

ALIMONY

By K. Dean Kantaras and Maurice Q. Thurman

For many families in the midst of a divorce, the transition from marriage to becoming single can lead to fears of economic uncertainty. This is especially true for financially dependent spouses who may suffer from a physical disability or other health conditions that restrict their ability to work. Fortunately, Florida courts offer relief to financially dependent spouses who are unable to work due to a disability that occurred during the marriage.

Under Florida law, a spouse is eligible to receive four types of alimony: (1) bridge-the-gap alimony; (2) rehabilitative alimony; (3) durational alimony; and (4) permanent alimony. § 61.08(5)-(8), Fla. Stat. A disabled spouse may receive permanent alimony in order to provide for their needs and necessities of life as they were established during the marriage, if the spouse lacks the financial ability to meet his or her needs and necessities of life following a divorce. § 61.08(8), Fla. Stat.

Many courts have addressed the issue of economic stability for disabled spouses after divorce. Florida courts have generally ruled that a spouse requesting permanent alimony must lack the actual capacity for self-support as well as the potential to develop the capacity for self-support in the future. See G'Sell v. G'Sell 390 So. 2d 1196 (Fla. 5th DCA 1980).

More recently, the Second District Court of Appeal decided the case



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of Kruse v. Levesque, where the Wife was physically disabled and unable to work due to health conditions that developed during her eleven-year marriage. 192 So. 3d 1263 (Fla. 2d DCA 2016). During the marriage, the Wife developed fibromyalgia and mood disorders, two conditions that greatly diminished her capacity for self-support.

The court applied a three-step analysis to determine whether the Wife would be awarded permanent periodic alimony. First, the court considered her financial circumstances and determined that the Wife had a financial need for alimony. Second, the court considered the Husband's financial circumstances and determined that he had the ability to pay alimony. Finally, the court found that the Wife had demonstrated, with clear and convincing evidence, that she was unable to return to work. Therefore,

the court ruled that the Wife was entitled to receive permanent alimony.

The Court's decision in Kruse v. Levesque provides an important lifeline to financially dependent spouses who are facing the natural stress and anxiety of economic uncertainty during a divorce proceeding. ■

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