

ARTICLES WRITTEN BY FRANK A. LOUIS
FAMILY LAW SYMPOSIUM ARTICLES

JANUARY 2017 FAMILY LAW SYMPOSIUM

"Spousal Duty: What Is It And How Can It Be Used?"

"Brown Does Not Eliminate Minority Discounts As A Matter Of Law"

JANUARY 2016 FAMILY LAW SYMPOSIUM

"Five Issues Lawyers Fail To Argue"

Issue I: "Should Negative Equity of a Marital Asset or of a Pre-Marital Asset Accruing During the Marriage and Created by Marital Effort Be Subject to Division Under N.J.S.A. 2A:34-23.1"

Issue II: "Regular and Ongoing Parental Gifts Must Be Considered and Not Ignored in the Support Analysis If the Ultimate Result is Truly to Be Fair and Economically Realistic"

Issue III: "Is Gambling a Dissipation As A Matter Of Law - The Policy Consideration"

Issue IV: "Attorney's Fail to Apply for Counsel Fees in a Domestic Violence Action Where Fees Are Considered Compensatory Damages and Not subject to the Court's Discretion"

Issue V: "A Cap on the Marital Lifestyle Should Be Defined By the Parties' Expenditures During the Marriage, and Not the Income Received During the Marriage"

SEPTEMBER 2015 FAMILY LAW SYMPOSIUM

"The Role and Responsibility to Supervise Spousal Agreements: What is Supervisory Control and What Does it Mean?"

JANUARY 2015 FAMILY LAW SYMPOSIUM

"10 Arguments Lawyers Fail to Make"

"Value to the Holder, Not Fair Market Value, is the Correct Standard to Value a Professional Practice in New Jersey"

2014 PIVOTAL ISSUES IN EQUITABLE DISTRIBUTION

"Increase in Value of Pre-Marital Assets"

"Payment of Pre-Marital Obligations Such as Alimony, Child Support, Student Loans, With Marital Funds is a Factor Justifying a Lesser Distributable Share of the Marital Assets"

"There Are Substantial Legal Arguments to Be Utilized When Counsel Seeks to Convince a Court A Plenary Hearing Should Not Be Ordered"

"An Executory Equitable Distribution Provision May Be Subject to Modification Under R. 4:50-1 If Compelling Circumstances Exist"

JANUARY 2013 FAMILY LAW SYMPOSIUM

"Selecting the Percentage in Asset Division"

"Seven Arguments Lawyers Fail to Make"

Issue #1: The Necessity for the Law to be Balanced Requires a Court to Give Consideration to Loss Of Value of a Pre-Marital Asset for Active Reasons as it Would Give to an Increase Caused by Active Reason

Issue #2: Can a Loss of Child Support Justify an Increase in Alimony?

Issue #3: Lawyers Too Easily Accept Utilization by Forensic Accountants of Salary Studies in Determining Reasonable Compensation in Light of Existing Law in How Such Compensation is to be Determined

Issue #4: Lawyers Should Consider Using Variable Alimony Awards in Resolving cases in Today's Economy. Provisions Should be Considered to Address Incremental Support Increases in Cases Where the Supporting Spouse/Parent's Income is Variable

Issue #5: Property Acquired in Contemplation of a Personal Relationship Should be Treated Differently Than Property Acquired in Contemplation of Marriage

Issue #6: Cohabitation By The Supported Spouse Does Not End the Alimony Inquiry; it is Only the Beginning

Issue #7: Conditioning Use of Dependency Exemption Upon Child Support Being Current as of Year End

"Selecting the Percentage in Asset Division"

"Consideration of Theoretical Tax Consequences in Equitable Distribution"

"The Orgler Decision" What It Means and How to Use It"

JANUARY 2012 FAMILY LAW SYMPOSIUM

"A New Proposed Standard for Equitable Distribution"

"Arguments Lawyers Fail to Make"

Argument I: The Imposition of Default Interest Should Be a Standard Provision in Any Agreement Where There is a Payout of Equitable Distribution

Argument II: Lawyers Fail to Make the Argument That a Logical Distinction Exists in the Percentage to Be Allocated to the Non-Titled Spouse for a Marital Asset as Opposed to and Contrasted With the Appreciation of a Pre-Marital Asset Should the Appreciation of a Pre-Marital Asset Be Allocated as a Marital Asset

Argument III: Property Settlement Agreements Addressing Life Insurance Correlates to the Amount to Be Secured or, Alternatively, the Right to Reduce the Death Benefit

Argument IV: Child Support Should Not Be Equally Allocated Amongst Multiple Children

Argument V: In Certain Limited Circumstances Annuitization of an IRA Authorized by the Internal Revenue Code May Be an Appropriate Source of Money to Deal With Emergent Situations

Argument VI: Collecting Counsel Fees for Enforcement Purposes Can Be Enhanced Under Two Separate Legal Theories Provided a Property Settlement Agreement is Properly Prepared

Argument VII: Targeted Interrogatories or Demands for Admissions Should Be Utilized to Supplement Initial Forms

Argument VIII: The Willingness of Lawyers to Stipulate Their Client Can Maintain the Marital Lifestyle is Starting, Unnecessary and Potentially Prejudicial to Your Client

Argument IX: It is Common Practice when Negotiating a Child Support Provision for a Child Attending College to Have a Step-Down But Is It Right?

Argument X: In Completing a Case Information Statement the Column Which Requires the Marital Lifestyle Expenses to Be Included Should Not Include Those Expenses for the Supported Spouse That the Supporting spouse Will Not Be Required to Pay in

the Future

JANUARY 2011 FAMILY LAW SYMPOSIUM

"S" Corporations and Divorce"

"A Proposed Jurisprudential Standard for Resolution of Family Law Issues"

"A Subpoena is Served for an Expert's Deposition Compelling All Prior Reports Written on the Same Subject Matter Be Produced. Is There a Permissible Discovery Request?"

"Crews/Hughes and the Marital Lifestyle: Eliminating the Confusion"

JANUARY 2010 FAMILY LAW SYMPOSIUM

"The Percentage Allocation of Active Assets"

"Eight Arguments Lawyers Fail To Make"

Issue I: How to Argue a *Lepis* Provision Expressly Precluding a Downward Modification May Nonetheless Still Be Modified

Issue II: The Case of *DeVita v. DeVita* does Not Establish a Legal Principle That in Every Case *Pendente Lite* a Person of the Opposite Sex Cannot Overnight Be in the Presence of the Children

Issue III: It is Not Common Practice for Counsel to Either Seek at Trial or Through Negotiations Establishment of a Fund to Secure the Future Educational Expenses of a Child

Issue IV: Under Limited Circumstances Retirement Funds Can Be Accessed Without Penalty Under-Utilized IRA Withdrawal Provision

Issue V: The Principles of Wadlow v. Wadlow Precluding Consideration of a Real Estate Commission in the Distribution of the House Should Not Be Viewed as Absolute; Rather, the Issue Should Be Determined Based on the Economic Reality of the Parties' Circumstances

Issue VI: A Material Factor in the Analysis of Whether a Case Requires Permanent or Limited Duration Alimony is the Impact of Children on the Dependent Spouse's Earning Capacity

Issue VII: There Are Substantial Legal Arguments to Be Utilized When Counsel Seeks to Convince a Court a Plenary Hearing Should Not Be Ordered

Issue VIII: Division of Commercial Real Estate Owned by an LLC Generally Ignores a Distributable Element of Value Not Directly Related to the Real Estate Value

JANUARY 2009 FAMILY LAW SYMPOSIUM

"Palimony: A New Approach"

"The Ten Arguments Lawyers Should But Fail To Make"

Argument I: Payment of Pre-Marital Obligations Such as Alimony, Child Support, Student Loans, With Marital Funds is a Factor Justifying a Lesser Distributable Share of the Marital Assets.

Argument II: The Ability of the Dependent Spouse to Deduct Legal Fees For Alimony is a Factor Lawyers Should Note in Opposing a Counsel Fee Application

Argument III: Age: The Most Overlooked Factor

Argument IV: Lawyers Do Not Utilize the Remedial Provisions of R. 5:3-3(c) Which Confirms the Policy That Where Parties Take

Unreasonable Positions Fee Reimbursement is Appropriate.

Argument V: The Typical Restraint *Pendente Lite* is Generally Inadequate and Fails to Protect the Non-Titled Spouse from Self-Dealing and Dissipation of Valuable Cash Flow in Corporate situations

Argument VI: Attorneys Frequently Fail to Distinguish Between Situations Where Pre-Marital or Otherwise Immune Assets Are Transferred to Joint Names But Without Donative Intent

Argument VII: In Determining the Allocable Percentage to the Non-Titled Spouse of a Real Estate Asset, an Argument Can and Should Be Made That a Distinction Exists Between the Allocable Share of a Closely Held Corporation and the Distributable Interest in Commercial Real Estate

Argument VIII: The Standard for *Pendente Lite* Support is Not Maintenance of the Status Quo; Rather, It Is the Obligation of the Court to Apply the Statutory Factors to Come to a Fair Result

Argument IX: The Concept That a Support Order Cannot Be Subject to Modification If the Change in Circumstance is Temporary is Wrong Both as a Matter of Law and Policy

Argument X: Cars and Children: Whose Expense Should It Be?

JANUARY 2008 FAMILY LAW SYMPOSIUM

"May An Ongoing Alimony Obligation Be Terminated Or Modified Simply Because It Is No Longer Fair And Equitable Without A Substantial Change In Circumstances; Is The Change In Circumstance Requirement A Substantive Part Of Our Alimony Law Or A Procedural Requirement That Cannot Prevent Modification Of A Spousal Support Agreement That Is No Longer Fair And Equitable?"

"May A Court Consider Expenses A Spouse Incurs For A Fully Emancipated Child On An Initial Determination Or Modification Of Alimony, Or Are Such Expenses Barred From The Alimony Analysis Because They Represent Back Door Child Support?"

"Your Client Demands On Settling But Discovery Is Not Complete. What Language Can Be Added To A Property Settlement Agreement?"

JANUARY 2007 FAMILY LAW SYMPOSIUM

"Equitable Distribution Value: An Alternative to Fair Market Value"

"Crews/Hughes and The Marital Lifestyle: Eliminating The Confusion"

"If The Titled Spouse Compensates The Non-Titled Spouse For The Value Of An Asset And Subsequently The Asset Is Sold, Are The Proceeds Treated Like A Pension Under the Statute Or Is The Income Generated Available For Alimony Consideration?"

"The Inefficient Lawyer"

"Article for Matrimonial Strategist" Fair Market Value, Fair Value, Investment Value, Analysis, Personal versus Enterprise Goodwill, Shareholder Level Discounts, Buy/Sell Agreements

"The Linkage of Policy and the Valuation Standard: The End of Fair Market Value - What Brown v. Brown Really Means"

"How Should Pre-Marital Cohabitation Be Considered in the Alimony Analysis?"

"May A Supporting Spouse In Their Late 50's Or Early 60's Reduce Their Work Load And Their Income And Seek To Reduce Their Alimony Obligation: An Analysis Of The Inter-Relationship Between Spousal Agreements Only Being Enforceable If They Are

Fair And Equitable And The Law Concerning Voluntary Conduct"

"The Concept That Spousal Awards Are Only Enforceable to the Extent They Are Fair and Equitable Must Prevail When It Conflicts With a Change Which is Deemed Temporary"

JANUARY 2006 FAMILY LAW SYMPOSIUM

"The Linkage Policy and the Valuation Standard: The End of Fair Market Value What Brown v. Brown Really Means"

"Seven Cutting Edge Issues"

Issue I: "In Utilizing The Fair Market Value Standard For Valuing A Distributable Asset Under N.J.S.A. 2A:34-23.1 Should There Be Any Impact On Valuation If Seller Financing, I.E. A Deferred Distribution Is Involved"

Issue II: "Should There Be Some Economic Consideration Granted to the Non-Titled Spouse In Recognition Of The Time Difference Between Asset Valuation And Distribution"

Issue III: "The Concept That Spousal Awards Are Only Enforceable to the Extent They Are Fair And Equitable Must Prevail When It Conflicts With A Change Which Is Deemed Temporary"

Issue IV: "An Executory Equitable Distribution Provision May Be Subject To Modification Under R. 4:50-1 If Compelling Circumstances Exist"

Issue V: "Where Children Are Not An Issue And The Parties Are Unable To Maintain Comparable Lifestyles, An Issue Exists As To An Income Imputation Stating The Residential Property"

Issue VI: "The Age Of The Business Owner Should Be A Significant Factor In Fairness Of Any Distribution To Be Made Under N.J.S.A. 2A:34-23.1 This Is Particularly True In A Professional Practice"

Issue VII: "Experts Should Be Able To Consider Post-Filing Events In Determining Distributable Value Under N.J.S.A. 2A:34-23.1"

JANUARY 2005 FAMILY LAW SYMPOSIUM

"Economic Realism: A Proposed Standard"

JANUARY 2004 FAMILY LAW SYMPOSIUM

"A Spousal Fiduciary Responsibility: What Is It and How To Use It"

JANUARY 2003 FAMILY LAW SYMPOSIUM

"The Linkage of Policy and the Valuation Standard The End of Fair Market Value What Brown v. Brown Really Means"

JANUARY 2002 FAMILY LAW SYMPOSIUM

"An Analysis of Cox v. Cox: How to Determine Whether Permanent or Limited Duration Alimony is Appropriate." The Economic Impact on the Parties of Child-Rearing Responsibilities for the Children of the Marriage; The Distribution of Property Acquired During the Marriage and The Ability of Either Spouse to Have Acquired Such Assets Throughout the Marriage; The Fairness of Either Spouse Enjoying a Standard of Living Comparable to That Enjoyed During the Marriage and the Ability of Either Spouse to Have Acquired Such Assets Throughout the Marriage; The Fairness of Either Spouse Enjoying a Standard of Living Comparable to That Enjoyed During the Marriage Given the Parties' Financial and Non-Financial Contributions to the Development, Maintenance and Acquisition of Income or Assets Which Supported the Marital

Lifestyle; The Use and Dissipation During the Marriage of the Parties' Pre-Marital Assets; What Does "Unusual Circumstances" Mean?; Impact of Pre-Marital Cohabitation; The Bright, Articulate Dependant Spouse; The Impact of Age

"Should Marketability Discounts Apply in Valuing Assets to be Distributed Under N.J.S.A. 2A:34-23.1

JANUARY 2001 FAMILY LAW SYMPOSIUM

"Distribution: The Art of Equitable Distribution"

"Choices Available When Distributing the Former Marital Home"

"Letter to Judge Re: Legal Issue Relative to Establishment of Support in Guideline Case"

"The Practical Implications of Crews v. Crews"

"The Marital Lifestyle: To Whom Does It Belong?" A Review of the Statutory Requirement of Reasonable Comparability and Its on Alimony Law

"Limited Duration Alimony"

JANUARY 2000 FAMILY LAW SYMPOSIUM

"Age: The Most Overlooked Issue in Our Practice"

JANUARY 1999 FAMILY LAW SYMPOSIUM

"Pre-Marital Assets: Proving and Defending Against Claims of Distributability"

JANUARY 1998 FAMILY LAW SYMPOSIUM

"*Pendente Lite* Relief: A Proposed Legal Standard"

"The Marital Lifestyle: To Whom Does It Belong?"

JANUARY 1997 FAMILY LAW SYMPOSIUM

"Distribution: The Art of Equitable Distribution"

JANUARY 1995 FAMILY LAW SYMPOSIUM

"Equitable Distribution Value: An Alternative to Fair Market Value"