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**Voluntary Resignation from Employment Does Not Justify Reduction of Alimony
Paid Pursuant to Post-Nuptial Agreement**

Williams v. Williams, Lancaster Co. CCP, CI-99-06533 (June 19, 2008)

*This decision was published in the Pennsylvania Divorce and Domestic Relations Reporter, 108 PDDRR 87 p. 321.

In Williams v. Williams, Judge Leslie Gorbey of Lancaster County determined that, pursuant to the parties' Post-Nuptial Agreement, Husband could not unilaterally reduce his monthly alimony payments to Wife when his loss of employment was a result of voluntary resignation and not termination. Although Husband argued that he was, in fact, fired from his job, the Court found that Husband had not presented any evidence to corroborate this fact. Thus, the Court held that Husband was to continue to pay alimony to Wife at the amount set forth in the parties' Agreement, including arrearages, and was required to reimburse Wife for attorneys' fees incurred to enforce the Agreement.

Prudence Williams ("Wife") and James Williams ("Husband") were divorced in Lancaster County in 2002. As part of their divorce settlement, the parties entered into a Post-Nuptial Agreement ("Agreement") to resolve all pending economic issues, including alimony. The Court recited the Agreement's alimony provision as follows:

Husband would pay to Wife alimony in the amount of \$5,500.00 per month until he reaches 65 years of age, unless he loses employment involuntarily and through no fault of his own, such as because of illness or a non-negotiated corporate decision to fire him, causing a substantial reduction of income. In such a case, there was to be a rebuttable presumption that the stated amount of alimony would be reduced by a percentage equal to the Husband's percentage reduction of income, though no lower than to \$3,000.00 per month.

Williams v. Williams, 108 PDDRR 87, p. 321.

At the time that the parties signed the Agreement, Husband was employed at a Lancaster company. Shortly after signing the Agreement, Husband switched jobs and became the President, CEO and a board member of Monterrey Gourmet Foods ("Monterrey"). In September of 2006, Monterrey issued a press release, written by

Husband, stating that Husband was resigning from the company for “personal reasons.” Upon resignation, Husband received a severance package of one year’s salary and significant fringe benefits. In September of 2007, when Husband stopped receiving his salary from the severance package, Husband, without notification, reduced his alimony payment to Wife to \$3,000.00 per month. Husband subsequently obtained employment with Carlos Pasta in March of 2008. At that time, he increased his alimony payment to Wife to \$3,700.00 as his new salary was approximately two-thirds of his Monterrey salary.

In response to Husband’s unilateral reduction in her alimony, Wife filed a Petition to Enforce the Post-Nuptial Agreement. Husband replied in opposition. The Court then held a hearing on the matter. At the hearing, Husband testified as to the circumstances of his loss of employment with Monterrey. Husband stated that he was fired by Monterrey’s board of directors and did not leave his position voluntarily. With regard to the press release authored by him, Husband stated that the release’s, “characterization of his firing as a resignation was done in order to help his future employment search and so as not to have a negative effect on shareholders.” *Id* at 322. Husband further explained that both the press release and the substantial severance package were “merely ways to make life easier for himself and the company in the negative face of his firing.” *Id*.

Following this testimony, the Court determined that Husband had voluntarily terminated his employment with Monterrey and granted Wife’s Petition. The Court ordered Husband to pay Wife \$5,500.00 per month until he reaches the age of 65 as set forth in the Agreement. It should be noted that the Court continued Wife’s alimony at \$5,500.00 per month despite the fact that Husband’s salary at his new job was significantly less than what he earned at Monterrey. The Court also ordered Husband to pay all arrearages and Wife’s attorney’s fees related to the Petition. Husband appealed this decision.

In its opinion, the Court began its explanation of the decision with a recitation of Pennsylvania’s well-established case law regarding interpretation of Post-Nuptial Agreements. The Court found that the Agreement unambiguously stated that the only time that Husband could reduce his alimony payments to Wife was if his income decreased as a result of involuntary unemployment. After finding the language of the Agreement’s alimony provision clear on its face, the Court turned to the issue of whether Husband had voluntarily resigned from his position with Monterrey, as the press release stated, or was in fact, fired, as Husband testified. While the Court noted that corporations often issue press releases which provide less than the whole truth about a company’s internal affairs, the Court found no reason to accept Husband’s testimony as an accurate account of his loss of employment. The Court explained as follows:

Frankly, there is insufficient evidence to convince the Court that Husband lied in the press release when lying was in his favor, but was truthful in his testimony when the effect of the press release’s message changed and was not longer in his favor. If Husband lied to turn things to his advantage then, why should he not lie now for the same reason?

Id. Furthermore, the Court found that Husband did not present any fact witnesses or documentary evidence to corroborate his testimony. Therefore, the Court determined that Husband had resigned from his position and thus violated the parties' Agreement when he reduced Wife's alimony to \$3,000.00 per month. Husband appealed this decision to the Superior Court. Following Oral Argument, the Superior Court affirmed the lower Court's decision in an unpublished decision on April 29, 2009.

In divorce litigation, counsel is often presented with a set of challenging facts. "Voluntary quits" are difficult enough in the Unemployment Compensation arena. However, in the alimony, spousal and child support hearing they are particularly challenging when it is "my word against your word" and even more difficult when it is "my word" alone. It is also difficult and perplexing to contact past employers and human relations personnel whose primary goal is to not assist so as to not get sued for slander or wrongful termination. Therefore, it is important that counsel gather all documentary evidence and witness testimony available, and most importantly, tell our clients in no uncertain terms that it is a "steep uphill climb."

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