

FIRM NEWSLETTER

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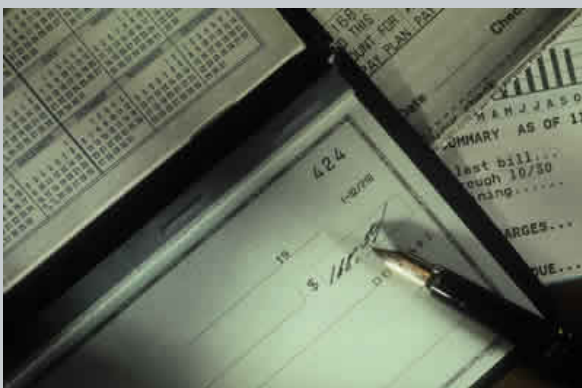


We hope you are safe and warm as February comes to a close. We will provide updates and awareness of legal issues through this newsletter. In this month's issue we will discuss modifications to child support and maintenance payments. We continue to monitor the effects of the Coronavirus (COVID-19) pandemic on the justice system and will provide updates to you as we receive them.

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What is needed to Modify a Child Support Order?



In re Marriage of Connelly, the father of two minor children filed an amended petition to modify child support alleging that there had been a substantial change in circumstances from the time of the Judgment of Dissolution of Marriage in 2015, namely: (1) His salary had increased from \$100,000.00 to \$110,000; (2) The mother's income had increased by approximately

50%, and; (3) The father's parenting time had increased from 32% to over 45%. The trial court held that the father failed to establish a substantial change in circumstances for the following reasons: (1) The father's 10% salary increase did not constitute a substantial change; (2) Because the Marital Settlement Agreement (MSA), which was incorporated into the Judgment of Dissolution of Marriage, contained a provision requiring the father to pay 28% of any income

over his base salary at the time of the dissolution, consideration of a change in the father's salary as a basis to modify child support was precluded; (3) The mother's increase in income did not result in a windfall for her and had been considered by the parties at the time of the MSA, and; (4) The father's increase in parenting time, which amounted to an additional 22 nights with the children, was not a substantial change. In explaining why the additional 22 nights with the children was not significant, the court stated that the father had failed to show why his expenses related to maintaining his home, transportation for the children, food, clothing, medicine, or entertainment have increased or that the mother's expenses for the same had decreased to such an extent that a finding of substantial change in circumstances was warranted.

At the time of the dissolution, child support [\(Read more\)](#)

Maintenance: Changes in the Law

In the case *In re: Marriage of Wig*, David Wig and Judith Wig got divorced in August of 2018. The parties agreed that Judith would pay David maintenance each month using a formula that the parties had agreed to and laid out in their Marital Settlement Agreement. The Agreement stated that Judith shall pay David 30% of her gross income, minus 20% of



his gross income. They also agreed that the maintenance payments would be includable in David's gross income and deductible by Judith for tax purposes.

On January 1, 2019, the Dissolution Act was amended as to its formula for setting initial maintenance. The question for the trial Court was whether to apply the new, amended version of the Dissolution Act, or the former version. This proceeding was for initial calculations of maintenance using a specific formula the parties had agreed to, so the court applied the new, amended version of the Act, but used the 30%-20% formula that the parties had laid out in their Marital Settlement Agreement in order to calculate maintenance. Judith appealed the trial court's decision, arguing that the court should have applied the former version of the Act.

The Appellate Court did not need to entertain the question of whether to use the formula laid out in the amended version of the Dissolution Act, or the former version because the statute did not apply— the parties had agreed to a separate formula and were not relying on the statute to determine maintenance payments. If the Court did entertain the question though, it stated that it would have applied the former version. This is because almost everything dealing with the divorce occurred in 2018, [\(Read more\)](#)



This month the Gehris & Associates, LLC team donated to the McHenry County Bar Association Food Drive. We are happy to help our community. We are always searching for new opportunities to serve and meet members of the community. If you are part of an organization that is in need of volunteers or support, please contact our Community Outreach leader and let us know how we can help you or your organization.

CARES Act

We will continue to monitor the COVID-19 situation and will follow guidance from public health officials and government agencies, so we can continue to support our clients and communities as needed.

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