

Boulder COUNTY

BAR ASSOCIATION

WHAT'S NEXT FOR SPOUSAL SUPPORT IN 2019?

JENNIFER SHAW HUSTON

JFAB
Sponsorship
Page 5

Given all the changes to tax law and Colorado spousal support, how can we properly advise clients on what they can expect if their case is put to a trier of fact? While much is uncertain, I'll attempt to lay out some of what we know and what we don't as we approach the new year.

Most of the recent changes to spousal support were triggered by The Tax Cut and Jobs Act, which Congress enacted in December of 2017. Regarding spousal support, the Act eliminates the alimony/maintenance deduction for payors of spousal support as of January 1, 2019 for all separation agreements executed after December 31, 2018. For those separation agreements subject to the Act, alimony/maintenance payments are no longer deducted from the payor's income and included in the payee's income. The Act also eliminates the deduction for separation agreements executed on or before December 31, 2018, if modified after that date and if the modification expressly provides that the amendments apply to the modification. The express language requirement suggests that courts will have discretion to apply the amendments to a modification of spousal support and that parties will be able to agree that the amended language does not apply. The risk of losing the alimony/maintenance deduction must be considered when a payor contemplates filing for a modification of a support order entered prior to January 1, 2019.

IN THIS ISSUE

SPOUSAL SUPPORT IN 2019 1-2
 PRESIDENT'S PAGE 3
 CALENDAR OF EVENTS 4
 JUSTICE FOR ALL BALL 2019 5-6
 NEW MEMBERS 7
 PROFESSIONALISM & PRO BONO 8
 COURT ANNOUNCEMENTS 9
 CLASSIFIED ADS 10



SPOUSAL SUPPORT CONTINUED

In reaction to the changes posed by The Tax Cut and Jobs Act, the Colorado Legislature passed the House Bill 18-1385 aka the “maintenance fix” bill, which was signed on May 24, 2018 and became effective on August 8, 2018. There are several significant changes to maintenance. As a preliminary matter, it reduces the annual income cap of both parties from \$360,000 per year to \$240,000 for the application of the guidelines. The rationale underlying that change is that the finances and tax treatment are more complicated for parties with joint income that exceeds \$240,000 per year. If the gross combined income of the parties is greater than \$240,000, the Court must then consider the maintenance factors of subsection (3)(c) and no formula for the calculation of maintenance applies. The Court may consider the guideline term, but it is not required. The maintenance formula has also changed. Under the prior statute, maintenance was calculated by subtracting 50% of the lower income party's income from 40% of the higher income party's income. Under the new formula, maintenance is calculated by subtracting 100% of the recipient's income from 40% of the total income of both parties. If the calculation results in a negative number, the amount of spousal support is zero. Importantly, in an attempt to address the elimination of the alimony/maintenance deduction, the new statute applies a discount to the maintenance calculation when maintenance is not deductible by the payor and includable in the recipient's income. If the spousal support is not deductible to the payor and the combined monthly income of the parties is less \$10,000 the final spousal support figure is discounted by 20%. For cases where the gross income of the parties is more than \$10,000, but less than \$20,000, the final figure is discounted by 25%. For those cases where combined gross income is more than \$20,000 a month and the Court thus applies the traditional maintenance factors, the Court should also consider whether the alimony/maintenance is deductible in determining the amount and term of maintenance. Consequently, a Court's initial findings shall now include whether maintenance is tax deductible.

How do the state and federal changes work in concert to impact the outlook for spousal support and taxes in 2019? As a result of The Tax Cut and Jobs Act, most tax rates have been reduced. This means most people will pay less. The 2018 tax rates are 10%, 12%, 22%, 24%, 32%, 35%, and 37%. For the higher income party that is

paying spousal support and income tax in any tax bracket (22%, 24%, 32% 35% or 37%) that is higher than the discount that they receive (20%-25%), the application of the amendments will result in less cash available per month after the payment of maintenance and income taxes. This result occurs when the payor's highest tax bracket is higher than the discount provided by the Colorado maintenance fix. The new maintenance law will also impact the pocketbook of the recipient spouse whose highest tax bracket is lower than the 20-25% discounts provided by the new Colorado maintenance statute. The changes are anticipated to have a bigger impact on the payors of spousal support rather than recipients, but neither will be impacted significantly.

I was recently presented with an agreement by the parties in a dissolution case to sign a Separation Agreement in 2018, but delay the entry of the Decree of Dissolution until 2019 so the parties can file married jointly for 2018 and pay less taxes, but also take advantage of the deductibility of maintenance. Could such a maneuver impact the deductibility of maintenance? There is no official IRS guidance on this issue, but in my opinion the plain language indicates that a signed separation agreement executed by December 31, 2018 is enough. Given the uncertainty though, if you have any cases where the parties will execute a separation agreement by December 31, 2018, but desire to delay of the entry of the Decree of Dissolution until after the first of the year, I believe it would be wise to advise clients in writing of the risks and uncertainty of delaying the entry to the Decree absent an official IRS guidance on the issue.

In conclusion, while the Colorado maintenance bill reduces the impact of the elimination of the alimony/maintenance deduction, it is not a perfect fix, and there will be a financial implication to most parties entering into Separation Agreements after December 31, 2018. So, avoid the urge to fall into a holiday lull and get drafting those Separation Agreements.

Jennifer Shaw Huston is a member of the BCBA Family Law Section. She can be reached at jenniferhuston@colo-law.com.

PRESIDENT'S PAGE

BRAD HALL

In the early spring of this year, I began thinking about the monthly column I would need to write each and every month for an entire year. Stress associated with developing something new to impart to fellow lawyers every month turns out to be a pretty common concern for incoming bar presidents if the amount of advice available on the internet is any measure. The most common advice was to not stress out about the column and write about what you know or enjoy.

When I started planning how these monthly masterpieces would play out over the year, I had no intention that it might turn into a travelogue. But after last month's trip to Germany, I had the opportunity to travel to Thailand to visit my brother, who has retired there. This column comes to you from the beach in Phuket. It is great work if you can get it!

Something that I always try to do when I visit another country is stop by a local courthouse or law office and see if I can learn something firsthand about a different legal system. I had the opportunity to watch a very small portion of a first degree murder trial in Hobart, Tasmania, a very rare occurrence. The bailiff invited me into the courtroom as the crown was making its closing argument. I declined given I did not want a packed courtroom turning to see me standing there in cargo shorts, t-shirt and sandals.

To this point, I have not had the opportunity to get into a Thai courtroom, but I hope to next week when we move on to Chiang Mai. I do want to pass on a story he told me about a neighbor of his who had a run-in with the Thai legal system. A dispute in a bar over a couple of drinks led to a young woman being pushed, a punch being thrown, and ultimately a femur being snapped, which ended the fight. Neither of the two combatants was Thai. The victim had several thousand dollars in medical bills and a permanent



rod in his leg. He was told both by the police and his lawyer that the matter just could not be pursued because no Thai citizens were involved and no one would care. I am sure there is more to this story, but I was struck by the sheer blatancy of him being told that the justice system is not for him because of his nationality.

I know that too many times our justice system can turn a blind eye to those most in need of justice. I also know that when I think about whether to accept a new client, one of my first thoughts is how he or she will be perceived by whatever decision maker might pass judgment on the matter, regardless of the merits of the case. I imagine we all do this in some form or fashion. So, if I actually come back from Thailand next week, I am going to do my level best to do my small part to help ensure that we can, as a profession, make sure that it will never come to pass that we will have to tell a client we are sorry but the justice system just is not for them.

The sun is now setting in Phuket, and it is amazing. I am sure it will help lessen the stress of writing next month's column.

CALENDAR OF EVENTS

Wednesday, December 5

PARALEGAL

Mediation in Domestic Law

Presented by James A. Lionberger

12:00 PM @ Bryan Cave Conference Room

Free to attend, \$12 Lunch

[Register Here](#)

Wednesday, December 5

CIVIL LITIGATION

An Attorney's Duty

Presented by Phi-Hang Tran

12:00 PM @ Boulder County Justice Center

1 Ethics Credit - \$25 CLE, \$15 New/Young Lawyer

[Register Here](#)

Thursday, December 6

BUSINESS

Blockchain Year in Review

Presented by Larkin Reynolds

12:00 PM @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register Here](#)

Friday, December 7

AVAILABILITY OF LEGAL SERVICES

Monthly lunch and roundtable

2:00 PM @ Boulder County Legal Services

Wednesday, December 12

WOMEN'S BAR HAPPY HOUR

5:00 PM @ License No. 1

Wednesday, December 12

CRIMINAL

A Discussion with Michael Dougherty & Nicole Collins

Presented by Michael Dougherty & Nicole Collins

12:00 PM @ Dickens Tavern, Longmont

\$25 CLE, \$15 New/Young Lawyer, \$16 Lunch

[Register Here](#)

Thursday, December 13

BOULDER FREE LEGAL CLINIC

5:30 PM @ Sacred Heart of Jesus Church

[Register Here](#)

Tuesday, December 18

ELDER

Best Practices for Reverse Mortgages

Presented by Gabe Bodner

12:00 PM @ BCBA Conference Room

\$25 CLE, \$15 New/Young Lawyer

[Register Here](#)

Thursday, December 20

BANKRUPTCY

Monthly lunch and roundtable

12:00 PM @ Kathmandu Restaurant

DAVID J. DRISCOLL

Representing plaintiffs in personal injury and insurance bad faith cases with integrity, diligence, and results

HutchinsonBlackandCook LLC

Attorneys at Law

📞 303.442.6514

921 Walnut Street, Ste 200
Boulder, CO 80302

ONLINE AT:
www.hbcboulder.com



2019 Boulder County Bar Foundation



JUSTICE FOR ALL BALL

Saturday, March 9 at 7 pm
The Studio
3550 Frontier Avenue, Boulder

About JFAB

17 years ago, the Boulder County Bar Association started a fundraiser called Food Wine Jazz Art to benefit Colorado Legal Services. While this event was a great success, recent cuts to the federal budget made us realize two years ago that we needed to rebrand our event to draw a larger crowd and raise even more money for legal services.

The 2018 Boulder County Justice For All Ball was the beginning of our new era. We kept the event geared toward the legal community, but expanded further to include partners, clients, and friends. We held the event on a Saturday evening to accommodate those who find a weeknight event hard to attend and brought in members who have never attended a bar event. Our new space, The Studio, is an industrial chic venue that brought a fun new feel to our fundraiser. The event was a huge success.

We will have music and dancing led by the Diamond Orchestra. Their fun, sophisticated and soulful ensemble keeps guests of all ages and tastes entertained at the top venues in Colorado and beyond. There will also be a silent auction with some fabulous opportunities.

Hors d'oeuvres will be available along with delicious desserts from Bridge House Catering.

This year continues to bring new sponsorship opportunities if you are unable to attend but still want to contribute to a worthy cause. We are asking for Young Lawyer and Paralegal sponsorships to allow those that might not have the funds in their budget to purchase a ticket.

Justice For All Ball Available Sponsorships

Philanthropic - Only One Available!

Donation pledge - \$5,000

Number of sponsorships available - 1

Included tickets - 20

Mentions/Exposure

- Attendee Flyer Logo
- PR: Partner Quote in Daily Camera and placed PR Articles
- Signage in Young Lawyers Lounge
- Video loop at event
- BCBA website for one year on Find A Lawyer page
- Firm name and logo in all PR articles
- Event website
- Signage/banners at event

Altruistic

Donation pledge - \$2,500

Number of sponsorships available - 3

Included tickets - 16

Mentions/Exposure

- Signage in Young Lawyers Lounge
- Video loop at event
- BCBA website for one year on Find A Lawyer page
- Firm name and logo in all PR articles
- Event website
- Signage/banners at event

Magnanimous

Donation pledge - \$1,000

Number of sponsorships available - 5

Included tickets - 10

Mentions/Exposure

- Video loop at event
- BCBA website for one year on Find A Lawyer page
- Firm name and logo in all PR articles
- Event website
- Signage/banners at event

Humanitarian

Donation pledge - \$500

Number of sponsorships available - 10

Included tickets - 6

Mentions/Exposure

- Firm name and logo in all PR articles
- Event website
- Signage/banners at event

Lavish

Donation pledge - Any item of value for our silent auction

Number of sponsorships available - unlimited

Included tickets - 2

Mentions/Exposure

- Event website
- Signage/banners at event

Mentor

Donation pledge - \$500

Number of sponsorships available - 2

This level includes tickets for the mentor and one guest. Eight remaining tickets will be distributed to BCBA New/Young Lawyers and Paralegals who may not have the funds in their budget to buy a ticket.

Mentions/Exposure

- Firm name and logo in all PR articles
- Event website
- Signage/banners at event



MAKE
A
DIFFERENCE!

Questions? Suggestions?

Please contact Executive Director Laura Ruth at 303-440-4758 or laura@boulder-bar.org.

WELCOME NEW BCBA MEMBERS

Forest Kitzis
James West
Alexandra Evans
Lauren Taylor
Emily Gibson
David Strait
Samantha Thornton
Stephen Perkins
Nelissa Milfeld

When we bring our findings back to our clients, we're invariably met with this question:

"How did you know?"

The answer is always the same:

"We didn't know; we investigated. *Relentlessly.*"

Exceptional private investigators serving business and legal clients in Boulder & beyond.

(303) 974-7530

www.303Alpha.com

THE BCBA CONFERENCE ROOM

AVAILABLE TO BOOK



Please contact
Kyle@boulder-bar.org
at the bar offices to
reserve your space.
Rates are \$25 per
hour. 303-440-4758

PROFESSIONALISM ON CALL

December 3	Steve Clymer	303.530.2137
December 10	Mike Rafik	303.444.9292
December 17	Gwyn Whalen	303.443.8010
December 24	Lee Strickler	303.443.6690
December 31	Mark Langston	303.440.9684

The Professionalism Committee assists lawyers, clients, and other members of the community with questions or complaints about behavior by lawyers that fails to meet generally accepted standards of professionalism and courtesy, or that is contrary to the BCBA Principles of Professionalism.

The Professionalism Committee does not address allegations of criminal or ethical violations by lawyers, as regulated by the Colorado Rules of Professional Conduct, and any such violations should be addressed to the Office of Attorney Regulation Counsel.

BOULDER COUNTY FREE LEGAL CLINIC

The dates have been set for the 2018 Free Legal Clinics at the Sacred Heart of Jesus Church (1318 Mapleton Avenue), the Lafayette Senior Center (103 Iowa Avenue), and the Longmont Senior Center (910 Longs Peak Ave) from 5:30 - 7:30 pm. Volunteers are always needed. Please contact Laura at laura@boulder-bar.org if you can help in Boulder or Lafayette, or susan.spaulding@longmontcolorado.gov if you can help in Longmont.

Boulder: December 13

PRO BONO CORNER

Interested in a Pro Bono case? Please call Erika at 303-449-2197. CLE credits available for pro bono service.

PRO BONO REFERRALS

Eleven cases were referred during the month of October. Thank you to the following attorneys:

Susan Bryant
Christina Ebner
Renee Ezer
Chris Jeffers
Gary Merenstein
Roseann Murray
Colene Robinson
Bruce Warren
Bruce Wiener

Thank you to the following mediators who accepted a case in September:

Simon Mole

PRO SE VOLUNTEERS

Kathleen Franco
Ainagul Holland
Chris Jeffers
Tucker Katz
Zachary LaFramboise
Michael Mophew

BCAP VOLUNTEERS

There were no requests for a referral for the Boulder County AIDS Project in October.

COURT ANNOUNCEMENTS



Please join us for a
Retirement Celebration
in honor of
Judge Noel E. Blum



Friday, January 4, 2019 at 4:00 – 5:00 p.m.
Boulder County Justice Center
1777 6th St. Boulder, CO 80302
Jury Assembly Room

*Please join us for the Swearing-In Ceremonies of
Boulder County Court Judges...*

Judge Kristy Martinez and Judge Zachary Malkinson



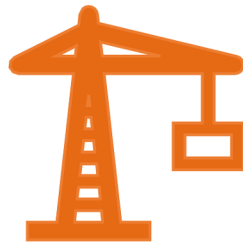
*January 7, 2018
4:00 p.m.
Courtroom F*

*Boulder County Justice Center
1777 6th St.
Boulder, CO 80302*

CLASSIFIED ADS

VIRTUAL PARALEGAL. Have a virtual office? You need a virtual paralegal. Civil. Criminal. Mobile Notary. References. Roz Lynn Dorf, M.A., Freelance Paralegal Services. (303) 494-6935 .

SINGLE OFFICE FOR RENT in the Mertes Law Building, 2235 Broadway, Boulder - between Mapleton and Pine. Available after January 1, 2019. Available parking, shared conference room. Please email interest larry@merteslaw.com.



BCBA YOUNG LAWYERS DIVISION UNDER CONSTRUCTION!

STAY TUNED FOR UPDATES!

WANT TO GET INVOLVED?

CONTACT BANAFSHEH LARI:

banafshehlari@colo-law.com

LAWPAY
CREDIT CARD PROCESSING

PAYMENT PROCESSING,
EXCLUSIVELY
FOR ATTORNEYS.

BOULDER COUNTY BAR ASSOCIATION
Proud Member Benefit Provider

1.95% per transaction | No swipe required | No equipment needed

www.lawPay.com/bcba | 866.376.0950

AffiniPay is a registered ISO/MSP of BMO Harris Bank, N.A., Chicago, IL

Boulder^{COUNTY} BAR ASSOCIATION

THE BCBA NEWSLETTER IS A MONTHLY ELECTRONIC PUBLICATION BY THE BOULDER COUNTY BAR ASSOCIATION. ARTICLES BY GUEST LAWYERS MAY NOT BE REPRODUCED WITHOUT PERMISSION FROM THE BOULDER COUNTY BAR ASSOCIATION OR THE AUTHORS.

COMMERCIAL ADVERTISING INFORMATION IS AVAILABLE BY CONTACTING
laura@boulder-bar.org
OR THE BAR'S WEBSITE
www.boulder-bar.org

