

PHILADELPHIA BAR ASSOCIATION
FAMILY LAW SECTION MEETING MINUTES
SEPTEMBER 11, 2017

Chair, Richard Bost, Esquire, presided.

- I. **WELCOME AND INTRODUCTION:** Richard called the meeting to order at 12:05 p.m.
- II. **CORRECTIONS OR ADDITIONS TO MINUTES:** There was no meeting in August.
- III. **TREASURER'S REPORT:** The financial information was not available as of the time of the meeting.
- IV. **ANNOUNCEMENTS:**
 - A. The Philadelphia Bar Association unanimously approved the Resolution Supporting the Joint State Government Commission Recommendation for a Statewide Office of Dispute Resolution
 - B. Darrell Zaslow passed away early in spring March 1, 2017
 - C. Bella Schnall advised that litigants no longer have to file a separate Petition for Alimony *Pendente Lite* if alleged in a divorce complaint.
 - D. The Honorable Kelly Wall of the Montgomery County Court of Common Pleas will be presenting a program entitled, "Autism, Special Needs and Our Courts: A Town Meeting for Lawyers, Psychotherapists and Jurists" on October 25, 2017, from 4:00 p.m. to 6:00 p.m. in the training room at the Philadelphia Family Courthouse. Flyer is attached.
- V. **PROGRAM:** Analysis of Carney v. Carney, No. 2474 EDA 2016 (5/31/17), presented by Mark Bradford, James Rocco, Esquire and Ann Funge, Esquire
 - A. The trial court erred in failing to consider evidence related to the potential sale of the parties' successful trucking business before assigning the entire asset to husband as part of the equitable distribution of the parties' marital estate. The appellate court affirmed in part, reversed in part and remanded for further proceedings. The Court affirmed the trial court's decree in all respects except for its failure to account for the tax ramifications and expenses associated with the potential sale of Husband's auto transport business. The Court remanded directing that trial court hold a hearing, within sixty (60) days, limited to the issue of expenses associated with the potential sale of Husband's business, and to reevaluate the entire equitable distribution scheme, including the cash distribution to Wife.

- B. W's analysis was asset based (H's business owned all trucks); H's analysis was income based on profit and loss; There is also Market Approach which involves looking at open market, talking with brokers and researching data in the public domain. Methodologies can be blended together. The Court must consider tax consequences (based on Carney and Balicki) and will look at other factors in business evaluations, including whether the party owns the real estate.
- C. Court valued W's expert's analysis which detailed each truck;
- D. Typically attorneys in conjunction with the expert will determine what approach to use in business evaluations and may depend on what results in the most favorable figure or what approach will be most seen as more reliable and as most advantageous to client.
- E. Depending on the experts, they may sometimes work together.
- F. There are differences among counties with respect to application of the costs of sale.
- G. The Court in Carney went back to Balicki (after deducting expenses) to get to liquidation or at cash
- VI. **COMMITTEE REPORTS:** Committee meeting times/dates and announcements are disseminated over the Family Law Section's listserv.
- VII. **GOOD & WELFARE:** None.

NEXT SECTION MEETING: October 2, 2017 on the 10th Floor of the Philadelphia Bar Association, 1101 Market Street.

NEXT EXECUTIVE COMMITTEE MEETING: The next meeting will be October 19, 2017 on the 11th Floor of the Philadelphia Bar Association, Committee Room South at 1101 Market Street, Philadelphia, PA.

Respectfully submitted,



Randi L. Rubin, Esquire
Secretary

ATTACHMENTS(3):

- Philadelphia Bar Association Resolution Supporting the Joint State Government Commission Recommendation for a Statewide Office of Dispute Resolution
- Summary of Joint State Government Commission Report of the Advisory Committee on Alternative Dispute Resolution

- Flyer for Autism, Special Needs and Our Courts: A Town Meeting for Lawyers, Psychotherapists and Jurists