

In re Marriage of Eggers (131 CAL. App. 4th 695)

This was a case on appeal to the Court of Appeal, 4th Appellate District, Division 3 from the Orange County Superior Court.

Thomas M. Eggers was fired from his job due to numerous e-mails sent to a co-worker of a sexual nature.

The Orange County Superior Court imputed income to Thomas Eggers as it said that his job loss was the result of a voluntary or intentional reduction of income, thereby equating the conduct that led to his job loss as voluntary or intentional.

The trial court has discretion to conclude that a parent's conduct causing termination may be taken into account in imputing income to that parent. However, the imputation of income is not automatic.

The Court of Appeal indicated that the Superior Court erred by construing that the father's termination of employment was voluntary because the father was fired for using extremely poor judgment.

It went on to say that the father had the burden of proof to show he did not have the ability or opportunity to work, but that the trial court did not reach those issues and abused its discretion by attributing income to the father without addressing these issues.