

Earning Capacity: Labor Market Analysis for Determining Spousal Maintenance

By

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A vocational evaluation is a valuable means of assessing earning capacity, whether it be for litigation or child support purposes. Once a determination is made as to an individual's type and level of employment, a vocational evaluation expert then develops an approach to analyze earning capacity. While the person's prior work history plays a pivotal role in determining their ability to earn, today's constantly changing job market requires the use of a number of resources in conducting a valid analysis of earning capacity.

Two approaches to gathering and analyzing labor market data to determine earning capacity have emerged. Both rely on surveying employers to gain information on the compensation of specific occupations. At issue is the validity of the data relating to a person's earning capacity in the local job market.

Scientific evidence derived from national wage and salary surveys form the basis of one approach. Government studies, including national data from the United States Department of Labor's Bureau of Labor Statistics (BLS), to state and regional information from State Workforce Agencies such as Arizona's Office of Employment and Population Statistics, form the basis for determining the current earning capability of an obligator. Salary surveys conducted by a variety of organizations including universities, trade associations, compensation consultants and online salary survey companies also provide data. Examples include the National Association of Colleges and Employers Salary Survey, the Milliman Compensation Survey and surveys from Salary.com, PayScale.com and SalaryExpert.com.

The methodology of collecting and interpreting the data differs among the sources. The BLS's Occupational Employment Statistics survey is a cooperative effort between the BLS and the State Workforce Agencies. Each year, forms are mailed semiannually to approximately 200,000 sampled establishments, one in May and the other in November. May 2012 estimates (the latest study) are based on responses from six semiannual surveys collected over a 3-year period from May 2012 to November 2009.

The data from Salary.com's surveys represents national average practices; metro or ZIP code level data is based on a geographic salary equivalent factor (similar to a cost-of-living adjustment factor).

The data used in the aforementioned government and private salary studies ranges from three years to one year in age and is primarily national in scope. With the constantly changing labor market, vocational experts need to supplement the findings from these studies with an approach that is more timely and local in scope.

This second approach involves conducting surveys of local employers to determine the current compensation ranges for a specific position and where the spouse would fit into that range. By identifying and surveying local organizations that have positions that a

spouse qualifies for, the vocational evaluator can gather and analyze much more timely and accurate data.

By combining both approaches and analyzing data from national, regional and local sources, the vocational evaluator can gain applicable compensation data to determine a valid conclusion on earning capacity.

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