

## Six Most Important Child Support Cases since 2005

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For several years, I have been privileged to teach lawyers about the latest developments in child support as one of the hosts of *Family Law Update*, a satellite broadcast presentation sponsored by the Pennsylvania Bar Institute. Since I joined the panel in 2005, several important decisions have influenced the direction of Pennsylvania child support law. Here is my summary of the six most important cases (and one change in the law itself) since 2005:

**#6 – *Reinert v. Reinert*, 926 A.2d 539 (Pa.Super.2007).** The Superior Court in this case affirmed the continuing viability of the “nurturing parent doctrine,” a policy in which the courts may excuse the mother of a young child from working to contribute toward the support of the child. Prior to this decision, it was established that a mother may refrain from working even to raise the child of a subsequent relationship. Yet, in *Reinert*, the Superior Court took the policy to its extreme. The Court terminated the support obligation of a mother who did not have custody of her eldest child when she gave birth to twins by a subsequent relationship and elected to stay at home to raise them.

**#5 – *Murphy v. McDermott*, 2009 WL 2365992 (2009).** The question of whether a parent must pay private school tuition may be raised in child support proceedings, but it is also a legal custody issue. The problem is: the legal standards to answer that question are different in support and custody proceedings. The *Murphy* case demonstrates how important “status quo” can be, compelling a parent to pay tuition even if he or she objected at the time when the child was enrolled in private or parochial school. The lesson: parents must get involved in the choice of schooling before the question of paying comes up.

**#4 – *Berry v. Berry*, 2006 Pa.Super. 98 (2006).** When child support becomes an issue between divorcing parents, the courts must decide whether certain income sources – such as pensions, rental properties and businesses – should be considered as marital property or income for support purposes. Generally, they cannot be both. In *Berry*, the Superior Court held that severance pay would be counted as marital property if acquired before separation or income if acquired after separation.

**#3 – *Estate of Johnson*, 970 A.2d 433 (Pa.Super.2009).** While this decision might be limited to its unique factual circumstances, the Superior Court certainly affected settlement practice by holding the estate of a deceased parent responsible for the payment of child support. The deceased parent had entered into a marital settlement agreement with his ex-wife, promising to pay child support until the youngest child was 18 years of age. The agreement did not specify whether the obligation would terminate upon the death of a parent, so the court held that it did not. The estate ended up owing nothing, however, because the Social Security derivative benefits received by the child as a result of the parent’s death satisfied the child support obligation. This case has prompted many lawyers to specify death as cause for terminating child support in their agreements, and has also motivated support recipients to demand life insurance as a security device.

**#2 – *Krebs v. Krebs*, 944 A.2d 487 (Pa.Super.2008).** In this case, the Superior Court fortified its prior admonitions warning support payors to report increases in their income. In cases where a payor fails to report an increase, even an increase not precipitated by a job promotion or change in employers, the court may increase child support retroactively to the date when the income increase occurred, even years later. The Superior Court in *Krebs* granted such a retroactive increase in child support even after the custodial parent had refused an optional three year review of child support. The retroactive increase was granted because the payor had failed to report his increased income as a commissioned salesman to the court.

**#1 – The 2010 Amendments to the Pennsylvania Child Support Guidelines.** The 2010 amendments eliminated the *Melzer* formula, which was a budget-based method of calculating child support in high-income cases. The uppermost limits of the child support guidelines have been extended to \$30,000 per month combined net income, and an income-based formula has been promulgated to calculate child support in high-income cases.

### **About the Author**

Brian C. Vertz is a [Pittsburgh family lawyer](#) experienced in resolving all financial and personal aspects of [divorce](#), [property division](#), [alimony](#), [child support](#), [spousal support](#), [settlements](#), [prenuptial agreements](#), custody, and appeals.

He is listed in the 2010 edition of [The Best Lawyers in America](#) (White/Woodward) and every edition of [Pennsylvania SuperLawyers](#) (Pittsburgh Magazine/U.S. News & World Reports). For nearly two decades, Brian C. Vertz has been representing men and women in divorce litigation where complex financial issues were resolved. He is a Fellow of the [American Academy of Matrimonial Lawyers](#) and a partner of [Pollock Begg Komar Glasser LLC](#), a matrimonial law firm dedicated to the practice of family law litigation and appeals.