

**IN THE COURT OF APPEALS
FIRST APPELLATE DISTRICT OF OHIO
HAMILTON COUNTY, OHIO**

STUART C. SCHAEFER,	:	APPEAL NO. C-150217
	:	TRIAL NO. DR-0600219
Plaintiff-Appellant,	:	
	:	<i>JUDGMENT ENTRY.</i>
vs.	:	
SALLY A. SCHAEFER, n.k.a.	:	
SACKETT,	:	
	:	
Defendant-Appellee.	:	

We consider this appeal on the accelerated calendar, and this judgment entry is not an opinion of the court. *See* S.Ct.R.Rep.Op. 2; App.R. 11.1(E); 1st Dist. Loc.R. 11.1.1.

Plaintiff-appellant Stuart C. Schaefer (“Schaefer”) appeals the judgment of the Hamilton County Court of Common Pleas, Domestic Relations Division, adopting the magistrate’s decision overruling his motion to modify child support and allocation of expenses. We affirm the court’s judgment.

Schaefer and defendant-appellee Sally A. Schaefer, n.k.a. Sackett (“Sackett”) divorced in 2007. At that time, Schaefer’s income was more than \$213,000 and Sackett’s was \$150,000. Under the parties’ decree of divorce, Schaefer was ordered to pay \$425 per month for child support for their two minor children. In their shared-parenting plan, the parties agreed that they would have equal parenting time and would equally divide all uninsured medical expenses. The parties agreed to divide the cost of extracurricular activities, with Schaefer paying 60 percent and Sackett paying 40 percent.

In December 2013, Schaefer filed a motion to terminate or reduce his child-support obligation and to modify the allocation of child-related expenses. Schaefer argued that his income had been substantially reduced so that he could no longer afford to pay the child support as ordered.

Following hearings on Schaefer's motion, the magistrate increased Schaefer's child-support obligation to \$1,074.71 per month and eliminated from the shared-parenting plan the 60/40-sharing provision for extracurricular activities. Both parties objected. Following a hearing, the trial court overruled all but one objection and adopted the magistrate's decision. The court sustained Schaefer's objection with respect to the magistrate's failure to allocate the cost of uncovered medical expenses, and ordered Schaefer to pay 56 percent and Sackett to pay 44 percent of the expenses.

In his first assignment of error, Schaefer argues that the trial court erred in calculating his child-support obligation. We review child-support matters under an abuse-of-discretion standard. *See Booth v. Booth*, 44 Ohio St.3d 142, 541 N.E.2d 1028 (1989).

Schaefer contends that the trial court should have imputed more than \$78,000 as employment income to Sackett based upon her former salary of \$150,000. But Sackett presented uncontroverted evidence that her position had been eliminated, that she could not obtain a similar position with a similar salary, and that potential positions for which she was qualified had salaries of approximately \$78,000.

Schaefer also contends that the trial court should not have included the parties' unexercised stock options as gross income in calculating child support. He claims that the exercise of the options qualified as nonrecurring or unsustainable cash-flow items because "he does not expect to receive income on a regular basis nor has he in the past." However, Sackett presented evidence that Schaefer had received option income in 2012 and 2013 and that he had vested stock options available to him through 2018 valued at the time at approximately \$630,000. Thus, the stock-option income was properly

included as gross income, defined under R.C. 3119.01(C)(7) to include “potential cash flow from any source.” *See Murray v. Murray*, 128 Ohio App.3d 662, 670, 716 N.E.2d 288 (12th Dist.1999).

Next, Schaefer contends that the court should have deviated from the basic child-support schedule after considering the R.C. 3119.23 deviation factors. However, the court is not required to consider the factors in cases where the parents’ combined income is greater than \$150,000. *See R.C. 3119.04(B); Reik v. Bowden*, 172 Ohio App.3d 12, 2007-Ohio-2533, 872 N.E.2d 1253 (1st Dist.).

We conclude that the trial court did not abuse its discretion with respect to the issue of child support. We overrule the first assignment of error.

In his second assignment of error, Schaefer argues that the trial court erred in allocating the payment of uninsured medical expenses. The shared-parenting plan required that the parties equally share these expenses, and the magistrate did not disturb the provision. But Schaefer objected, asking the trial court to order that “uncovered medical expenses be split pursuant to percentages of income.” The trial court did what Schaefer requested, so he cannot now complain. We find no abuse of discretion by the trial court. Consequently, we overrule the second assignment of error and affirm the trial court’s judgment.

Further, a certified copy of this judgment entry shall constitute the mandate, which shall be sent to the trial court under App.R. 27.

HENDON, P.J., DEWINE and MOCK, JJ.

To the clerk:

Enter upon the journal of the court on February 3, 2016
per order of the court _____.
Presiding Judge