

MATRIMONIAL CASE OF INTEREST

E.D. v J.D. (Supreme Court, Westchester County) - Defendant-husband is the sole shareholder of a corporation and for purposes of determining child support and maintenance, the Court held a hearing to determine how much, if any, income of the corporation should be deemed defendant's "earned income." The Court found the defendant's testimony to be not credible and that the plaintiff-wife had properly pierced the corporate veil and demonstrated that certain income that defendant contended to be income of the corporation should be imputed as personal income.

As the sole shareholder, defendant had control of all significant business decisions including purchasing, hiring, expenditures, and setting salaries. The evidence showed that defendant deliberately reduced his personal income by paying himself an artificially low salary while still managing to support his pre-corporation standard of living by expensing personal/family expenditures through the business. Further examples of questionable corporate expenses include: 1) salaries paid to defendant's children in 2010, who were aged 10, 15, and 19 at that time; 2) payment of legal fees relating to the divorce action; 3) restaurant meals with the children; 4) travel expenses for son's bar mitzvah; and 5) rent payment for personal apartment.

In cases where defendant has complete control over the corporation, the Court does not have to simply accept the defendant's claims regarding salary. Pursuant to review of the evidence, the Court determined that the plaintiff was entitled to additional maintenance and child support payments.

[LINK TO DECISION](#)

ENHANCED EARNINGS CASE OF INTEREST

KIM v SHILLER (Appellate Division, 2nd Department) - Here, the defendant-husband's medical degree and license were attained during the parties' marriage. The Supreme Court determined plaintiff-wife had made significant indirect contributions in support of defendant attaining his degree and licensure including working full time throughout the marriage, taking care of the parties' two children, cooking family's meals and performing housekeeping duties

entitled her to 50% of the enhanced earnings of the defendant. However because the defendant-husband also made accommodations for the sake of the plaintiff's career and her desire to remain near her family as well as making financial contributions to the family during his tenure in medical school, the Appellate Court has reduced the marital portion of the enhanced earnings capacity from 50% to 30%.

[LINK TO DECISION](#)

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