

PSS and Alimony Scenarios

Family Law for Judges Part 1

The Magnolias were married for 20 years before they separated fourteen months ago.

Wilma is 45 years old and Henry is 49. Both parties are in good health. They have two children, ages 13 and 15. Wilma has primary physical custody based on a consent order. Wilma lives in the marital residence with the children. Henry lives with his girlfriend who is employed.

Worksheet A of the Child Support Guidelines was used to set permanent child support and it has been ordered at \$1,275 per month. A PSS order was entered by consent twelve months ago. It required only that Henry pay the mortgage payment for the marital home. During the marriage, the Magnolias enjoyed a comfortable middleclass lifestyle. Most summers they were able to take vacation at the beach or in the mountains.

Wilma has an undergraduate degree. She worked full time from when the parties were married until the second child was born. When the second child was born she did not work for about six years, then began working part time when the children were in elementary school. She just started working full time three months ago. She currently earns \$48,000 per year. Her monthly gross is \$4,000 and monthly net is \$3,150.

Henry has an undergraduate degree. He has worked throughout the marriage. He works as a manager for a local business. He makes \$100,000 per year. His monthly gross is \$8,333 and monthly net is \$6,083.

The ED judgment has been entered and Wilma was awarded the marital home, the mortgage on the home, a van, and her retirement account. Henry received his retirement account (valued much higher than Wilma's), a car that is much newer and more valuable than the van. The parties each have household furnishings from the ED.

Information from the parties' Financial Affidavits is attached. You have already decided that the needs and expenses as listed in the Financial Affidavits are reasonable. Worksheet A that was used to set child support is also attached.

Would you award alimony to Wilma? If so, how much and for how long?

How would you articulate the reasons for your decision?

	Wife	Husband
--	-------------	----------------

Shared Family Expenses		
House payment (including taxes and insurance)	\$ 1,700.00	\$ 1,550.00
Electricity	\$ 150.00	\$ 100.00
Heat	\$ 80.00	\$ 75.00
Water	\$ 65.00	\$ 75.00
Cable TV	\$ 135.00	\$ 175.00
Telephone	\$ 125.00	\$ 100.00
Home food and supplies	\$ 700.00	\$ 550.00
House and yard maintenance	\$ 125.00	\$ 150.00
Car payment	\$ 300.00	\$ 500.00
Gasoline	\$ 200.00	\$ 150.00
Internet	\$ 60.00	\$ 60.00
Security	\$ -	\$ 17.00
Total Shared Family Expenses	\$ 3,640.00	\$ 3,502.00
Individual Expenses of Spouse		
Religious and Charitable Contributions	\$ 150.00	\$ 25.00
School/Work lunches	\$ 100.00	\$ 150.00
Medical/Dental vision Insurance *	\$ 250.00	\$ 450.00
Uninsured medical/dental	\$ 60.00	\$ 75.00
Clothing	\$ 200.00	\$ 150.00
Grooming	\$ 90.00	\$ 25.00
Laundry/Dry Cleaning	\$ 50.00	\$ 100.00
Entertainment/Recreation/Activities	\$ 75.00	\$ 100.00
Meals out	\$ 150.00	\$ 200.00
Christmas Gifts (prorated)	\$ 150.00	\$ 100.00
Birthday Gifts	\$ 75.00	\$ 50.00
Subscriptions	\$ 20.00	\$ -
Life Insurance	\$ 27.00	\$ 68.00
Car insurance	\$ 85.00	\$ 120.00
Car (maintenance/repair/regist/tax)	\$ 175.00	\$ 100.00
Vacations	\$ 250.00	\$ 250.00
Total Individual Expenses of Spouse	\$ 1,907.00	\$ 1,963.00

*Husband's \$450 includes \$250 as cost for the children

STATE OF NORTH CAROLINA			Fife No.	IV-0 Case No.	3
County			Case No. (Code)	UIFSA Case No.	
In The General Court of Justice District Superior Court Division					
Civil:	Plaintiff Wilma Magnolia		WORKSHEET A CHILD SUPPORT OBLIGATION PRIMARY CUSTODY G.S. 50-13.4(c)		
criminal :	STATE				
Versus					
Name Of Defendant Henry Magnolia					
Children		Date Of Birth	Children		Date Of Birth
1					
2					
			Plaintiff	Defendant	Combined
1. MONTHLY GROSS INCOME			\$ 4,000.00	\$ 8,333.00	
a. Minus pre-existing child support payment			-	-	
b. Minus responsibility for other children			-	-	
2. MONTHLY ADJUSTED GROSS INCOME			\$ 4,000.00	\$ 8,333.00	\$ 12,333.00
3. Percentage share of income: (line 2 for each parent's income, divided by Combined income)			32.43 %	67.57%	
4. BASIC CHILD SUPPORT OBLIGATION (apply line 2 Combined to the Schedule of Basic Support Obligations-see AOC-A -162 , Rev. 1115)					\$ 2,007.30
5. Adjustments (expenses paid directly by each parent) a. Work-related childcare costs			\$	\$	
o. Heath insurance premium costs – child/children portion only (total premium + # of persons covered x # ofchildren subject to order = children 's portion)			\$	\$ 250.00	
c. Extraordinary expenses			\$	\$	
a. total Adjustments (for each column, add 5a, 5b and 5c.. Add two totals for Combined amount)			\$	\$ 250.00	\$ 250.00
6.. TITAL Child Support Obligation (add 1ine 4 Combined to line 5d Combined)					\$ 2,257.30
7. Each parent's child support obligation (Line 3 x line 6 for each parent)			\$ 732.04	\$ 1,525.26	
8. Non - Custodial Parent Adjustment (enter non - custodial parent's line 5d)			\$	\$ 250.00	
9. RECOMMENDED CHILD SUPPORT ORDER (subtract line 8 from line 7 for the non-custodial parent only. Leave custodial parent column blank)			\$	\$ 1,275.26	
Date	I Prepared By (type or print)				

Consideration of Fault

1. As you know from the equitable distribution discussion, Henry took a female friend to the Caribbean shortly before he and Wilma separated, spending money from his 401K account. Would your PSS or alimony award change if Wilma proved Henry had been having a sexual affair with the women for the last 10 years of the marriage?
2. Would your PSS or alimony award change if Henry did not have an affair at all but Henry proves Wilma had a weekend sexual affair with a man she met while visiting her old friends from nursing school 7 years before she separated from Henry?
3. What if both scenarios were true; Henry had a long-term affair and Wilma had the weekend affair. Would your PSS or alimony award change?
4. Neither Wilma nor Henry had a sexual affair before the date of separation. Henry moved out of the marital residence, telling Wilma he could not handle the stress of marriage and children anymore. After he moved, he continued to work at the Mill and to pay all of Wilma's household expenses, and he paid all expenses related to Henry, Jr. Two months after moving out of the marital residence, Henry moved in with the woman from the Mill.
 - a. Would your PSS or alimony award change?

Modification

1. Assume you ordered Henry to pay alimony. Two years after entry of the order, Wilma files a motion to modify. She argues that Henry's income has increased substantially due to the success of Super Sewing, Inc. She asks that alimony be modified to reflect Henry's present ability to pay. Do you modify the award?
2. Assume you ordered Henry to pay alimony for a period of 15 years. Three years after entry of the order, Henry files a motion to modify. He establishes that he has married the girlfriend from the Mill and they recently had a child together. He argues that he no longer can pay alimony to Wilma because of his new family obligations. Do you modify the alimony order?
3. Again, assume you ordered Henry to pay alimony for 15 years. Ten years after entry of the order, when Henry is 59 years old and about to turn 60, he files a motion to modify. He argues that he will be retiring when he turns 60 and will no longer be able to pay the alimony award. Do you modify the order?