

Divorce/Family Law

Jackson v. Jackson

Brian G. Paul recently convinced the Appellate Division to affirm a trial court judge's decision that rejected a permanently disabled wife's request for permanent alimony after twelve years of marriage. In Jackson v. Jackson, the wife, who suffers from mental illness, was receiving social security disability benefits before the parties married. She continued to receive them at the time of trial.

Relying upon a New Jersey Supreme Court case, Lynn v. Lynn, Mrs. Jackson argued that her permanent disability entitled her to an award of permanent alimony. By way of background, in Lynn v. Lynn, the New Jersey Supreme Court had previously held that a wife, who became disabled during a short term marriage of seven years, was nevertheless entitled to permanent alimony as a result of her being economically dependent on her husband for support. Mrs. Jackson argued that her circumstance was the same as Mrs. Lynn, in that she would never be self-supportive, and that Mr. Jackson should therefore have to pay her permanent alimony.

Brian argued in the Appellate Division that the Jackson case was distinguishable from Lynn v. Lynn. He emphasized that Mrs. Lynn had become permanently disabled during her marriage, meaning her economic dependency was a misfortune of the marital partnership. In contrast, Mrs. Jackson's economic dependency was not created by virtue of anything that had happened to her during the parties' marriage. Rather, she found herself at the end of the marriage with the same psychiatric difficulties as she did in the beginning of the marriage.

The Appellate Division agreed with Brian that, if anything, the Trial Court's 11 year alimony award was generous to Mrs. Jackson, and affirmed the decision in its entirety.