

An **ALM** Web site

# New Jersey Law Journal

STATEWIDE LEGAL AUTHORITY SINCE 1878

SUBSCRIBE

- Free Limited Access
- NJLJ 30-Day Free Trial



This Site | Law.com Network | Legal Web

Search the Legal Web [Go >>](#)

[HOME](#) | [ADVERTISING](#) | [FIND A JOB](#) | [BOOKS](#) | [LECTURES](#) | [DAILY DECISION SERVICE](#) | [BLOG](#) | [CONTACT US](#)

follow us on [twitter](#) [RSS](#) [FEED](#)

you are here: [Home](#) › [Spike in Income After Marital Split Can Be Factored Into Alimony Determination](#)

Font Size: [+](#) [-](#)

## Spike in Income After Marital Split Can Be Factored Into Alimony Determination

[Michael Booth](#) | [All Articles](#)

New Jersey Law Journal | November 01, 2011

[Print](#) [Share](#) [Email](#) [Reprints & Permissions](#) [Post a Comment](#)

A breadwinner's sharp rise in income following a marital breakup can be used in calculating alimony, especially if the other spouse's support during the marriage enabled the earner's success, an Ocean County judge ruled Tuesday.

Superior Court Judge Lawrence Jones rejected James Dudas's argument that alimony should be based solely on what he was earning before he and his wife Pamela separated.

"While on the surface there may appear to be logic and an attractive simplicity to defendant's position, the financial complexities of divorce weigh heavily against completely excluding defendant's post-complaint income from consideration in the alimony analysis," Jones wrote in *Dudas v. Dudas*, FM-IS-1692-10N.

"This is especially true in a court of equity, where the goal is to reach a result which is economically fair and equitable to both parties," he added.

The couple married in 1981, raised two sons and stayed together for 26 years. James Dudas sold auto parts, and his earnings in the latter part of the marriage averaged about \$40,000 a year.

After Pamela Dudas filed for divorce in 2008, James began enjoying dramatic increases in income. In 2009 he earned \$64,000; in 2010, \$76,000; and this year, a projected \$68,000. He is one of his company's most successful salesmen, Jones remarked in the opinion.

But Pamela Dudas gave him a platform for that success by maintaining a strong and stable household and working when necessary, such as to support James when he attempted, unsuccessfully, to start his own business, Jones found. She occasionally did part-time work that never paid her more than \$18,000 a year. And she halted her desire to obtain a psychology degree.

The goal of equity is to enable both parties to enjoy a lifestyle as close as possible to that which they had when they were together, Jones said, finding nothing in the relevant statute, N.J.S.A. 2A:34-23(b), to suggest that James' recent success should be ignored in that calculation.

"If the Legislature had intended for an alimony analysis to be capped at the level of income

7 Easy Ways to Merge Mobile & Office Tech  
Click Here for Full Story

**LTN** LAW TECHNOLOGY NEWS

ADVERTISEMENT

Not just **MORE** content ... but **MORE** efficient research tools from LexisNexis®.



### Find similar content

- Companies, agencies mentioned** ▶
- Key categories** ▶
- Most viewed stories** ▼
  - 1 Lawyer's Decamping from Defense to Plaintiffs' Firm Gets Latter Disqualified [✖](#)
  - 2 Judge Who Doubled As Prosecutor Hit With Ethics Charges **FREE WITH REGISTRATION**
  - 3 Fair Debt Collection Practices Firm Chastised for Inflated Fee Requests [✖](#)
  - 4 Reprimanded Former Judge Can Press Claims His Law Firm Illegally Fired Him **FREE WITH REGISTRATION**
  - 5 Spike in Income After Marital Split Can Be Factored Into Alimony Determination [✖](#)

previously earned by the parties during the marriage, such limiting language could have easily been included in the statute itself," he said.

The statute lists 13 factors that a judge can consider in determining alimony. Jones considered four of them: the actual need and the ability of one party to pay, the standard of living enjoyed during the marriage, the earning capacities of both parties and any other evidence the judge deems relevant.

Jones took into account two other factors — the cost of the marriage and the "momentum of the marriage."

"If the court artificially ignores defendant's available post-complaint financial resources and only considers the defendant's less, pre-divorce income, there will not be enough money available for both parties to separately approach the same lifestyle that they had during the marriage," he said.

As for the "momentum of the marriage," Jones turned to *Guglielmo v. Guglielmo*, 253 N.J. Super. 531 (App. Div. 1992), where the court said: "We are entirely satisfied that a spouse that maintains the house while the husband's career advances should share in the rewards of their combined efforts. We will not sanction an agreement which prohibits a woman devoted to her husband from enjoying the fruits of her labor just as they are to be reaped."

Jones said that he found by a preponderance of the evidence that James Dudas' ability to obtain and resume work in his industry and to accomplish a "personal best" in terms of salary during a massive recession was significant.

James Dudas was able to succeed, even after the break-up, because of the strong support he received at home from Pamela Dudas while they were together, the judge said.

Jones added, however, that the analysis would not always fall in favor of the wife. The analysis might go the other way, he said, if, after the complaint was filed, the husband became successful in some new endeavor, won the lottery or made good investments. That success, Jones said, would not be rooted in the "momentum of the marriage."

But in this case, the analysis skews toward benefiting Pamela Dudas. "The court finds ... that defendant's ability to earn the level of income which he presently earns is in fact directly attributable to the hard work and combined efforts of both parties during their lengthy marriage," Jones said.

James Dudas' attorney, Tuckerton solo M. Joseph Kurzrok, did not return a reporter's call.

Pamela Dudas, who represented herself, could not be reached for comment.

[Subscribe to New Jersey Law Journal](#)

Print Share Email Reprints & Permissions Post a Comment

## From the Law.com Network



ADVERTISEMENT



## Appellate Practice Essentials



lawjobs.com

### TOP JOBS

Patent Associate  
TOPAZ ATTORNEY SEARCH  
Northern, New Jersey

Litigation Associate  
FISHKIN LUCKS, LLP  
Newark, NJ

[MORE JOBS](#)  
[POST A JOB](#)

ADVERTISEMENT

The Legal Intelligencer ALM

Introducing the...

# DELAWARE BUSINESS COURT INSIDER

[Click Here for More Information.](#)

News and analysis on the most important developments in the Delaware Business Courts

888



**Judge: Losing Plaintiff Must Pay \$6.5 Mil. in Attorney Fees, Costs**

**Benefits of Deferred Lawyers a Pleasant Surprise for Public Interest Firms**



**Broken Back, Broken Record**

**Supreme Court Weighs Lawyer Immunity Limits**



**The Careerist: Women Getting Shafted on Reviews**

**Cadwalader Partner Is Tabloid Darling**



**Beer Wars: Toil and Trouble May Lead Brewers to Victory in Alcoholic Beverage Battles**

**New Associate Hires Drop 13 Percent**

**Outdated**

**Plaintiff settlement charm**

[Terms & Conditions](#) | [Privacy](#) | [About njlj.com](#)

## the LAW.COM network

Advertise

### LAW.COM

- Newswire
- Special Reports
- International News
- Lists, Surveys & Rankings
- Legal Blogs
- Site Map

### ALM NATIONAL

- The American Lawyer
- The Am Law Litigation Daily
- Corporate Counsel
- Law Technology News
- The National Law Journal

### ALM REGIONAL

- Connecticut Law Tribune
- Daily Business Review (FL)
- Delaware Law Weekly
- Daily Report (GA)
- The Legal Intelligencer (PA)
- New Jersey Law Journal
- New York Law Journal
- GC New York
- The Recorder (CA)
- Texas Lawyer

### DIRECTORIES

- ALM Experts
- LegalTech® Directory
- In-House Law Departments at the Top 500 Companies
- New York's Women Leaders in the Law
- Corporate Counsel: Best Lawyers® Annual Guides
- The American Lawyer: Best Lawyers® Annual Guides
- The National Law Journal Leadership Profiles
- National Directory of Minority Attorneys

### BOOKS & NEWSLETTERS

- Best-Selling Books
- Publication E-Alerts
- Law Journal Newsletters
- LawCatalog Store
- Law Journal Press Online

### RESEARCH

- ALM Legal Intelligence
- Court Reporters
- MA 3000
- Verdict Search
- ALM Experts
- Legal Dictionary
- Smart Litigator

### EVENTS & CONFERENCES

- ALM Events
- LegalTech®
- Virtual LegalTech®
- Virtual Events
- Webinars & Online Events
- Insight Information

### REPRINTS

- Reprints

### ONLINE CLE

- CLE Center

### CAREER

- Lawjobs