

Survey of Family Law Cases 2004-2013

2006 Family Law Survey

VALUATION OF PROPERTY

In *In re the Marriage of Campbell*, Wife appeals permanent orders, contending that the court erred in the (1) valuation of Husband's partnership interest in a law firm, (2) in the calculation of Husband's income and possible underemployment when Husband took a pay cut while keeping the same job, when filing for bankruptcy, (3) by concluding that extraordinary medical expenses for the children were not in the nature of support and thus were dischargeable in bankruptcy, and (4) in the denial of attorney fees.

Husband filed Chapter 7 bankruptcy during the dissolution action. In the event of bankruptcy, the partnership agreement with his law firm required Husband to leave his position as partner of the law firm and accept a buyout of his interest for \$50,000.

With regard to the value of Husband's law practice interest, the court held that, generally, property must be valued as of the date of the decree or as of the date of the hearing on the disposition of property, whichever is earlier. But if a party in contemplation of dissolution of marriage has dissipated marital assets, those assets must be valued as of the last date they existed as marital property. The Court remanded to reconsider Husband's underemployment and whether Husband dissipated marital property when he filed for bankruptcy.

With respect to the children's extraordinary medical expenses, the court concluded that the bankruptcy court has concurrent, rather than exclusive, jurisdiction with a state domestic relations court when determining whether a debt is in the nature of support and therefore exempt from discharge under 11 U.S.C. § 523(a)(5). If payment is ordered "in recognition and fulfillment of the debtor's duty to provide for the well-being of the child," then the debt falls under the category of support. The Court of Appeals held that a "parent's obligation for extraordinary medical expenses is an integral part of the child support obligation," thus Husband was ordered to pay extraordinary medical expenses for the children.