

**Jana R. Barnett, Esq.**  
**Law Offices of Jana R. Barnett, LLC**  
**P.O. Box 6615**  
**Wyomissing, PA 19610-6615**

Admitted to Practice in Pennsylvania  
E-mail address: [jrb@janarbarnettesq.com](mailto:jrb@janarbarnettesq.com)

Telephone: 610/478-1860  
Facsimile: 610/478-0453

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**WYOMISSING-READING-BERKS COUNTY SPOUSAL SUPPORT AND ALIMONY  
PENDENTE LITE (“APL”) ATTORNEY**

Attorney Jana R. Barnett regularly represents clients seeking or fighting claims for spousal support and alimony *pendente lite* during the period between separation and divorce.

**Overview of Spousal Support and Alimony *Pendente Lite* In Pennsylvania**

Financially dependent spouses may be able to receive either spousal support or alimony *pendente lite* (“APL”). Although the amounts paid will be the same, there are important differences between these two types of support. The correct calculation of both spousal support and APL depends on an accurate understanding of net monthly income, as well as reasons why the presumptive minimum amount of support might not be appropriate in a given case. In addition, spousal support and APL may be modified from time to time.

**Divorce Action**

The Pennsylvania Divorce Code makes married people liable for supporting each other. However, it is not necessary for a divorce action to be filed in order for a dependent spouse to receive spousal support. The dependent spouse can file a Complaint for Support with the Domestic Relations Section in Berks County (or other Pennsylvania counties) regardless of whether either spouse has filed for divorce, because the purpose of spousal support is to provide a reasonable living allowance to the spouse requiring support.

In contrast, APL is intended to level the financial playing field between financially dependent and independent spouses during the divorce litigation. Therefore, a divorce action must be filed before the financially dependent spouse can seek APL. It does not matter which party filed the divorce action, so long as the person seeking APL has filed a claim for APL with the divorce. The financially dependent spouse is expected to pursue the divorce in a timely manner.

In short, spousal support is a duty until the time of divorce, and APL is an equitable remedy (one based on the need for fairness) while the divorce is being litigated.

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**Living Together**

For purposes of a divorce, parties can be separated and get divorced even if they live in the same house. For purposes of support, however, if the husband and wife live in the same house, and the financially independent spouse pays the necessary expenses of the financially dependent spouse, a Court should not order that spousal support should be paid. APL may be awarded even if both parties live in the same house, however.

**Marital Misconduct**

One factor that Courts will consider when determining whether to award spousal support is whether either or both of the parties engaged in marital misconduct. Another is whether the innocent spouse condoned the misconduct. Thus, persons who commit marital misconduct during the marriage, or after separation, may jeopardize their entitlement to receive spousal support. Examples of behavior that might be construed as marital misconduct are adultery during the marriage; post separation cohabitation; and moving out of the marital residence without adequate legal cause.

“Fault” is not a bar to receiving APL.

**Support Guidelines**

The amount of support and APL that must be paid is calculated pursuant to the Pennsylvania Supreme Court’s Support Guidelines, which are presumed to be the correct amount of support. Thus, the key to calculating the amount of support owed is to correctly determine each spouse’s net monthly income.

Income can be more than wages reported on income tax returns. Attention should be paid to income such as corporate and partnership distributions, annuity income, automobile expenses, bonuses, capital gains, charitable or political contributions, commissions, depreciation, disability income, dividend income, earning capacity, entertainment/meals, gift income, inheritance, life insurance premiums, malpractice insurance premiums, insurance proceeds, interest income, loan payments, proceeds of loans, sale of marital property, military housing allotment, pension benefits, pension contributions by employers and employees, personal injury lawsuit proceeds, rental income, severance pay, retained

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earnings, Social Security benefits, Social Security Disability benefits, Supplemental Security Income, stock options, tax refunds, trust income, unemployment compensation benefits, unreimbursed employee expenses and workers compensation benefits. Because determining income can be complicated, it is important to hire an attorney who is familiar with the Pennsylvania Support Guidelines.

**Modification**

Both spousal support and APL may be modified. The petition for modification should explain the changes upon which the petition is based. The change should be significant. Changes which may qualify include a revision of the support guidelines, involuntary reduction in income, the obligor's retirement, increase in expenses of the obligor or obligee, job loss, incarceration, medical conditions rendering either the obligor or obligee unable to work.

The Support Guidelines will change on May 12, 2010. People paying and receiving support should reevaluate their cases in light of the new guidelines.

If you would like to speak with Attorney Jana R. Barnett about spousal support or APL, and learn how she can assist you, call her at 610-478-1860, or click here to send her an e-mail, and she will reply as quickly as possible.

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Attorney Jana R. Barnett's offices are located at 525 Kenhorst Boulevard, Reading, PA 19611 and 1238 Cleveland Avenue, Wyomissing, PA 19610-2102. Attorney Jana R. Barnett practices family law, employment law, and employment discrimination law in Reading, Wyomissing and the surrounding cities and towns, as well as in Berks County, Bucks County, Chester County, Delaware County, Lancaster County, Lehigh County, Montgomery County, Northampton County, Philadelphia County and in the United States District Court for the Eastern District of Pennsylvania and the United States District Court for the Middle District of Pennsylvania.