



MASSACHUSETTS FAMILY LAW: A PERIODIC REVIEW

By Jonathan E. Fields

Temporary Alimony Doesn't Count. In the most significant case to date concerning the Alimony Reform Act, the SJC determined that the period during which temporary alimony is paid during the pendency of a divorce proceeding pursuant to G.L. c. 208 s. 17 is *not included* in the calculation of the maximum presumptive duration of general term alimony. Rather, the Court found, temporary alimony is separate and distinct from general term alimony as the new law did not amend or reference G.L. c. 208 s. 17, the temporary alimony statute.

As to a payor's concern that this ruling might encourage payees to elongate divorce proceedings to maximize alimony payments, the SJC stated that a judge may shorten the duration of alimony in the event that "temporary alimony is unusually long in duration or where the [payee] has caused unfair delay in the issuance of a final judgment in order to prolong the length of time in which alimony may be paid..." The formulation allows that an "unusually long period of temporary alimony" can, *by itself*, be sufficient.

How long is an "unusually long" period of temporary alimony? Here, it lasted almost two and a half years but there was no evidence that the wife delayed final resolution of the case. As such, the SJC found that the judge did not abuse her discretion in deciding that the appropriate length of alimony was the maximum presumptive duration. *Holmes v. Holmes*, 467 Mass. 653 (April 2, 2014)



**Convictions are more dangerous enemies
of truth than lies.**

Friedrich Nietzsche