

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PENNSYLVANIA

MRH, : NO. 11 – 20,864  
Plaintiff : PACSES NO. 703112595  
vs. :  
: DOMESTIC RELATIONS SECTION  
KLH, :  
Defendant : Complaint to Reopen Support

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MEK, : NO. 16 – 21,484  
Plaintiff : PACSES NO. 441116231  
vs. :  
: DOMESTIC RELATIONS SECTION  
KLH, :  
Defendant : Review

**OPINION AND ORDER**

Before the Court are Plaintiff MRH’s Complaint to Reopen Support for one minor child, filed September 1, 2017, as well as a review of the currently suspended support matter for two minor children in No. 16-21,484 between MEK and KLH. A hearing on the matters was held November 22, 2017, following which the court requested MRH submit his 2016 federal income tax return. That document was submitted later that day and the matter is now ripe for decision.

Defendant claimed at a conference in this matter, held in the Domestic Relations Office following the filing of the Complaint, that she was unable to work. Although at that conference she provided a Physician Verification Form which stated that she was unable to work, Plaintiff KLH disputed that position and requested a hearing. Defendant was told to make arrangements for her physician to testify, either in person or by phone, but she did not do so and the

court therefore did not hear any testimony from a physician which supports Defendant's position. Accordingly, Defendant will be assessed a minimum wage earning capacity.<sup>1</sup>

Plaintiff KLH is employed as a manager by Southwest Grill of Pennsylvania, LP (Moe's Southwest Grill). His paystubs show a monthly net income of \$2,735.72 (\$807.69 per week gross less taxes). He also has a federal income tax refund of \$3,262, \$2,500 of which must be deducted as it is from an American Opportunity Credit and should not be included in income. The remaining \$762 adds \$63.50 per month to his income, for a total monthly net income of \$2,799.22.

Plaintiff MEK was previously found to have a monthly net income of \$1,386.67 and there was no evidence that this has changed.

Since Defendant's earning capacity is \$1,096.00 per month, her obligation is to be calculated by the regular method and also by using her income only and then imposing the lower obligation. Pa.R.C.P. 1910.16-2(e)(1)(A).

With Plaintiff KLH having a monthly net income of \$2,799.22 and Defendant having a monthly net earning capacity of \$1,096.00, the parties' combined income is \$3,895.22. At that level, the guidelines call for an obligation for the support of one minor child of \$873 per month. Defendant's proportionate share of that obligation is 28.14%, or \$245.66. Defendant's obligation using her income only is \$107.

With Plaintiff MEK having a monthly net income of \$1,386.67 and Defendant having a monthly net earning capacity of \$1,096.00, the parties' combined income is \$2,482.67. At that level, the guidelines call for an obligation

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<sup>1</sup> Defendant's work history supports a minimum wage earning capacity and neither Plaintiff argued otherwise.

for the support of two minor children of \$849 per month. Defendant's proportionate share of that obligation is 44.15%, or \$374.83. Defendant's obligation using her income only is \$108.

Defendant must be left with \$981.00 per month for her own support. Pa.R.C.P. 1910.16-7(c). Since her earning capacity is \$1,096.00, only \$115.00 is available for child support. Since the total of Defendant's two obligations is \$215.00, each one must be reduced proportionately so that they total only \$115.00. Therefore, Defendant's obligation to Plaintiff KLH is reduced to \$57.23 per month and her obligation to Plaintiff MEK is reduced to \$57.77 per month.

ORDER

AND NOW, this            day of November 2017, Defendant is hereby ordered to pay support to the Plaintiffs in this matter, effective September 1, 2017. The Domestic Relations Office is requested to enter an order in each case which is based on the calculations contained herein.

BY THE COURT,

Dudley N. Anderson, Judge

cc: Domestic Relations Section  
MRH, 3555 Oak Street, Cogan Station, PA 17728  
MEK, 320 Schoolhouse Road, Williamsport, PA 17701  
KLH – to be served by DRO  
Gary Weber, Esq.  
Hon. Dudley Anderson