

**IN THE COURT OF COMMON PLEAS OF LYCOMING COUNTY,
PENNSYLVANIA**

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	:	No: 10-21,587
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RM	:	
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ORDER

AND NOW, this 8th day of **December, 2011**, this order is entered after in chambers argument regarding Wife’s Exceptions to Master’s Order filed September 27, 2011. Present in chambers for the argument held on November 30, 2011, was counsel for Wife, Patricia A. Shipman, Esquire and counsel for Husband, Melody Protasio, Esquire.

Wife argues that the Master failed to follow *Pennsylvania Rules of Civil Procedure* Rule 1910.16-1 (c)(2) which requires the court to consider the length of the marriage when awarding alimony pendente lite (APL). The Master did not fail to consider the length of the marriage; the Master noted that the couple was married for approximately twenty-seven (27) months and cited the explanatory comment to Rule 1910.16-1 (c)(2) that states in short marriages the length of the marriage is considered to prevent unfairness to the obligor who could pay support for a period of time longer than the actual marriage.

Wife then argued that the Master should not have solely considered the length of the marriage but also the factors that are involved when awarding Alimony and deviation from support guidelines. Husband argued that the Master was correct in only considering the length of the marriage when determining the duration of the APL.

APL is temporary support to enable the dependent spouse to fund the divorce litigation. *Prol v. Prol*, 840 A.2d 333, 336 (Pa. Super. 2003) *see also Dyer v. Dyer*, 370 Pa. Super 377, 384 (1988). In the present case the couple was married on September 9, 2008 and subsequently separated on December 1, 2010; neither party is in a hurry to become divorced due to reasons of citizenship therefore the divorce litigation is likely to last as long or longer than the marriage. This is a unique case. It is not the practice of Lycoming County to utilize the Alimony factors when determining APL. The factors outlined in *Pennsylvania Rules of Civil Procedure* Rule 1910.16-5 that Wife argued should be considered are only utilized when there is a deviation from the amount of support determined by the support guidelines. In this case the parties reached an agreement to the amount of APL; there is no deviation from the support guidelines. Therefore, the factors of Rule 1910.16-5 are not appropriate. However, when determining APL a court may take into consideration the factors for Alimony. *Dyer* at 384 (citing *McNulty v. McNulty*, 347 Pa. Super 363 (1985)).

In order to promote equity the Court finds it appropriate to consider the factors of 23 Pa. C.S. § 3701 in this case. This determination will be made on a case by case

basis and is an exception not a policy change. This matter is hereby **REMANDED** to the master for a full hearing.

BY THE COURT,

Joy Reynolds McCoy, Judge