



THE CHANGING WORLD OF **ALIMONY**

By Joel H. Feldman

Alimony is undergoing significant changes in Florida. The law is evolving as more women enter the workforce, obtain equal pay with men, and are capable of self-support. These factors, coupled with the decreased average life of a marriage, have reduced the number of cases in which permanent periodic alimony is awarded and have reduced the amount and duration of alimony awarded.

The Florida Statutes were amended a few years ago to grant former spouses the right to seek to reduce or eliminate their alimony obligations when their former spouse entered into a financially "supportive relationship" with another person, thus creating an opportunity to reduce or eliminate alimony even though the former spouse had not remarried. Cohabitation was a significant criterion but not essential.

Now, the concept of using the parties' lifestyle during the marriage as the basis to determine an alimony obligation has been seriously eroded. In the counties comprising the 4th District Court of Appeals (including Broward, Palm Beach and Martin), lifestyle is no longer the hallmark of what one must pay or what one must receive. Florida law has evolved from an analysis of one spouse's need and the other spouse's ability to pay based upon the history of income earned and expenses incurred during the marriage.

Instead, the recipient former spouse is entitled to alimony that is more than subsistence but which

does not include every luxury of married life. For example, in the past, wives who did not work outside the home could count on alimony that included almost all of the expenses they incurred during the marriage, such as regular hairstylist appointments, housekeepers, a clothing allowance, vacations, charitable donations, club memberships, and recreation. A divorce attorney would hire a forensic accountant to prepare a "lifestyle analysis" to review tax returns, bank statements, check registers, credit card accounts and other records of income and expenses to demonstrate not just what a spouse needs to meet expenses but what the parties' spending history had been.

Under recent case law, the standard has shifted. Lifestyle during the marriage is not nearly as relevant and, in fact, use of "lifestyle analyses" is of decreasing importance. Except, perhaps, for older spouses, spouses with very young children, or spouses with children with special needs, both spouses are expected to work and to contribute to their own expenses. The spouse with the lower income may still receive alimony but the luxuries of vacations, housekeepers, personal grooming and clothing allowances are no longer part of the other spouse's alimony obligations. As stated in *Levine v. Levine*, 964 So.2d 741, 742 (Fla. 4th DCA 2007), "[w]here a high standard of living is met during the marriage, the purpose of alimony is to provide for the less wealthy spouse above bare subsistence levels, not to fund the enjoyment of every little luxury enjoyed before the divorce."

Upon remand to the trial court, the previous award of alimony was significantly lowered to reduce or eliminate expenses such as computer supplies, donations, bottled water, videos,

books, music, donations and gifts, personal care, postage, and memberships, all of which were categorized as "unnecessary personal expenses."

It should be clear that alimony has not been eliminated. There are several different forms of alimony that can be appropriate in a given case. This article cannot explore all the new issues that have arisen concerning the amount and duration of alimony nor the various types of alimony that can be awarded and under what circumstances. An experienced divorce attorney, who is knowledgeable about the evolution of alimony, is essential. stb

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