

MANN LAW FIRM

Nevada Family Law Newsletter

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Focusing on Nevada
Family Law

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SUBSTANTIVE LAW

Rivero Redefines Joint Physical Custody & Child Support Calculation

A recent Nevada Supreme Court case has redefined two important areas of family law by 1) adopting the "Missouri" definition of joint physical custody and 2) changing the calculation of child support for those who have joint physical custody and an unequal timeshare.

In *Rivero v. Rivero*, 124 Nev. Adv. Op. No. 84 (2008), the court held that joint physical custody is an order awarding each parent significant periods of time that is not necessarily equal and assures the child of "frequent, continuing and meaningful" contact with each parent.

the formula
requires
seven steps

The court also changed the way courts will calculate child support where there is joint physical custody and an unequal timeshare by implementing a "modified *Wright* formula." Although mathematically simple, the formula requires seven steps, some of which are ambiguous: 1) apply original *Wright* formula,¹ 2) determine time percentage spent with each parent, 3) calcu-

late differences between percentages in step 2, 4) multiply each parent's calculated child support by time difference, 5) subtract the adjusted child support from parent who has child most of the time and add adjusted child support to parent who has the child less of the time, 6) subtract smaller number from larger, and parent that owes the greater amount pays difference to other parent, 7) apply any statutory caps.

Many questions remain about specific implementations of this case. For example, how does one calculate the percentage of time spent with a parent? What if, while with one parent, the child attends an event with a friend. Is that time counted or not? Expect future clarifications before this law is fully matured.

¹ *Wright* formula: 1) calculate child support, per NRS 125B.070(1)(b), for each parent, 2) calculate difference in amounts between parents, 3) adjust by applying NRS 125B.080(9) factors, 4) the higher-income parent pays the resulting amount to the lower-income parent.

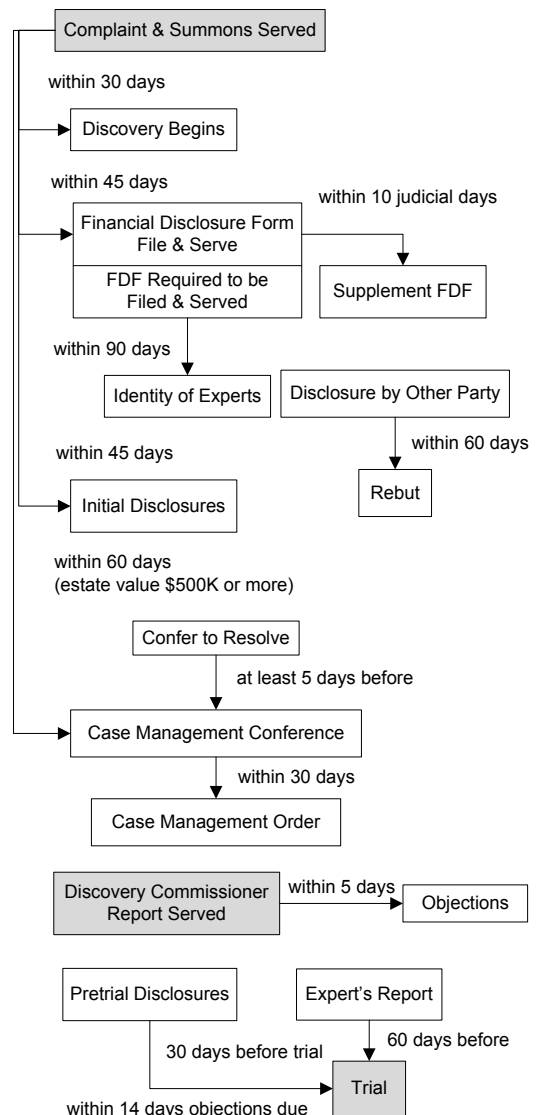
PROCEDURE

NRCP 16.2 Amendments Become Effective

The flowchart below provides an overview of NRCP 16.2 that became effective on January 1, 2009.

NRCP 16.2 Overview

Domestic Relations Matters
Amendments eff. 1/1/09



Flowchart by David Mann

See Reverse Side For More ...

Journal of Empirical Legal Studies & “Divorce Law and Women’s Labor Supply”¹

Can empirical legal studies help the practitioner?

Legal academia has traditionally focused on teaching the practical, professional side of law i.e., those areas that lawyers need to know to begin their careers. The assumption is that lawyers can then pursue individual areas of study to enhance their particular field of expertise.

Of course, unless someone is producing scholarship for post-licensure learning, the studies are not available when the practitioners are ready.

Who should be producing this scholarship? Lawyers are of course busy being lawyers. Law professors are training lawyers and their scholarship tends not to utilize social science methodologies.

Some professors in associated disciplines have attempted to fill this void.

As the name suggests, the contributors to the *Journal of Empirical Legal Studies* address this vacuum by using empirical methodologies to study the legal system.

How does unilateral divorce affect female labor force participation?

For example, Professor Stevenson contributes by studying the effect of unilateral divorce (no-fault) in an effort to determine how female labor force participation is related to property division laws and unilateral divorce.

Through a rigorous economic study, Stevenson disproves earlier theses that “the impact of unilateral divorce on female employment depends critically on laws governing property

division.”

Instead, she finds that “unilateral divorce led to an increase in both married and unmarried female labor force participation, regardless of the preexisting laws regarding property division.”

She argues “that the incentives provided by unilateral divorce are independent of how property is divided-in a regime in which any party can exit at will there is a greater incentive to maintain one’s options outside of marriage. Women seeking both insurance against divorce and greater bargaining power within marriage are thus more likely to engage in market work when states allow unilateral divorce, irrespective of the underlying property division laws.”

Of course, it is up to the individual to determine the usefulness of empirical research such as this study.

How can a lawyer use empirical research?

Each practitioner must realize that not every study will have direct, practical usage but rather may form part of a larger contextual understanding of their field of practice. Understood from this perspective, the *Journal of Empirical Legal Studies* is a resource worth reviewing.

For more information about empirical legal studies go to elsblog.org.

¹ Betsey Stevenson, *Divorce Law and Women’s Labor Supply*, 5 *Journal of Empirical Legal Studies* 853 (2008).

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