

FOLLOW THE MONEY

By K. Dean Kantaras and Jeremy Simons



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A fundamental truth in family law matters, all family law matters, is that the party's financial circumstances are disclosed to the other party and to the court. The primary way that a party discloses his or her financial circumstances is through a family law financial affidavit. A financial affidavit requires disclosures of income, deductions, regular reoccurring expenses, assets and liabilities. Critically, the financial affidavit requires a disclosure on whether a party has a surplus of income each month or a deficit each month.

A person's surplus or deficit is very similar to a cup full of water. At the end of each month, a large chunk of water is poured out to pay monthly expenses. A cup that does not have any holes in it holds a person's resources sufficient for each month's expenses. Any extra water, if the person is smart, overflows to a savings account or similar type of account. A cup with a hole in it, however, will continuously deplete until there is simply not enough water to pour in the cup to pay all of the monthly expenses.

And yet, interestingly, some people show a significant deficit over many months and yet still manage to pay their bills. There is a huge hole in their cup, and yet every single month they still pay all their bills. People who over a course of time make less than they spend and yet still manage to pay all their bills run into a fundamental math problem: Where is the money stashed?

The court in *Tomaszewski v. Tomaszewski*, (793 So. 2d 1156 (Fla. 4th DCA 2001)) asked the same question to the husband. The husband had a continuous and significant negative cash flow for the duration of the dissolution proceeding and did not have any explanation for how he still managed to make his monthly payments.

"That negative cash flow, not being otherwise explained, reasonably supports

an inference that appellant's earnings were greater than he represented them to be," (793 So. 2d at 1158.) *Tomaszewski* reminds parties in dissolution proceedings that math matters. It is not difficult to infer that someone is making more money than they are reporting if their monthly expenses exceed their income without a logical explanation as to the origin of the extra money. ■■■

EDITOR'S NOTE: K. Dean Kantaras is the managing partner of K. Dean Kantaras, P.A., a firm handling cases in family law and immigration. Mr. Kantaras is board certified in marital and family law by the Florida Bar. He has been practicing for over 25 years and is "AV" rated by Martindale-Hubbell. Jeremy Simons has been practicing family law since 2006. He is past president of the West Pasco Bar Association and has received numerous awards, including the Sixth Judicial Circuit Pro Bono Award and the Salvation Army Justice Award. The law firm's offices are located at 3531 Alternate 19, Palm Harbor, 34683, (727) 781-0000 and 1930 East Bay Drive, Largo, 33771, kantaraslaw.com.