

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

M. A. B.,	:	
Plaintiff	:	
	:	
v.	:	No. 03-21,108
	:	PACES NO. 660105537
T. P. B.,	:	
Defendant	:	

OPINION and ORDER

This opinion addresses the Exceptions filed by Husband to the Master's order of April 12, 2006, awarding Wife alimony pendente lite. The Master set Husband's income at \$42,000 per year. This figure was derived from a \$142,000 loan Husband took out on his Broad Street property. Of that amount, he spent \$100,000 for improvements to the property, and was left with \$42,000, from which he is paying his living expenses.

Husband argues the Master erred in basing his income upon borrowed money. The court agrees that this is not proper income as defined by 23 Pa.C.S. §4302. As Husband submitted his 2005 income tax return, the court will base his income assessment upon that, as follows.

Husband received rents in the amount of \$151,150. From that, the court will deduct all expenses shown on his Schedule E except for real estate depreciation and entertainment, for total expenses of \$113,208, which leaves a profit of \$37,942. The court will also deduct his asset depreciation (\$2,083) and the taxes paid in closing costs (2810). Adding in interest and dividend income in the amount of \$10,758, the court arrives at a final yearly figure of \$43,807, or \$3650.58 per month. It is noted that Father paid no federal, state, or local taxes.

The court also notes that the Master incorrectly calculated the APL, as she did not follow the method set forth in Rule 1910.16-4(e). Following that formula, with

Mother's income at \$927.37 per month and Father's income at \$3650.58 per month, APL is calculated to be \$1089.28. After adding the APL amount to Mother's income and subtracting it from Father's income, Mother's child support obligation is calculated to be \$402.61. Subtracting Mother's child support obligation from Father's APL obligation leaves an APL obligation from Father to Mother of \$686.66 per month.

ORDER

AND NOW, this _____ day of June, 2006, for the reasons set forth in the foregoing opinion, the Exceptions filed by Father are granted and API is set at \$686.66 per month. In all other respects, the Master's order of April 12, 2006 is affirmed.

BY THE COURT,

Richard A. Gray, J.

cc: Dana Jacques, Esq., Law Clerk
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