

IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY, PA

CHITINA M. SMITH,	:	
Plaintiff	:	
	:	
v.	:	No. 02-21,447
	:	
MARK A. SMITH,	:	
Defendant	:	

OPINION and ORDER

In this case, the defendant has asked the court to terminate his alimony pendente lite obligation to the plaintiff. The parties were divorced on January 10, 2003, but their economic issues have not yet been resolved. The defendant is getting restless because the settlement negotiations have not been proceeding as quickly as he likes, and meanwhile he is paying APL.

The defendant points to the practice in Lycoming County to terminate APL when the plaintiff in a divorce action is not proceeding with the divorce. Termination is an appropriate sanction in such a case, for the defendant in a divorce action cannot force a plaintiff to sign a consent. The court can, however, give the plaintiff a financial incentive to proceed by terminating the APL. In short, when an individual files for divorce, he or she has the obligation of moving forward, and the defendant will not be penalized financially for the plaintiff's failure to proceed.

However, here the parties are already divorced. The defendant wishes to resolve the economic issues, and has an incentive to do so because he is continuing to pay APL. However, his hands are not tied. The defendant may file for an Equitable Distribution hearing at any time and if the settlement proceedings are getting nowhere, he would be well advised to do so. Once the Equitable Distribution proceedings are underway, there will be deadlines to meet and if the plaintiff drags her feet, there may well be sanctions, one of which could be the termination of APL.

ORDER

AND NOW, this _____ day of July, 2003, for the reasons stated in the foregoing opinion, the Motion to Terminate Alimony Pendente Lite filed by the defendant on April 17, 2003 is denied.

BY THE COURT,

Clinton W. Smith, P.J.

cc: Dana Jacques, Esq., Law Clerk
Hon. Clinton W. Smith
Christian Lovecchio, Esq.
Randi Dincher, Esq.
Gary Weber, Esq.