

TWENTY (20) CASES MATRIMONIAL ATTORNEYS MUST KNOW WHEN HANDLING A DOMESTIC VIOLENCE MATTER

By: Jeralyn L. Lawrence, Esq.

Coleman v. Romano, 388 N.J. Super. 342 (Ch. Div. 2006) – Factors defining what constitutes a “former household member”.

Andrews v. Rutherford, 363 N.J. Super. 252 (Ch. Div. 2003) – Factors defining what constitutes a “dating relationship”.

J.S. v. J.F., 410 N.J. Super. 611 (App. Div. 2009) – Definition of “dating relationship” looked at expansively.

E.K. v. G.K., 241 N.J. Super. 567 (App. Div. 1990) – Defendant did not have intent to harass by physically disciplining child; even if purposely harmed child, no requisite element of a purpose to harass plaintiff could be found.

Murray v. Murray, 267 N.J. Super. 406 (App. Div. 1993) – Policy implications of branding actions as domestic violence when Court aware that a matrimonial action is pending or about to begin.

Peranio v. Peranio, 280 N.J. Super. 47 (App. Div. 1995) – Comprehensive analysis of what type of conduct constitutes harassment under the statute.

Corrente v. Corrente, 281 N.J. Super. 243 (App. Div. 1995) – Analysis of what legislature intended to address when drafting Domestic Violence Act; actions referred to as “domestic contretemps”.

State v. Hoffman, 149 N.J. 564 (1997) – Analysis of whether conduct is likely to cause annoyance or alarm must be considered under the totality of the circumstances.

H.E.S. v. J.C.S., 175 N.J. 309 (2003) – Adjournment must be granted if defendant not provided adequate time to prepare, or issues litigated differ substantially from those in complaint.

Cesare v. Cesare, 154 N.J. 394 (1998) – Definition of terroristic threats and what constitutes a violation under an objective standard.

Kamen v. Eagan, 322 N.J. Super. 222 (App. Div. 1999) – Definition of criminal trespass, and confirmation that Act should not be trivialized by misuse.

N.B. v. T.B., 297 N.J. Super. 35 (App. Div. 1997) – Trial Court still has equitable power to remove spouse from marital home, even where disputes do not rise to level of domestic violence.

Silver v. Silver, 387 N.J. Super. 112 (App. Div. 2006) – Two (2) part analysis in domestic violence cases – whether predicate act of domestic violence committed, and whether FRO necessary to protect from immediate danger or further acts of domestic violence.

Wine v. Quezada, 379 N.J. Super. 287 (Ch. Div. 2005) – Counsel fees awarded as compensatory damages regardless of financial circumstances.

McGowan v. O'Rourke, 391 N.J. Super. 502 (App. Div. 2007) – Counsel fees are compensatory damages without regard to R. 5:3-3.

M.W. v. R.L., 286 N.J. Super. 408 (App. Div. 1995) – Defendant not automatically entitled to counsel fees in successful defense of domestic violence matter, but if filed in bad faith on perjured testimony, frivolous litigation statute permits an award of counsel fees.

Carfagno v. Carfagno, 288 N.J. Super. 424 (Ch. Div. 1995) – Factors to determine whether good cause has been shown for the dissolution of the restraints.

Depos v. Depos, 307 N.J. Super. 396 (Ch. Div. 1997) – Domestic violence actions deemed “summary actions” and no discovery permitted as of right.

Mann v. Mann, 270 N.J. Super. 269 (App. Div. 1993) – Interfering with telephone call to police by pulling on phone and pulling out cord was sufficient to sustain finding of criminal mischief and harassment.

Crespo v. Crespo, 408 N.J. Super. 25 (App. Div. 2009) – Preponderance standard of proof appropriate and does not violate due process of law.