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Popp* v. *Popp

Introduction

The 2025 Massachusetts alimony case, *Popp v. Popp*, emphasizes the standards for modifying alimony before and also after the Alimony Reform Act of 2011.

Facts:

In *Popp*, the parties filed for their second divorce after having divorced and remarried several years earlier. Most alimony terms were incorporated into the divorce judgment, except for one provision stating that Wife could exclude from any modification proceeding the first $100,000 of her annual income and any decision to downsize her home or reduce her expenses. That provision survived as an independent contract and did not merge into the parties' divorce judgment.

In 2014, Husband filed a complaint for modification, arguing that his decrease in income constituted a change in circumstances that was sufficient to warrant an alimony modification. The Probate and Family Court reduced his payment obligation and ordered the alimony to terminate upon either Wife's remarriage, the death of either party, or August 2020, whichever occurred first.

In 2018, Wife filed another complaint for modification, this time, claiming that her health deteriorating created a material change in circumstances. The court agreed and ordered alimony payments to begin on the prior termination date and end when Husband reached his Social Security retirement age, but limited the amount of alimony, stating that Wife no longer needed "an amount sufficient to meet the marital lifestyle."

Statute:

The Alimony Reform Act of 2011 imposed presumptive limits on alimony durations, with the intention of clarifying parties' expectations when entering into such agreements, but these limits may be overcome where evidence demonstrates that deviation is "required in the interest of justice," noted as a difficult burden to meet.

G.L. c.208, §34 requires analysis of the "station of the parties," which is defined, pre-Alimony Reform Act, as "what is required to maintain a standard of living comparable to the one enjoyed during marriage."

Ruling:
Here, the court affirmed Wife's appeal in part and vacated it in part.

Wife's initial arguments that the court lacked statutory authority to award alimony in a different amount than what she initially received, that the court abused its discretion by awarding less alimony than in the initial judgment, and that the court limited her ability to obtain discovery were not supported by any authority, and judges are entitled, in these situations, to make any judgment they could have made in the original action.

But the Court of Appeals did agree with Wife on her final two arguments.

The Court of Appeals agreed that the lower court erred in its decision that Wife was no longer entitled to alimony in an amount sufficient to "meet the marital lifestyle." Although, under the Alimony Reform Act of 2011, inability to maintain the marital lifestyle is not grounds for deviation from durational limits, this factor does not apply retroactively, and the parties' alimony is governed by the law in place at the time, which is G.L. c.208, §34, which requires analysis of the "station of the parties," which is defined, pre-Alimony Reform Act, as "what is required to maintain a standard of living comparable to the one enjoyed during marriage." Because the parties were divorced prior to the Alimony Reform Act of 2011, this should govern.

Second, the Court of Appeals agreed the lower court abused its discretion in only ordering alimony until Husband reached full retirement age.

The Court reminded us of the Alimony Reform Act's provision on retirement may only be applied prospectively and is "not applicable to modification of the alimony judgment in this case" before the Act. Therefore, a court must not consider the new ARA provisions and must base its decision on the older rationale that terminating alimony abruptly requires a "clear and adequate explanation." The court vacated and remanded the portion of the judgment that applied to the monthly alimony amount and the termination at Husband's retirement age.

Important Takeaways

Initial Thoughts:

This decision clarifies if and how the Alimony Reform Act is intended to apply to alimony obligations that were established before it took effect in 2012. The Act is only applicable in certain instances, and *Popp* explicitly defines two specific instances during which it is not applicable. Although the Alimony Reform Act imposes presumptive limits on the duration of alimony and provides the high standard that any deviations must be "required in the interests of justice," alimony decisions that predate the Act are held to the traditional material change of circumstance standard.

For Your Consideration:

It remains critical to apply differing standards for pre-alimony reform cases and post -alimony reform separation agreements. In other words, keep in mind the old framework applies to those older cases upon alimony modifications and that lifestyle still remains a critical factor in any alimony modification action and judges are afforded considerable discretion in making that determination.

ABOUT



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Matthew P. Barach is a highly regarded Massachusetts family law attorney known for his expertise in complex trial and appellate matters. As the Founder and Principal of Barach Law Group LLC, he brings over 20 years of experience representing clients across multiple county courts, as well as before the Massachusetts Appeals Court, Supreme Judicial Court, and the First Circuit. He has achieved notable success in lathe author of an American Bar Association guide on appellate practice in family law. Recognized with top industry honors and academic distinctions, Barach combines legal excellence with thought leadership, while aiming to one day argue a case before the U.S. Supreme Court.