

Actual Calculation Differences

The facts of the Vaile case involved large sums of arrears outstanding and unpaid for a long period of time, with very minimal payments – the District Attorney only managed to start a partial garnishment of support in 2006. So all sides agreed that the principal sum of outstanding child support arrears was some \$127,000.

Remarkably, the difference in interest calculations over the eight-year time period between NOMADS and a standard MLAW calculation was only some \$44.00. The difference is apparently due to only two factors. First, as to the method of rounding – NOMADS rounds each month’s interest to the nearest penny, with everything over 0.005 up to the next whole cent, and everything under 0.005 down. The private Bar – like banks and credit card companies – carries fractional cents forward in a “bit bucket” to eight places after the decimal point.

The second, and much larger difference, is that NOMADS is only able to do an end-of-the-month calculation, making the actual date of any payment invisible and irrelevant if received anywhere within a month. The private Bar has always calculated all arrearages on a *daily* basis, so earlier-received payments are credited earlier and the arrears accrue less interest, while later-received payments are credited later and accrue more interest.¹

The big difference was in the penalties. Since nothing at all was collected from Mr. Vaile between 2000 and 2006, the Welfare methodology assessed a 10% penalty when each payment initially went unpaid, and then ignored those installments for all the remaining years that they remained unpaid. The private Bar methodology, by contrast, continued to accrue penalties, following the statute, at the rate of 10% *per annum* for each year that each installment “remained unpaid.” The result is that the sum of penalties assessed was really about \$50,000, while Welfare’s penalty calculation would have yielded some \$12,000.²

¹ Obviously, whether these differences would work for or against any particular party in any particular case depends on the dates of the actual payments. More accurate calculations could provide a larger, or smaller, interest calculation than a less accurate calculation if the facts were changed.

² This number, 10% of the principal not paid on the date when due, would remain unchanged no matter *how* long the installments remain unpaid.