



# Pendente Lite Support in Divorce

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Have you been served with a Complaint for Divorce? Has your spouse abandoned your marital home and left you holding all the bills and expenses? Or have you left the marital home and your spouse is looking to have his or her expenses paid for? Are you wondering how you are going to support yourself and your family until your divorce is finalized? The financial details of maintaining monthly living expenses can be an overwhelming process to persons making their way through a divorce. "*Pendente lite*" support is the term most often employed to describe interim support relief provided to a spouse during the pendency of a divorce action. The objective of any *pendente lite* support application is to try to maintain the financial status quo pending a resolution of the matter.

### **How is *pendente lite* support determined?**

The lifestyle maintained by you and your spouse during your marriage provides the foundation upon which to determine the appropriate level of *pendente lite* support. The principle and purpose of any *pendente lite* award is to continue the standard of living maintained by both of you during the course of the marriage, often referred to as the "marital status quo." A spouse is not required to change his or her mode of living merely because the other spouse has quit the marital relationship. Instead, the standard at which you and your spouse actually lived will form the basis of a *pendente lite* award.

### **How does a spouse obtain a *pendent lite* support award?**

There are several ways a spouse can obtain *pendente lite* support, either voluntarily through agreement or involuntarily through a court application. A common situation is one where a spouse receives support on a voluntary basis through mutual agreement. Sometimes, spouses are able to work out a *pendente lite* arrangement to their mutual satisfaction by deciding which spouse will be responsible for a portion or all of the monthly expenses. In these instances, attorneys for both spouses must make a determination whether the amount being paid voluntarily is equal to or greater than what a court would award on a *pendente lite* application. In cases where the

voluntary support is fair and reasonable, you and your spouse through the aide of your attorneys can enter into a consent order outlining an agreement. A consent order is a document which sets forth the terms and conditions of the *pendente lite* support obligations, and then is executed by your attorneys and ultimately signed by a Judge. Once entered by the court, the terms and conditions of the consent order would become the supported spouse's *pendente lite* award.

In other instances where a spouse has not provided any financial support or provides woefully insufficient support, a spouse must file an application with the court to obtain *pendente lite* relief. *Pendente lite* support awards are established through the submission of a Certification, a document which sets forth the factual circumstances of your lifestyle and is accompanied by a Case Information Statement, a document which outlines your respective incomes, assets and monthly expenses. In making a determination, a court will take into consideration the needs of the supported spouse, the means of the supporting spouse and the standard of living of the parties in providing a spouse with adequate maintenance and support.

## **Conclusion**

Whether arrived by mutual agreement or through a court application, *pendente lite* support is one of the most critical applications as it sets the "tone" for your divorce proceeding, and in many cases lays the groundwork for the final disposition of divorce and support awards. A final support award can be higher or lower than the *pendente lite* support. If you are faced with the obstacles of *pendente lite* support issues and need the assistance of an attorney to determine the appropriate level of *pendente lite* support for you or your spouse, please contact an attorney at Riker Danzig Scherer Hyland Perretti LLP for a consultation.

## **Practice:**

Family Law