

**Philadelphia Bar Association – Family Law Section  
August 2020 - Case Law Summaries**

Gallagher v. Gallagher, Memorandum Decision, No. 3087 EDA 2018 (Pa. Super. June 18, 2020).  
*Non-Precedential*

Husband appealed the trial court's order enforcing the parties' Property Settlement Agreement ("PSA").

The parties entered into a PSA in August of 2016, which provided, *inter alia*, that "Wife shall receive fifty percent (50%) of the value of Husband's Johnson and Johnson stock. Such amount is equal to \$75,886." This amount was derived from a December 2015 account statement, which was accessible to both parties. In July of 2017, subsequent to the entry of the divorce decree, Wife filed a motion to enforce the PSA, averring that she had yet to receive her share of Husband's J&J stock. In May of 2018, the parties discovered that the stock was only worth \$27,702. Wife asserted that she had materially relied upon the agreed valuation for the stock in executing the PSA and requested that the trial court enforce the plain language of the PSA by awarding her the \$75,886. Husband argued that the parties were mutually mistaken and that Wife was only entitled to half of the actual value of the stock, which was approximately \$13,000. The trial court agreed with Wife and entered an order requiring Husband to transfer \$75,886 to Wife.

The Superior Court affirmed the trial court's determination that Wife was entitled to receive the \$75,886. In its analysis, the Court confirmed the conclusion of the trial court that the parties were mutually mistaken as to the actual value of the stock (which both parties readily conceded) and that the contractual mistake was the result of an erroneous basic assumption that had a material effect on the agreed exchange of the performance of both parties. The majority of the Superior Court then found that, based on the principles of contract law (citing Restatement (Second) of Contracts, §154), Husband bore the risk of the parties' mutual mistake because, at the time the parties entered into the PSA, Husband knew that he had limited knowledge with respect to the facts regarding his stock, but treated his limited knowledge as sufficient. Husband had been employed at J&J for 27 years and was aware of the resources and personnel who could confirm the precise value of the stock prior to entering into the agreement. The Court also cited the language of the PSA, reasoning that Husband could have contracted to limit Wife's receipt to 50% of his stock without reference to the specific dollar amount. The majority, finding no abuse of discretion, concluded its opinion by stating:

"There is no dispute that the parties were mutually mistaken, but, as the party seeking contract reformation, Husband bore the risk of mistake because he treated his limited understanding of his [J&J] stock as sufficient when he executed the parties' [PSA]."

Zimmerman v. Zimmerman, Memorandum Decision, No. 1628 MDA 2019 (Pa. Super. June 18, 2020).

*Non-Precedential*

Husband appealed the trial court's order modifying the amount of alimony owed to Wife.

The parties were married in 1986. Husband filed for divorce in 2013. The parties reached an agreement as to equitable distribution but submitted the issue of alimony to the appointed Master. The Master ultimately awarded Wife \$790.77 per month in alimony. The parties filed exceptions to the Master's Report and the trial court entered a divorce decree and amended the alimony award to \$1,833.80 per month. Husband appealed. While the appeal was pending, the trial court requested that the Superior Court remand the matter due to an error in the calculation, which resulted in an adjusted alimony award of \$1,800 per month.

Upon review, the Superior Court vacated the award, holding that the trial court had miscalculated the alimony award due to an inaccuracy in Wife's monthly net income. On remand, the trial court recalculated the alimony award based on the changes made in Wife's net income and Husband's ability to deduct the alimony from his federal taxes. The trial court ordered the new alimony payment to be \$1,609 per month if Husband was able to deduct the alimony from his personal tax return, or alternatively, an alimony payment of \$1,287 per month if Husband was unable to deduct the alimony payments. Husband appealed.

In his appeal, Husband argued, in part, that the trial court erred in utilizing the support guidelines to calculate his alimony obligation and that the trial court was required to perform a full analysis pursuant to 23 Pa.C.S.A. §3701(b).

The Superior Court found no abuse of discretion, reasoning that "while the support guidelines do not explicitly apply to alimony determinations, neither are they explicitly excluded from consideration in setting alimony." The Court noted its finding in Zimmerman I, that the use of the support guidelines, alone, was in error, but use of the guideline in the context of the seventeen required considerations under §3701 was not an abuse of discretion. In affirming the trial courts' order, the Court concluded that Husband could not establish that the trial court's award would have been different if it had engaged in the full analysis under §3701(b) after the remand, as the trial court had completed the full analysis in its initial award. Furthermore, the trial court had previously found that an \$1,800 monthly award would not unfairly burden Husband, so the Court "[could not] conceive" that the amended award of \$1,287 would unfairly burden Husband either.