determined by Court

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Alimony Factors, Continued...



- The South Carolina Supreme Court has held “[t]hree important **factors in awarding periodic alimony** are:
 - (1) the duration of the marriage;
 - (2) the overall financial situation of the parties, especially the ability of the supporting spouse to pay; and
 - (3) whether either spouse was more at fault than the other.” [Patel, 359 S.C. at 529, 599 S.E.2d at 121.](#)”

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2009 Alimony Cases



Modification of Alimony

- *Serowski v. Serowski*, Ct. App., January
- *Gartside v. Gartside*, Ct. App., April
- *Butler v. Butler*, Ct. App., August



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2009 Alimony Cases

- “In determining whether the change in circumstances warrants a modification, **several considerations relevant** to the initial determination of an alimony award may be applied in the modification context as well, [AND IT APPEARS THESE 3 ARE THE MOST IMP]:
 1. Parties' standard of living during the marriage,
 2. Each party's earning capacity, and
 3. The supporting spouse's ability to continue to support the payee spouse.

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2009 Alimony Cases

Imputation of Income

- *Gartside v. Gartside*, Ct. App., April



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2009 Alimony Cases

Termination of Alimony

- *Fiddie v. Fiddie*, Ct. App., June 🏠



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2009 Equitable Distribution Cases

Apportioning Marital Property

- *Browder v. Browder*, Ct. App., March

Husband: 💰 📈 Wife: 💰 📉

- *King v. King*, Ct. App., June



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Equitable Distribution Factors

§20-3-620(B):



- (1) Duration of the marriage**
- (2) Marital misconduct**
- (3) Value of the marital property & contribution of each spouse to acquisition, preservation, depreciation, or appreciation in value of the marital property**
- (4) Income & earning potential of each spouse, the earning potential & opportunity for future acquisition of capital assets**
- (5) Health of the parties**
- (6) Need of each spouse or either spouse for additional training or education to achieve that spouse's income potential**

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Equitable Distribution Factors, Continued



- (7) Non-marital property**
- (8) Vested retirement benefits**
- (9) Separate maintenance or alimony**
- (10) Family home**
- (11) Tax consequences**
- (12) Exist. & extent of any support obligations**
- (13) Liens & other encumbrances upon the marital property**
- (14) Child custody arrangements**
- (15) Such other relevant factors**

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2009 Equitable Distribution Cases

Transmutation

- *King v. King*, Ct. App., June



- *Edwards v. Edwards*, Ct. App., June



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Transmutation

Non-marital property can be transmuted into marital property if:

- (1) it becomes so commingled with marital property as to be untraceable;
- (2) it is jointly titled; or
- (3) it is utilized by the parties in support of the marriage or in some other manner so as to evidence an intent by the parties to make it marital property.

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2009 Equitable Distribution Cases

Special Equity

- *Carpenter v. Burr*, Ct. App., January



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2009 Equitable Distribution Cases

Valuation/Expert's Testimony

- *Browder v. Browder*, Ct. App., March

Husband:   Wife:  

- *Edwards v. Edwards*, Ct. App., June



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2009 Equitable Distribution Cases

Intrinsic v. Extrinsic Fraud

- *Gainey v. Gainey*, Ct. App., March



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2009 Child Support Cases

Modification of Child Support

- *Floyd v. Morgan*, Supreme Ct., July 🗣️



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2009 Child Support Cases

Imputing Income to Calculate Child Support

- *Spreeuw v. Barker*, Ct. App., July

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Child Support Guidelines Definition of Income

From 114-4620 of the Child Support Guidelines

Income is “the actual gross income of the parent, if employed to full capacity, or potential income if unemployed or underemployed.”

Gross income is defined as “income from any source including salaries, wages, commissions, royalties, bonuses, rent (less allowable business expenses), dividends, severance pay, pensions, interest, trust income, annuities, capital gains, Social Security benefits (but not Supplemental Social Security Income), workers’ compensation benefits, unemployment insurance benefits, Veterans’ benefits and alimony, including alimony received as a result of another marriage and alimony which a party receives as a result of the current litigation.”

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Child Support Factors

S.C. Code Ann. §63-17-470(C)



- (1) educational expenses for the child(ren) or the spouse
- (2) equitable distribution of property
- (3) consumer debts
- (4) families with 6+ children
- (5) unreimbursed extraordinary medical/dental expenses for either parent
- (6) mandatory deduction of retirement pensions and union fees

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Child Support Statutory Factors

S.C. Code Ann. §63-17-470(C)



- (7) **Support obligations**
- (8) **Child-related unreimbursed extraordinary medical expenses**
- (9) **Monthly fixed payments imposed by a ct or operation of law**
- (10) **Significant avail income of child or children**
- (11) **Substantial disparity of income in which noncustodial parent's income is significant less than the custodial parent's inc.**
- (12) **Alimony**
- (13) **Agreements reached btw parties.**

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