

Spousal Maintenance and Retirement: How to Advise Clients in a Post "Lee v. Lee" World

Jana Aune Deach, Kim R. Bonuomo, and Perry Long

Published in MSBA Family Law Forum Winter 2012-13 (Vol. 21, No. 1.) Reproduced with permission. All rights reserved.

02.01.2013

As family law attorneys, clients look to us for advocacy, guidance and answers. We all advocate for our clients. Most of us try to give them guidance in helping them navigate through the troubling waters of the dissolution of a marriage and beyond. But how often can we give them the clear answers they want?

Nowhere is our inability to provide black and white answers more apparent than in the area of spousal maintenance. "Am I entitled to receive it?" "Will I have to pay it?" "How much will it be?" "For how long will it be?" "What if the payor dies?" "What if I can't get a job?" "What if I lose my job?" "Will I ever be able to retire?" are some of the multiple questions we face from our clients every day. We may have some guidance to offer and perhaps a "yes" or "no" to the first couple of questions. But we rarely can give all the assurances a client would like us to provide.

As the demographics of our society reflect an aging population approaching the traditional era of "retirement," the impact of retirement on the payment of spousal maintenance has become a significant topic for both our clients and those of us who practice in this area.

This article explores the current case law dealing with the impact of retirement on spousal maintenance awards and the questions left unanswered by the current law. We will also discuss how to best represent the interests of our clients in addressing the retirement issue when it comes to the payment or receipt of spousal maintenance.

Attorneys

Jana Aune Deach

Practice Areas

Family Law