



# ILLINOIS FAMILY LAW REPORT

The monthly guide to what's new and important.

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## IN THIS ISSUE

### ★ ARTICLE OF THE MONTH

Dissolution judgments from before the Maintenance Guidelines and Modification/Review of these Judgments after the Guidelines..... 101

### ▶ OPINIONS JUST RELEASED

#### AGREEMENTS:

Estate of Adames – Beneficiary’s trustee was required party that had to give assent to family settlement agreement ..... 102

#### ATTORNEY FEES:

McCormick – Scope of Section 508(b) exceeds enforcement actions and allows fees in cases of party misconduct (Rule 23) 102

#### CIVIL PROCEDURE:

Doe – Award of compensatory damages to woman sexually assaulted by former boyfriend, affirmed, but punitive damages reduced ..... 102

#### DOMESTIC VIOLENCE:

Doe – Award of compensatory damages to woman sexually assaulted by former boyfriend, affirmed, but punitive damages reduced ..... 102

Goodman – Wife failed to establish “Good Cause” for extension of plenary order of protection. Surveillance, in and of itself, is not prohibited (Rule 23) ..... 104

#### FAMILY AND FIDUCIARY RELATIONSHIPS:

Estate of Adames – Beneficiary’s trustee was a required party that had to give assent to family settlement agreement ..... 105

#### MAINTENANCE:

Dea – Despite wife’s increasing income, disabled husband failed to show a substantial change in circumstances and was denied an increase in maintenance..... 106

McCormick – Cohabitation finding against wife, affirmed. Wife guilty of witness tampering and ordered to pay attorney fees (Rule 23) ..... 107

#### PARENTAGE:

Parentage of Ervin C.-R – Abuse, neglect, or abandonment by one parent is sufficient for purposes of Special Immigrant Juvenile (SIJ) predicate findings..... 108

#### PROPERTY:

Adduci – Husband failed to overcome presumption of marital property with purported business checking account. (Rule 23)..... 109

■ INDEXES ..... 111



### ARTICLE OF THE MONTH

#### DISSOLUTION JUDGMENTS FROM BEFORE THE MAINTENANCE GUIDELINES AND MODIFICATION/REVIEW OF THESE JUDGMENTS AFTER THE GUIDELINES

By Jay A. Frank, Esq.

By way of background, Section 504 of the Dissolution Act was amended, effective January 1, 2015, to provide guidelines for the calculation of maintenance. Prior to this, there were no such guidelines. Section 801 of the Dissolution Act was

amended, effective January 1, 2016, to provide that amended Section 504 guidelines would apply to proceedings commenced after January 1, 2016.

Situations arise where a party to a Dissolution Judgment entered before January 1, 2015 initiates proceedings after January 1, 2016 for review of a maintenance award. Are the maintenance guidelines, which became effective after the Dissolution Judgment was entered, applied when the review proceedings are initiated after the guidelines became effective? The answer: it seems to depend on whether the case is in the Fourth or Second Appellate District.

The cases here are the Fourth District case of *In Re The Marriage of Kasprzyk*, 2019 IL App (4th) 170838 (2019) and the Second District case of *In Re The Marriage of Brunke*, 2019 IL App (2d) 190201. The Fourth District *Kasprzyk* case dealt with a maintenance review. The court looked to Section 801(c) of the Dissolution Act and determined that the guidelines should be applied as the review proceedings were commenced after January 1, 2016. The court concluded that the statutory scheme in Section 801(c) did not differentiate between maintenance modification proceedings and maintenance review proceedings, and control both. Accordingly, it was held that the guidelines would apply in this proceeding for maintenance review. The decision came down in April, 2019.

Then came the Second District *Brunke* case decided six months later in December, 2020. The court found that maintenance review proceedings were different from modification proceedings, and that the language of Section 801(c) did not include or control review proceedings. Since this was a case for review of maintenance, the guidelines would not be applied. Instead, the court looked back at the parties' lifestyle at time of the judgment. The financial parameters at that time set the scope of

the current entitlement of the party seeking further support. Therefore, the payor's increased income, which had doubled since the divorce, was of no consequence, as it was his pay level at the time of judgment that set the parties' lifestyle.

These two appellate cases, which clearly go in different directions, cannot be reconciled. We will just have to wait and see how the Supreme Court resolves this conflict between the districts.

*Jay A. Frank is a matrimonial practitioner in Chicago, Illinois with over 40 years of experience. He has been selected as one of the top family law attorneys in Illinois.*

#### ► AGREEMENTS

##### **Beneficiary's Trustee was Required Party that had to Give Assent to Family Settlement Agreement.**

See *Estate of Adames*, page 105.

#### ► ATTORNEY FEES

##### **Scope of Section 508(b) exceeds Enforcement Actions and allows Fees in Cases of Party Misconduct.**

See *McCormick*, page 107.

#### ► CIVIL PROCEDURE

##### **Award of Compensatory Damages to Woman Sexually Assaulted by Former Boyfriend, Affirmed, but Punitive Damages reduced.**

See *Doe*, page 102.

#### ► DOMESTIC VIOLENCE

##### **On Review, Jury Verdict Awarding Compensatory Damages to Woman Sexually Assaulted by Former Boyfriend, Affirmed. Punitive Damages Reduced from \$8 Million to \$1 Million.**

*JANE DOE, Plaintiff-Appellee, v. BEAU PARRILLO, Defendant-Appellant.* September 28, 2020, Ill.App.Ct. 1st District, No. 1-19-1286, 2020 IL App (1st) 191286, James Michael Varga, trial judge.

Jane Doe sued Beau for allegedly physically and sexually assaulting her. Doe alleged her former boyfriend, Beau, assaulted her four times by choking her, striking her with a closed fist in the face and

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