



Anoka County

Constructive Civil Contempt of Court & Other Enforcement Tools

September 15, 2009
Presented by Bethany Fountain Lindberg
Anoka County Attorney's Office, Family Law Division

The beginning . . .

- “Ideas are like rabbits.
You get a couple,
learn how to look after
them, and pretty soon
you have a dozen.”

» John Steinbeck



“I not only use all the brains I have,
but all I can borrow.”

—Woodrow Wilson



Just what is Constructive Civil Contempt of Court?

- Contempt
- Constructive vs. Direct
- Civil vs. Criminal

Law governing CCC of Court

- Minnesota Statutes §§ 588.01 – 588.21
- Minnesota Statutes § 518A.72
- Minnesota Statutes § 518A.73
- Minnesota Statutes § 518A.735
- Minnesota Statutes § 518A.71



- Hopp v. Hopp, 156 NW2d 212 (Minn.1968) defines the proper exercise of the court's civil contempt powers.



- Mahady v. Mahady,
448 NW2d 888
(Minn.Ct.App. 1989)
mandates a second
stage hearing before
incarceration to allow
the obligor to show
he/she was unable to
meet the purge
conditions set by
court.



- Mower County o/b/o Swancutt v. Swancutt,
551 NW2d 219 (Minn.
1996) Rolling purge
may be appropriate;
the first stage hearing
tackles the procedural
requirements, the
second stage hearing
can occur anytime
after purge conditions
have been set.



What's new in contempt land?

- Increased unemployment
- Complex issues surrounding obligor's health and ability to work
- Back log of cases with Social Security Administration, delay of decisions
- Increasing transient population

Creative solutions – looking for a win-win with decreasing resources

- Back to the Basics, setting realistic support obligations. Consider how the order was entered and how support was established.



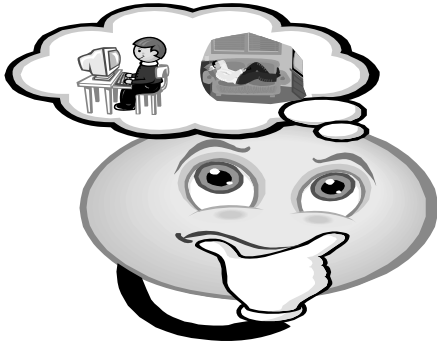
- Crafting orders that provide for release or authorization of otherwise private data.



To Drive or Not to Drive?



Ordering a diligent job search



Creative purge conditions



Encouraging modifications when appropriate

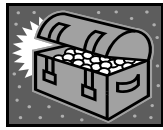


Less Common Enforcement Issues

- Probate potential
- Personal Injury issues
- FIDM

Probate

- Is there an active probate proceeding?
- Obligor = beneficiary
- Verify net amount of assets of the estate



Personal Injury

- Letter of Protection
- Economic Loss
Benefits & AIW
- Sequestration



FIDM

- Does the bank account balance in a FIDM hit exceed the amount of child support arrears?



The End !

- I wanted a perfect ending. Now I've learned, the hard way, that some poems don't rhyme, and some stories don't have a clear beginning, middle and end.
Gilda Radner
- . . .and some enforcement cases don't have black & white answers. **Bethany Fountain Lindberg**
