

Not Spousal Support

To the Editor:

Regarding your recent article on spousal support ("The State of the Law Regarding Modification of Spousal Support," June 2008), our office handled the case of *Yunus v Yunus*, and it's important to add that one of the significant distinctions in *Yunus v Yunus* was that the \$25,000 per month non-modifiable spousal support was alimony in gross, and not spousal support.

Although the article indicates that these amounts were for the wife's contributions toward defendant's retention of his professional stature, it is important to make very clear that these amounts were property settlement and not spousal support.

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State Support Bar "Stumped" by Federal Law

To the Editor:

I enjoyed reading the various articles on domestic relations, including "The State of the Law Regarding Modification of Spousal Support" by Mark A. Snover (June 2008). That dealt, among other matters, with the inability of former spouses to receive future support if such had been barred in a judgment of divorce. Attorneys, however, should be aware of the impact of the federal statutes and regulations regarding support obligations imposed on a United States citizen (USC) or lawful permanent resident (LPR or "green-card holder") who has sponsored foreign nationals to reside in the United States. 8 USC 1183a and 8 CFR 213a impose continuing obligations of support on a USC or LPR who has filed a petition seeking a green card for a spouse or dependents. That law, in general, requires the USC or LPR to support the foreign national to "at least" 125 percent of the federal poverty level, to reimburse entities that have provided "means tested public assistance" to the spouse of the petitioner, or both.

In the seminal federal court decision interpreting the law, *Stump v Stump*, Case No. 1:04-CV-253-TS (ND Ind, 2005; not reported

in F Supp), the federal district court ruled that the federal statute continues to apply even when a state court bars further support obligations. Under the then-current federal statute and regulations, the support obligation continued until the sponsored alien had become a U.S. citizen or was credited with 40 quarters of work under the Social Security laws, the sponsor died, the sponsored alien died, or the sponsored alien gave up permanent residence and left the United States. These continue in effect. There may be deducted from the required amount any earnings of the sponsored alien.

Since *Stump* was decided, final regulations have been issued by the Citizenship and Immigration Service that might alter part of that decision. Although not in the final regulations, the preamble contains language indicating that if the sponsored immigrant is an adult, that person, in a divorce settlement, "probably" can surrender the right to sue the sponsoring relative. Additionally, under the final regulations, one more event terminates the support obligations: if the sponsored alien is in removal (formerly known as "deportation") proceedings and a new sponsor is obtained in connection with a new grant of adjustment (that is, obtaining a green card while in the U.S.), the first sponsor is relieved from further obligations. The preamble language, however, does state that the parties may not alter any obligations to the Department of Homeland Security or other benefit-granting agencies.

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