

Brian G. Paul Convinces Appellate Division To Terminate Alimony Based Upon Cohabitation Without The Need For A Trial

Brian G. Paul, an established Family Law attorney, recently convinced the Appellate Division to terminate alimony without the need for a trial, which may influence how similar cases are handled in the future. Normally, when a paying spouse provides evidence demonstrating that their former spouse may be cohabiting in a marriage-like relationship, the Trial Court schedules a trial in order to determine whether there is in fact cohabitation; and, if so, whether the economic benefit from the cohabitation eliminates or reduces the former spouse's need for alimony. However, Brian convinced the Appellate Division that a Trial Court Judge was correct when she deviated from normal course and terminated our client's alimony obligation on the basis of his former wife's cohabitation, without first requiring the parties to participate in a trial.

In this case, the parties were divorced in 1998. In support of his motion to terminate alimony, our client provided evidence demonstrating that his former spouse had been engaged in a marriage-like relationship since at least 2005. Specifically, he provided copies of public records showing that she and her paramour jointly owned, with rights of survivorship, a condominium in Florida that they purchased without a mortgage. He further provided evidence showing the couple had several joint bank accounts; took expensive vacations together; and lived together in a second residence in New Jersey. On the basis of this evidence, our client argued that given the economic benefit associated with the cohabitation, his former wife no longer had a need for alimony from him in order to

live comparably to the marital lifestyle.

In response to the motion, the former wife admitted that she had been cohabiting since 1999, but claimed she still had a need for alimony in order to live reasonably comparable to the marital lifestyle. Despite that claim, however, the former wife's case information statement showed that she now earned more than twice what she earned at the time of the divorce, and that she was receiving pension income from our client's defined benefit pension that was in pay status. The former wife's case information statement further showed that she now had the use of two residences (one in Florida and one in New Jersey), whereas she only had one residence at the time of the divorce.

Because the former wife admitted to the cohabitation, the sole issue in dispute was whether the cohabitation had eliminated her need for alimony. The Appellate Division agreed with Brian that the former wife had failed to demonstrate, even on a prima facie basis, that she still had a need for alimony, and therefore there was no need to subject the parties to an expensive and time consuming trial. Accordingly, the Trial Court's decision was affirmed in its entirety. In addition to this case, **Brian G. Paul has handled over 35 Family Law Appellate Division cases as well as several precedent setting cases that have helped shape New Jersey divorce law.**



Brian G. Paul

Arnold Lakind And Janine Bauer Secure Reversal Of Trial Court Insurance Case

In this case, our client, a contractor on a bridge project, was sued by several employees who claimed to have suffered illnesses as a result of exposure to lead. Following a verdict in favor of our client, the injured employees renewed their lawsuit, arguing that they lost the bodily injury case because the defendant had

concealed evidence. Our client requested its insurer, CIGNA, to defend and the insurance company refused. The client prevailed in the second trial brought by the employees, and retained Szaferman Lakind to sue CIGNA for the cost of defense. On appeal, CIGNA argued that their insurance policy only covered bodily

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