

## **Case Summaries for November 5, 2018 Meeting**

### **M.W. v. S.T. and V.T., 2018 PA Super 268 (filed September 26, 2018)**

Grandmother appealed from the order dismissing her complaint for custody of her minor grandchildren. CYS placed the children in Grandmother's care from May 2015 through November 2015. The children were adjudicated dependent during that time period. After November 2015, the children were subsequently placed in the care of their biological aunt followed by another set of biological grandparents, at which point Grandmother stopped having regular visits with the children. The children were returned to their parents in January 2017, but remained dependent until CYS determined that they were no longer dependent and closed the case in June 2017. Grandmother filed her complaint for custody on March 6, 2017 (while the children were still dependent). The parents filed a petition to dismiss Grandmother's complaint due to her lack of standing pursuant to 23 Pa.C.S.A §5324 because the juvenile court had closed the dependency case in June of 2017. The Superior Court ultimately affirmed the trial courts decision to dismiss Grandmother's complaint for lack of standing. In reaching its decision, the Court referenced the relevant provision of the applicable statute, 23 Pa.C.S.A. §5324(3)(iii)(A), which provides grandparents with standing to seek custody when "the child has been determined to be a dependent child under 42 Pa.C.S. Ch. 63." Grandmother argued that she had standing to seek custody because the children were dependent at the time she filed her complaint. While Grandmother may have had standing at the time of filing, the Court reasoned that the trial court was correct to dismiss Grandmother's complaint based on the change in circumstances during the proceeding, as the children were no longer dependent at the time of the proceeding. In sum, the Court was correct to "re-evaluate a party's standing following a factual change in circumstances."

### **Hagner v. Hagner, No. 529 EDA 2018 (filed October 3, 2018)**

#### *Non-Precedential*

Wife appealed from the decree granting the parties' divorce, specifically challenging the order distributing the parties' property in accordance with their prenuptial agreement. Three days prior to what was Husband's second and Wife's fourth marriage, Husband provided Wife with a prenuptial agreement, which he recommended she review with an attorney. At Wife's request, Husband provided the names of three family law attorneys, one of whom Wife consulted. On the day of the parties' destination wedding, Husband reminded Wife that she needed to sign the prenuptial agreement and said he was willing to postpone the wedding if she needed more time to consider the agreement. Wife made handwritten revisions to the agreement, which Husband modified with further handwritten changes. The parties ultimately reached an agreement, which they each signed before getting married later that day. The agreement included a waiver of the parties' rights to equitable distribution. Husband filed for divorce thirteen years later and Wife filed a petition to invalidate the agreement based on "undue influence, duress and coercion on the day of the wedding," amongst other things. The Superior Court affirmed the trial court's decision, reasoning that: 1) Wife failed to meet her burden to show, by clear and convincing evidence, that the prenuptial agreement was the result of fraud, misrepresentation or duress pursuant to applicable contract interpretation; 2) Wife's testimony that she only had three days to

review the agreement was not credible under the circumstances; and 3) Wife received independent legal advice prior to signing the agreement.

**D.A.C. v. K.A.C., No. 29 MDA 2018 (filed October 16, 2018)**

*Non-Precedential*

Appellant appealed from the trial court's child support order, which affirmed a prior order setting the support obligation of Appellee at zero. The parties are the parents of three minor children. Following a modification conference on October 16, 2017, an order was entered modifying Appellee's support obligation to a "numerical value of zero" due to Appellee's temporary disability and her inability to work and make payments. The order required Appellee to provide a physician verification form from her medical provider to the Domestic Relations Section and to continue providing disability forms until released to work. Appellant filed a request for a hearing *de novo* which was scheduled for November 30, 2017. At the hearing, Appellee appeared via speakerphone. A representative from Domestic Relations confirmed that Appellee had submitted the required disability form. The trial court entered an order affirming the prior order, but modifying the mortgage deviation component and directing the Domestic Relations office to provide Appellant's attorney with copies of all physician verification forms filed on behalf of Appellee, as well as any that would be filed in the future. Appellant filed a timely appeal, stating that the trial court erred in directing that Appellant was to be provided with Appellee's Physician Verification Forms subsequent to a record proceeding where Appellee's ability to work was at issue and Appellee had failed to provide Appellant with the forms prior to the record proceeding pursuant to Pa.R.C.P. No. 1910.29. The Superior Court ultimately vacated and remanded the case for further proceedings due to Appellee's failure to comply with the Rule. The Court reasoned that it was understandable that Appellant's counsel would want to investigate Appellee's condition prior to the record proceeding.