



Cantor Forensic Accounting, PLLC  
208 W. Chandler Heights Rd. #101  
Chandler, AZ 85248  
480-448-9904  
[david@dscfac.com](mailto:david@dscfac.com)  
[www.dscfac.com](http://www.dscfac.com)

## Where Did It Go.....Community Waste

Often times I am asked to determine the amount of community waste that occurred during a marriage. Just for clarification purposes (though they may overlap), community waste, hidden assets and unreported income are not technically the same from an accounting aspect. Although they may all end up having the same result when it comes down to a property division, they are handled and researched differently when it comes down to the accountant's assignment. In this newsletter, I am going to address the issue of community waste and not the others.

David Cantor, CPA/ABV has been working almost exclusively in Family Law Accounting since 1990 in both Arizona and California.

He has worked on over 1,000 Family Law cases and has experience in all aspects of Family Law Accounting including Business Valuations, Separate Property Tracings, Calculation of Income for Purposes of Determining Maintenance and Support as well as many other financial issues.

Mr. Cantor has testified in Court over 100 times as an expert witness.

When I am first asked to perform an analysis regarding community waste, I always like to discuss with the attorney and the client what their concerns are and what they perceive is the community waste issue.

It is important for me to know the specific issues from which these claims arise. I will then need to accumulate all of the financial records that will assist me in determining the dollar amount of any claim. These records can include bank statements and related canceled checks, credit card statements, calendars that may be used to correlate certain transactions to personal events that occurred during that time and paid bills to document these questionable transactions.

After a review and analysis of the records, I will prepare as detailed a report as possible to identify every transaction that may be considered community waste. Ideally (and based upon the facts and circumstances of the case), this report will indicate my conclusions and provide as much detail as possible relating to the transactions such as dates, payees, amounts, corresponding events that occurred within the timeline, sources of funds or any other type of evidence to verify my findings. Often times, this report will reflect a pattern of activity that was ongoing that nobody even realized. This pattern may show amounts or consistent dates of transactions that may ultimately have a major impact on the Court's decision.

Ultimately it is up to the attorney and the client to convince the Court that my findings are in fact considered community waste. My job is to present the trier of facts with the support for my client's claim, not to make the claim itself.

In my experience of preparing these types of analysis, I have learned many things, such as:

- Making uneducated decisions does not necessarily equal community waste. Even though one spouse may not have agreed with the other spouse opening up a risky business that ultimately failed (but was aware of the amount invested), this may not be enough for a community waste claim.
- Knowledge of a pattern of spending, but ignorance of the amount involved may not preclude a community waste claim. If one spouse was aware that the other spouse was gambling on a regular basis, but was unaware that the gambling spouse was not only using money from the general account, but was also draining the retirement accounts (without the other spouse's knowledge) may result in a community waste claim.
- Be prepared to defend a community waste claim against your client if your client is making a claim against their spouse. Courts have been known to offset community waste claims by one spouse with expenditures made by the other spouse. For example, if wife is claiming that husband wasted \$1,000 per month gambling, the Court may look at her and say that she was spending \$800 per month on massages, manicures and pedicures that the husband never did.....so we will call it a wash. While this may be a wash on the property division side, fees were incurred to get to this point that may not be recovered.

The takeaway on community waste claims is that after careful consideration by you and your client, the claim needs to be supported by a financial report that accurately reflects the extent of the claim.

## FREE CLE CLASSES IN YOUR OFFICE

Cantor Forensic Accounting offers free 2 hour CLE\* classes at your office. Working with you, I can customize a class on any Family Law accounting issue to meet your office needs and fulfill a minimum of two hours of CLE. Topics can include:

- ◆ Business valuation issues related to marital dissolutions
- ◆ Calculation of income
- ◆ Separate property tracing
- ◆ Document requests
- ◆ Marital Standard of Living
- ◆ Income tax issues related to marital dissolutions
- ◆ Reimbursement claims
- ◆ Stock option allocations

Please call David to receive more information on these classes.

\*The State Bar of Arizona does not approve or accredit CLE activities for the Mandatory Continuing Education requirements of Specialists. This activity may qualify for up to two hours toward your annual CLE requirement for the State of Arizona, including two hours of advanced level training in the area of Family Law. A minimum of 5 attorneys are required to attend.

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