

Resolution Regarding use of Alimony Guidelines

WHEREAS, the purpose of this Resolution is to state and clarify the current position of the AAML on the use of alimony guidelines; and

WHEREAS, on March 9, 2007, the Board of Governors adopted “the report of the AAML-ALI Commission as a recommendation for consideration when determining alimony/spousal support/maintenance, adding specific deviation factors for age, wealth, and when a spouse gives up a career, career opportunity, or otherwise support of the career of the other spouse, with the technical correction of the example tables to be gender neutral....,” (copy of full report attached); and

WHEREAS, on November 8, 2013, the AAML Board of Governors approved a Resolution regarding the meaning and intent of the 2007 Resolution, directed that the 2007 Resolution be removed from the AAML website list of policies, and sent the matter of alimony guidelines and alimony determinations to the AAML Alimony Committee for study and recommendation (copy of Resolution attached); and

WHEREAS, confusion has resulted regarding the current position of the AAML on alimony guidelines; and

THEREFORE, the Board of Governors now and hereby RESOLVES to clarify and amend the 2013 resolution to state that:

- a. Pending further study of the alimony guideline and alimony determination issues, and further action by the Board of Governors, the AAML has determined it appropriate to have no current position on the issue of alimony guidelines, or how alimony should be determined; and
- b. Alimony determinations are important issues, which in large part are very state specific and may not lend themselves to national policies; and
- c. The AAML Alimony Committee shall study the alimony guideline and alimony determination issues and report its conclusions and recommendations to the Board of Governors prior to the November 2014 Board of Governors meeting, for consideration by the Board of Governors; and
- d. This resolution shall be posted to the AAML website with attachments as the current position of the AAML.

***Report of the American Academy of Matrimonial Lawyers on
Considerations when Determining Alimony, Spousal Support or
Maintenance
Approved by Board of Governors
March 9, 2007***

Report of the American Academy of Matrimonial Lawyers on
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Introduction

The mission of the American Academy of Matrimonial Lawyers is "[T]o encourage the study, improve the practice, elevate the standards and advance the cause of matrimonial law, to the end that the welfare of the family and society be protected." In 2003 President Sandra Joan Morris appointed a Commission (AAML Commission) to critically review the American Law Institute's PRINCIPLES OF THE LAW OF FAMILY DISSOLUTION: ANALYSIS AND RECOMMENDATIONS (2002) (PRINCIPLES), to analyze the PRINCIPLES and to make recommendations consistent with the mission of the Academy. The Commission's first project was the Academy's Model for A Parenting Plan which was adopted in November 2004 and published in 2005.¹

After concluding the Parenting Plan the Commission focused on spousal support (also referred to as alimony or maintenance) which remains a difficult issue for practitioners, judges, legislatures and litigants. The ALI Commission conducted a review of Chapter 5 of the PRINCIPLES on Compensatory Payments. The PRINCIPLES are premised on the theory that, absent extraordinary circumstances, spousal support should be based exclusively on compensation for losses that occurred as a result of the marriage, a proposition that was rejected by the AAML Commission. The AAML Commission also considered extensive feedback from members of the Academy which was gathered through a national survey, a general meeting of the membership and a discussion session that followed an AAML Commission CLE presentation on the issue.

After considering all these sources of information the Commission concluded that there are two significant and related problems associated with the setting of spousal support. The first is a lack of consistency resulting in a perception of unfairness. From this flows the second problem, which is an inability to accurately predict an outcome in any given case. This lack of consistency and predictability undermines confidence in the judicial system and further acts as an impediment to the settlement of cases because without a reliable method of prediction clients are in a quandary.

In response to these concerns, many jurisdictions have adopted a formula approach to setting spousal support. While this approach may appear similar to that used to set child support, there are important differences because the factors for determining spousal support are significantly different than those applicable to setting child support awards. The AAML Commission recognized these differences and its approach for

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recommending both the amount and length of a spousal support award reflect and respond to the challenges of arriving at a fair result in these cases.

The proposed considerations are designed to be used in conjunction with state statutes that first determine eligibility for an award. They are not intended to replace existing state public policy regarding eligibility for an award. In addition, the factors that are listed as deviations are intended to address the considerations for setting an amount and duration of an award found in most states' statutes. These recommendations are ones that the Commission hopes Academy members can utilize in advocating for a fair result for their clients. It is further hoped that the approach outlined here will be adopted by judicial officers and state legislatures as they attempt to provide consistent, predictable and equitable results.

Background

The origins of alimony date back to the English common law system. Historically there were two remedies from the bonds of marriage. Although an absolute divorce was theoretically possible it required an act of Parliament and was therefore hardly ever used. More commonly a plea was made to the ecclesiastical courts for a separation from mensa et thoro (bed and board). The action was akin to our current day separation. A husband who secured such a divorce retained the right to control his wife's property and the corresponding duty to support his wife. When Parliament authorized the courts to grant absolute divorces, the concept of alimony remained and was adopted by the colonies.

The initial rationale based on a fault based system of divorce appeared to be two-fold. First, alimony was seen as damages for breach of the marital contract reflected in the fact that in most states it was only available to the innocent and injured spouse. The other rationale appears to have been the assumption that women would be unable to support themselves through employment. Although these rationales were undermined by the acceptance of no-fault divorce and the rejection of gender stereotyping, the practical reality of women's financial dependency remained in many marriages.

With the advent of no-fault divorce, alimony lost its punitive rationale. The UNIFORM MARRIAGE AND DIVORCE ACT (UMDA) changed the character of these awards to one that was almost exclusively needs based and at the same time gave spousal support a new name: maintenance. The marital standard of living was only one of six factors relied upon in making awards under the UMDA where the focus was now on "self-support" even if it was at a substantially lower level than existed during the marriage. In addition, when awards were made they were generally only for a short term, sufficient to allow the dependent spouse to become "self-supporting". This "first wave" of spousal support reform often left wives, who were frequently the financially dependent spouses in long term marriages, without permanent support.

In response to the denial of long term awards for those most in need of them, the "second wave" of reform took place in the 1990's and expanded the factors justifying an award

beyond "need". This new legislation encouraged courts to base awards more on the unique facts of a case and less on broad assumptions about need and the obligation to become self-supporting in spite of the loss of earning capacity that often occurs in long term marriages. The use of vocational experts to measure earning capacity became more widespread and there were attempts to quantify the value of various aspects of homemaker services as part of a support award. Many courts rejected these latter attempts. Maintenance was sometimes awarded for "rehabilitative" purposes such as providing income for the time it takes the recipient to acquire skills or education necessary to become self-supporting. Additional rationales for maintenance included contract principles such as expectation or quasi-contract doctrines like restitution or unjust enrichment. Left unanswered however, was the critical question of the measure of the dependent spouse's basic entitlement to support. Is it at the marital standard of living (as provided in the common law) or is it at some other level based on "need"?

The current trend is to provide support based on factors that include need, and in some states, fault. But "need" remains an elusive concept. Is it the marital standard of living? Is it subsistence level? Is it a transfer of money to provide income sufficient to acquire skills or training to become self-supporting? Is it the equitable division of the marital stream of income?

An alternative theory to need-based awards is one premised on "contribution". Here the idea of marriage as an economic partnership, which is the theoretical basis for a sharing of the partnership's assets under the rubric of equitable distribution, can also be used as a basis for compensating a spouse for contributions made to the partnership.

The American Law Institute in its PRINCIPLES focuses on spousal payments as compensation for economic losses that one of the spouses incurred as a result of the marriage. The ALI guidelines are premised on the fact that when a marriage is dissolved there are usually losses associated with it such as lost employment opportunities or opportunities to acquire education or training in order to increase earning capacity. The ALI takes the position that these losses, to the extent they are reflected in a difference in incomes at the time of dissolution, should be shared by the partners. The PRINCIPLES assume a loss of earning capacity when one parent has been the primary caregiver of the children. They also make provisions for compensation for losses in short term marriages where sacrifices by one spouse leave that spouse with a lower standard of living than he or she enjoyed prior to the marriage. Finally, under the PRINCIPLES, compensation could be awarded based on a loss of a return on an investment in human capital (where one spouse has supported the other through school). This would be most important in the vast majority of states that do not recognize enhanced earning capacity or a degree or license as a divisible marital partnership asset.

While these different approaches to alimony reflected in various states may lead to a disparity in result from state to state, what is more troubling is the tendency to see very disparate results within a jurisdiction where the judges are supposedly applying the same statute. These disparate results have led many jurisdictions to adopt formulas in an effort to provide both consistency and predictability.

The AAML Commission Recommendations

The AAML Commission studied approaches used in many jurisdictions. While there are certainly many variations, there are two factors that are considerations in virtually all jurisdictions - income of the parties and the length of the marriage. Seeking to provide a formula that Academy members could use regardless of where they practice, the Commission chose to utilize these two universal factors. It should be noted that the application of the proposed AAML considerations yielded results that were comparable to those reached under the majority of approaches adopted in a significant number of jurisdictions.

The AAML Commission recognizes that the amount arrived at may not always reflect the unique circumstances of the parties. Therefore, deviation factors are used to address the more common situations where an adjustment would need to be made.

The recommendations are:

Amount:

Unless one of the deviation factors listed below applies, a spousal support award should be calculated by taking 30% of the payor's gross income minus 20% of the payee's gross income. The alimony amount so calculated, however, when added to the gross income of the payee, shall not result in the recipient receiving in excess of 40% of the combined gross income of the parties.

Length:

Unless one of the deviation factors listed below applies, the duration of the award is arrived at by multiplying the length of the marriage by the following factors: 0-3 years (.3); 3-10 (.5); 10-20 years (.75), over 20 years, permanent alimony.

"Gross Income" is defined by a state's definition of gross income under the child support guidelines, including actual and imputed income.

-----The spousal support payment is calculated before child support is determined.-----

-----This method of spousal support calculation does not apply to cases in which the combined gross income of the parties exceeds \$1,000,000 a year.-----

Deviation factors:

The following circumstances may require an adjustment to the recommended amount or duration:

- 1) A spouse is the primary caretaker of a dependent minor or a disabled adult child;
- 2) A spouse has pre-existing court-ordered support obligations;
- 3) A spouse is complying with court-ordered payment of debts or other obligations (including uninsured or unreimbursed medical expenses);
- 4) A spouse has unusual needs;
- 5) A spouses' age or health;
- 6) A spouse has given up a career, a career opportunity or otherwise supported the career of the other spouse;
- 7) A spouse has received a disproportionate share of the marital estate;
- 8) There are unusual tax consequences;
- 9) Other circumstances that make application of these considerations inequitable;
- 10) The parties have agreed otherwise.

The Appendix to this report contains examples of the application of the recommendations to several fact patterns.

Respectfully Submitted,

Mary Kay Kisthardt, Reporter

November 2006

Members of the Commission:

Marlene Eskind Moses, Co-Chair

Barbara Ellen Handschu, Co-Chair

Michael Albano

Arthur E. Balbirer

Gaetano Ferro

James T. McLaren

Joanne Ross Wilder

Thomas Wolfrum

Excerpts from March 9, 2007 AAML Board of Governors Meeting Minutes

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VIII. Proposal of the AAML ALI Committee that the AAML Adopt a Policy in Favor of Alimony/Spousal Support/Maintenance Considerations:

Professor Mary Kay Kisthardt of the AAML ALI Commission, reported on the proposal that the AAML adopt a policy in favor of Alimony/Spousal Support/Maintenance Considerations (copy attached). Professor Kisthardt reported to the Board of Governors that the AAML ALI Commission had studied in-depth the ALI's so-called "tort approach" to the award of Alimony/Spousal Support/Maintenance, finding that the ALI approach was generally inconsistent with the law in that area in most states. The Commission then studied different approaches that had been adopted or tested throughout the United States. The common denominator in most of these approaches involved a formula type approach that heavily weighted two factors, income and duration of the marriage. The AAML ALI Commission attempted to address a frequently expressed concern of lack of predictability and consistency throughout the United States in attempt to predict the amount and duration of such support. The Commission then authored a formula principally based upon the income of the parties and the duration of the marriage, subject to specific deviation factors. After looking at the support levels and duration that resulted from that proposed formula, the results were more often than not consistent, predictable and in keeping with what most members felt was a fair and just result. Professor Kisthardt requested permission to post an article in the AAML Journal, Fall 2008 Issue, on this subject. The Commission requests that the work of the AAML ALI Commission be adopted as considerations to be considered in making these determinations, as opposed to confirming a formula that the Chapters or Fellows must follow.

Spirited and lengthy discussion then followed.

Linda Lea Viken suggested clarification be made to the proposed tables as they impact the length of the support to be awarded because there appeared to be some overlap. Professor Kisthardt agreed to make that change.

Alton Abramowitz expressed concern that spousal support would be removed from the discretion of the Court and simply be determined by a fixed or binding formula. Professor Kisthardt responded that the proposed considerations are not binding on the Court; rather, are simply a reasonable approach with appropriate deviation factors that would need to be applied on a case by case basis as a consideration in making those determinations.

President Ferro noted that many jurisdictions have Guidelines and that the considerations proposed by the AAML ALI Commission should be considered. President Ferro also noted that by a vote of 7-5, the AAML Executive Committee approved these considerations.

Deb Eldrich expressed concern that the considerations may do an injustice to spouses age 55 or older, who have no way to be self-supporting, but are divorcing after a marriage of short term.

Barbara Handschu suggested that the example charts appended to the considerations be made gender neutral by re-naming the payor and payee as "Spouse #1" and "Spouse #2". She also noted that under Deviation Factor No.7, other circumstances, the Court could deviate from the suggested duration of the spousal support for a spouse 55 or older who is divorcing after a short term marriage.

Art Balbirer suggested that Deviation No. 7 allows attorneys to do their work as attorneys, providing reasons and justification to deviate from the suggested considerations.

Arnold Rutkin initially suggested that the Guidelines may be "anti-woman", particularly where the spouse gave up a career, was unemployable, supported the career of the other spouse, and that future employment was unlikely. He suggested that an additional factor be specifically included to consider those types of considerations. After reflection, Arnold Rutkin expressed the opinion that the Guidelines would overall be better for women, particularly if a specific deviation factor for age, health, future employability, a spouse who gave up a career, or a career opportunity, and supported the career of the other spouse were included.

Nancy Shafer suggested that the 30% portion suggested for spousal support may not be sufficient. She raised the question of what would be the effect if the state factors for determining support were different than those proposed by the AAML ALI Commission.

Joslin Davis suggested that we need some type of Guideline, particularly in dealing with temporary or *pendente lite* awards.

Alton Abramowitz suggested that the AAML ALI Commission considerations simply be accepted as a report, as opposed to adopted as a policy of the Academy. Marlene Moses suggested that the considerations be handled just as we have in the past, such as with the Parenting Plan. She also suggested that the proposed considerations will be helpful to the Courts, attorneys and parties nationwide.

Ken Altshuler reported that he had presented a seminar to Maine attorneys and judges. At that seminar, a fact pattern was presented. The judges and attorneys present found that the AAML ALI Commission Guidelines provided needed consistency and predictability and felt that the Guidelines were an excellent starting point in making support determinations.

Art Balbirer pointed out that our alternative is to simply make no suggestion and leave such awards in the total discretion of the Court, which has not proven satisfactory. There is no current predictability or consistency. Art Balbirer noted that the eight members of the Commission initially voted 7-1 for the considerations, with Art Balbirer being against any Guidelines or considerations. However, after running real life scenarios through the considerations, he was convinced that the end result was where he would have expected to be in the various scenarios.

Jim Hennenhoefer suggested that these are not "Guidelines" per se; rather, they are simply factors to be considered in an overall award, an additional tool in the tool shed of a good Family Court advocate.

Maria Cagnetti raised the issue that if the Academy adopted these considerations as policy, Fellows might have difficulty presenting contrary positions.

Ron Tweel suggested that before we have such a policy, 75% of the Board should be in favor (rather than a simple majority). He requested that the Minutes reflect that he is against the proposed considerations.

Sy Chase felt that these Guidelines were not necessary.

Gary Nickelson suggested that the Board exercise care in what these "considerations" are called. While he felt that Child Support Guidelines worked well in low income cases, his experience has been that there have been unreasonable limits in high income cases.

Nancy Shafer suggested that Deviation Factor #3 should be specifically noted as applying to either spouse. She also suggested that this matter be reported out as a "model for consideration of calculating spousal support". She also suggested that Table #2 be gender neutral, denominating the parties as "Spouse #1" and "Spouse #2". She also agreed that the overlap in the duration tables be clarified and suggested that the 30% cap be increased to a 50% cap.

Alan Mantel suggested that these considerations might be helpful in some states, but opposed in other states.

Cary Mogerman suggested that Deviation Factor #4 adds in the necessary discretion.

Tom Vick suggested that if this proposal is to become a national standard for alimony, then we also ought to have a national standard for child support and equitable division.

Joan Kessler suggested that the report of the AAML ALI Commission may not be perfect, but what is out there, specifically the ALI Report (the tort claim approach), is far worse. She suggested that these considerations are a good starting point for making these determinations and we would be doing our clients a good service to do so.

Margaret Anderson stated that the proposed considerations give priority to alimony over child support (as alimony is determined first before determining child support, which would be contrary to the Child Support Guidelines in California). Professor Kisthardt suggested that most jurisdictions, when calculating child support, must consider all income, including alimony, before determining child support.

Joanne Wilder stated that child support is a priority obligation. Just because alimony is calculated first, that only means and demonstrates that both parents have an obligation to support their children. She further suggested that we need a model for alimony calculations, as equitable division and community property are generally being handled properly nationwide. However, only with spousal support is there a general absence of any Guidelines or considerations – spousal support is normally

determined by how a particular Judge feels that day. Litigants in spousal support controversies need to be treated more fairly.

Jim Cahn suggested that formulas of any nature simply give Judges an easy way out. He suggested that the factors to be considered should be more specifically addressed.

Marlene Moses then moved that the Board of Governors adopt the report of the AAML ALI Commission as a recommendation of considerations when determining Alimony/Spousal Support/Maintenance, adding specific Deviation Factors for age, health, and when a spouse gives up a career, a career opportunity, or otherwise supported the career of the other spouse, with the technical correction of the example Tables to be gender neutral, which was seconded by Joslin Davis. After a tie vote broken by the President, the Report of the AAML ALI Commission passed and was adopted by a vote of 22 for and 21 against. A copy of the Amended Report is attached.

New Jersey Chapter Motion – Alimony Guidelines Resolution

DALE E. CONSOLE
Attorney at Law
A PROFESSIONAL CORPORATION

Fellow, American Academy
of Matrimonial Lawyers

Certified by the Supreme Court
of New Jersey as a Matrimonial
Law Attorney

4478 Route 27, Suite 102
P.O. Box 363
Kingston, NJ 08528-0363

(609) 683-0003
Facsimile
(609) 683-3930
www.daleconsolelaw.com

October 15, 2013

Alton Abromowitz, Esq.
President, AAML
150 North Michigan Avenue
Suite 2010
Chicago, IL 60601

Dear Alton,

On behalf of the New Jersey Chapter of the AAML I ask that the attached Resolution with regard to the issue of alimony guidelines be placed on the agenda for the annual meeting in November of the Board of Governors.

For those of us who were not present in 2007 when this issue came up, I attach the Report of the AAML Commission, the minutes of the March 9, 2007 meeting of the Board of Governors and the letter from then President Jim Hennenhoefer dated June 11, 2008. These documents raise issues as to whether the Board intended the report to be a policy of National and whether the Board intended the report to be used to promote legislative initiatives relating to alimony guidelines.

New Jersey is currently facing alimony reform legislation that seeks, among other things, to impose guidelines based on income and duration of the marriage. The alimony reform groups supporting this legislation have used the AAML Commission Report to reinforce their position stating that AAML, as the leading organization of matrimonial lawyers in the country, has endorsed the use of alimony guidelines as a legislative guideline.

The matrimonial community in New Jersey is strongly opposed to the legislation and has proposed alternative legislation but the fact that the Report plainly endorses the use of alimony guidelines is a problem. Although our Chapter does not believe the Report was intended to be a policy binding on all of us, it is not entirely clear whether we can in fact take a position contrary to that stated in the Report. The actual motion before the Board was merely to adopt the Report as a *recommendation of*

DALE E. CONSOLE

Attorney at Law

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considerations subject to specified deviation factors and that was what was actually approved by the Board. However, nothing in the report as approved indicates that there were any limitations or restrictions. Unfortunately, it is the report that is in the public domain and not the minutes of the Board meeting.

It is the belief of the New Jersey Chapter that the actual minutes of the meeting and Jim Hennenhoefer's subsequent correspondence are relatively clear and the Board did not intend to endorse the use of alimony guidelines, establish a policy favoring alimony guidelines or support legislation proffering alimony guidelines. Accordingly, I would offer the attached Resolution which merely seeks to clarify the intent of the Board and the position of the AAML on this issue.

I stress that this is not a matter of whether any of us do or do not favor the use of alimony guidelines. It is simply a matter of clarifying what the intent of the Board was when it approved the Report in 2007.

Respectfully submitted,



Dale E. Console

Encl.

**Resolution Regarding
The Use of Alimony Guidelines**

WHEREAS, the American Academy of Matrimonial Lawyers appointed a Commission to critically review the American Law Institute's 2002 Principles of the Law of Family Dissolution and to make recommendations consistent with the mission of the Academy; and

WHEREAS in 2007 the Commission rendered a Report on Considerations when Determining Alimony, Spousal Support or Maintenance that recommended a formula approach to alimony/spousal support/maintenance based upon income and duration of the marriage subject to deviation based upon enumerated factors; and

WHEREAS on March 9, 2007 the Board of Governors voted to adopt the Commission Report solely as "a recommendation of considerations when determining Alimony/Spousal Support/Maintenance, adding specific Deviation Factors for age, health, and when a spouse gives up a career, a career opportunity, or otherwise supported the career of the other spouse"; and

WHEREAS the approval of the Report by the Board of Governors has been interpreted as a policy of the AAML and an endorsement of legislative reform mandating alimony guidelines;

NOW, THEREFORE, IT IS RESOLVED that the American Academy of Matrimonial Lawyers has never adopted a policy endorsing alimony/spousal support/maintenance guidelines nor has it endorsed any legislation proffering such guidelines and the Report was never intended to be the basis for any legislation.

Respectfully submitted,

The ___ day of November 2013 by the American Academy of Matrimonial Lawyers

Report of the American Academy of Matrimonial Lawyers on
Considerations when Determining Alimony, Spousal Support or Maintenance
Approved by Board of Governors
March 9, 2007

Introduction

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After concluding the Parenting Plan the Commission focused on spousal support (also referred to as alimony or maintenance) which remains a difficult issue for practitioners, judges, legislatures and litigants. The ALI Commission conducted a review of Chapter 5 of the PRINCIPLES on Compensatory Payments. The PRINCIPLES are premised on the theory that, absent extraordinary circumstances, spousal support should be based exclusively on compensation for losses that occurred as a result of the marriage, a proposition that was rejected by the AAML Commission. The AAML Commission also considered extensive feedback from members of the Academy which was gathered through a national survey, a general meeting of the membership and a discussion session that followed an AAML Commission CLE presentation on the issue.

After considering all these sources of information the Commission concluded that there are two significant and related problems associated with the setting of spousal support. The first is a lack of consistency resulting in a perception of unfairness. From this flows the second problem, which is an inability to accurately predict an outcome in any given case. This lack of consistency and predictability undermines confidence in the judicial system and further acts as an impediment to the settlement of cases because without a reliable method of prediction clients are in a quandary.

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recommending both the amount and length of a spousal support award reflect and respond to the challenges of arriving at a fair result in these cases.

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Background

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The current trend is to provide support based on factors that include need, and in some states, fault. But "need" remains an elusive concept. Is it the marital standard of living? Is it subsistence level? Is it a transfer of money to provide income sufficient to acquire skills or training to become self-supporting? Is it the equitable division of the marital stream of income?

An alternative theory to need-based awards is one premised on "contribution". Here the idea of marriage as an economic partnership, which is the theoretical basis for a sharing of the partnership's assets under the rubric of equitable distribution, can also be used as a basis for compensating a spouse for contributions made to the partnership.

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While these different approaches to alimony reflected in various states may lead to a disparity in result from state to state, what is more troubling is the tendency to see very disparate results within a jurisdiction where the judges are supposedly applying the same statute. These disparate results have led many jurisdictions to adopt formulas in an effort to provide both consistency and predictability.

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Unless one of the deviation factors listed below applies, a spousal support award should be calculated by taking 30% of the payor's gross income minus 20% of the payee's gross income. The alimony amount so calculated, however, when added to the gross income of the payee, shall not result in the recipient receiving in excess of 40% of the combined gross income of the parties.

Length:

Unless one of the deviation factors listed below applies, the duration of the award is arrived at by multiplying the length of the marriage by the following factors: 0-3 years (.3); 3-10 (.5); 10-20 years (.75), over 20 years, permanent alimony.

"Gross Income" is defined by a state's definition of gross income under the child support guidelines, including actual and imputed income.

The spousal support payment is calculated before child support is determined.

This method of spousal support calculation does not apply to cases in which the combined gross income of the parties exceeds \$1,000,000 a year.

Deviation factors:

The following circumstances may require an adjustment to the recommended amount or duration:

- 1) A spouse is the primary caretaker of a dependent minor or a disabled adult child;
- 2) A spouse has pre-existing court-ordered support obligations;
- 3) A spouse is complying with court-ordered payment of debts or other obligations (including uninsured or unreimbursed medical expenses);
- 4) A spouse has unusual needs;
- 5) A spouses' age or health;
- 6) A spouse has given up a career, a career opportunity or otherwise supported the career of the other spouse;
- 7) A spouse has received a disproportionate share of the marital estate;
- 8) There are unusual tax consequences;
- 9) Other circumstances that make application of these considerations inequitable;
- 10) The parties have agreed otherwise.

The Appendix to this report contains examples of the application of the recommendations to several fact patterns.

Respectfully Submitted,

Mary Kay Kisthardt, Reporter

November 2006

Members of the Commission:

Marlene Eskind Moses, Co-Chair

Barbara Ellen Handschu, Co-Chair

Michael Albano

Arthur E. Balbirer

Gaetano Ferro

James T. McLaren

Joanne Ross Wilder

Thomas Wolfrum

**AMERICAN ACADEMY OF MATRIMONIAL LAWYERS
BOARD OF GOVERNORS MEETING
The Westin Casuarina Resort and Spa
Grand Cayman**

Minutes

March 9, 2007

Opening:

The meeting of the Board of Governors of the American Academy of Matrimonial Lawyers was called to order at 12:30 P.M. on March 9, 2007, in the Grand Cayman, by President Gaetano Ferro.

Officers and Executive Committee Members in Attendance:

President:	Gaetano Ferro
President Elect:	James A. Hennenhoefler
First Vice President:	Gary L. Nickelson
Vice Presidents:	Alton L. Abramowitz
	Kenneth P. Altshuler
	Maria P. Cognetti
	Joslin Davis
	Marlene Eskind Moses
	Linda Lea M. Viken
	G. Thomas Vick, Jr.
Treasurer:	James T. McLaren
Secretary:	Cheryl L. Hepfer
Immediate Past President:	Barbara E. Handschu
Past President:	Arthur E. Balbirer
Counsel:	Joan F. Kessler
Parliamentarian:	Lorraine J. West
Executive Director:	

Governors in Attendance:

Margaret L. Anderson	Leonard Karp
Thomas L. Ausley	Susan M. Lach
Anne Berger	Elizabeth G. Lindsey
Stephen J. Blaylock	Allan D. Mantel
J. Ronald Boyd	Denise K. Mills
Lynn P. Burleson	Cary J. Mogerman
James S. Cahn	Arnold H. Rutkin
Seymour Chase	Nancy Chausow-Shafer
Wynter Reneaux Collins	John Slowiaczek
Michele Cummings	Edward J. Thomas
Pamela E. Deal	Ronald R. Tweel
Sarah D. Eldrich	Bryce J. Wagner
H. Michael Fields	Brian L. Webb
Brian R. Florence	Daphne Webb
Richard B. Jacobs	Joanne Ross Wilder

Governors Absent:

Samuel J. Goodman
David Levy
Larry W. Stuber
Richard S. Victor

I. Approval of Agenda:

Upon motion duly made and seconded, the Agenda for the Board of Governor's Meeting was unanimously approved (copy attached).

II. Approval of Minutes -- November 9, 2006:

The Minutes of the November 9, 2006 Meeting of the Board of Governors were received. Upon motion of Secretary James T. McLaren, duly seconded, the Minutes were unanimously approved as distributed (copy attached).

III. Financial Report

Treasurer Tom Vick presented the Financial Report for the period ending December 31, 2006, and the update through February 13, 2007 (copies attached). Upon motion of Treasurer Vick, seconded by Barbara Handschu, the Report was accepted.

IV. Introduction of New Executive Director, Vicki West:

President Ferro introduced the new Executive Director, Vicki West, who will assume her new duties effective January 1, 2008. The Board of Governors welcomed Vicki West as the new Executive Director. The new Executive Director's contract, on motion of Ken Altshuler, and duly seconded, was approved.

V. First Reading of Proposed Bylaws Amendments:

Joslin Davis, on behalf of the AAML By-Laws Committee, reported to the Board of Governors on the recommended changes to the AAML By-Laws, Article VIII., Section 8.1 Board of Review, Sub-Section a. and b. (copy attached). The recommended change to Section 8.1 a., substitutes the first Vice-President for the President-Elect to serve on the Board of Review so that the President-Elect will not be burdened with this duty upon becoming President. The recommended change to Section 8.1 b., allows the Executive Committee to fill vacancies on the Board of Review if the number of members of the Board of Review are less than five (5) as a result of vacancies. This report was accepted by the Board of Governors and given a favorable first reading.

VI. Kentucky Chapter's Request to Become a Charter Chapter:

By letter dated November 13, 2006 (copy attached), Louis I. Waterman requested that the Kentucky Chapter, which currently has provisional status, become a Charter Chapter. The Kentucky Chapter has 21 active members and is awaiting the test results for two applicants. A copy of the Kentucky Chapter's By-Laws are on file with the Academy. On motion duly made and seconded, the Kentucky Chapter was taken off provisional status and granted Charter Chapter status, by acclamation.

VII. Proposed Change to At-Large Governors:

At the request of Ken Altshuler, the proposed change to the composition of At-Large Governors was removed from the Agenda as the By-Laws Committee was continuing their work on that project.

VIII. Proposal of the AAML ALI Committee that the AAML Adopt a Policy in Favor of Alimony/Spousal Support/Maintenance Considerations:

Professor Mary Kay Kisthardt of the AAML ALI Commission, reported on the proposal that the AAML adopt a policy in favor of Alimony/Spousal Support/Maintenance Considerations (copy attached). Professor Kisthardt reported to the Board of Governors that the AAML ALI Commission had studied in-depth the ALI's so-called "tort approach" to the award of Alimony/Spousal Support/Maintenance, finding that the ALI approach was generally inconsistent with the law in that area in most states. The Commission then studied different approaches that had been adopted or tested throughout the United States. The common denominator in most of these approaches involved a formula type approach that heavily weighted two factors, income and duration of the marriage. The AAML ALI Commission attempted to address a frequently expressed concern of lack of predictability and consistency throughout the United States in attempt to predict the amount and duration of such support. The Commission then authored a formula principally based upon the income of the parties and the duration of the marriage, subject to specific deviation factors. After looking at the support levels and duration that resulted from that proposed formula, the results were more often than not consistent, predictable and in keeping with what most members felt was a fair and just result. Professor Kisthardt requested permission to post an article in the AAML Journal, Fall 2008 Issue, on this subject. The Commission requests that the work of the AAML ALI Commission be adopted as considerations to be considered in making these determinations, as opposed to confirming a formula that the Chapters or Fellows must follow.

Spirited and lengthy discussion then followed.

Linda Lea Viken suggested clarification be made to the proposed tables as they impact the length of the support to be awarded because there appeared to be some overlap. Professor Kisthardt agreed to make that change.

Alton Abramowitz expressed concern that spousal support would be removed from the discretion of the Court and simply be determined by a fixed or binding formula. Professor Kisthardt responded that the proposed considerations are not binding on the Court; rather, are simply a reasonable approach with appropriate deviation factors that would need to be applied on a case by case basis as a consideration in making those determinations.

President Ferro noted that many jurisdictions have Guidelines and that the considerations proposed by the AAML ALI Commission should be considered. President Ferro also noted that by a vote of 7-5, the AAML Executive Committee approved these considerations.

Deb Eldrich expressed concern that the considerations may do an injustice to spouses age 55 or older, who have no way to be self-supporting, but are divorcing after a marriage of short term.

Barbara Handschu suggested that the example charts appended to the considerations be made gender neutral by re-naming the payor and payee as "Spouse #1" and "Spouse #2". She also noted that under Deviation Factor No.7, other circumstances, the Court could deviate from the suggested duration of the spousal support for a spouse 55 or older who is divorcing after a short term marriage.

Art Balbirer suggested that Deviation No. 7 allows attorneys to do their work as attorneys, providing reasons and justification to deviate from the suggested considerations.

Arnold Rutkin initially suggested that the Guidelines may be "anti-woman", particularly where the spouse gave up a career, was unemployable, supported the career of the other spouse, and that future employment was unlikely. He suggested that an additional factor be specifically included to consider those types of considerations. After reflection, Arnold Rutkin expressed the opinion that the Guidelines would overall be better for women, particularly if a specific deviation factor for age, health, future employability, a spouse who gave up a career, or a career opportunity, and supported the career of the other spouse were included.

Nancy Shafer suggested that the 30% portion suggested for spousal support may not be sufficient. She raised the question of what would be the effect if the state factors for determining support were different than those proposed by the AAML ALI Commission.

Joslin Davis suggested that we need some type of Guideline, particularly in dealing with temporary or *pendente lite* awards.

Alton Abramowitz suggested that the AAML ALI Commission considerations simply be accepted as a report, as opposed to adopted as a policy of the Academy. Marlene Moses suggested that the considerations be handled just as we have in the past, such as with the Parenting Plan. She also suggested that the proposed considerations will be helpful to the Courts, attorneys and parties nationwide.

Ken Altshuler reported that he had presented a seminar to Maine attorneys and judges. At that seminar, a fact pattern was presented. The judges and attorneys present found that the AAML ALI Commission Guidelines provided needed consistency and predictability and felt that the Guidelines were an excellent starting point in making support determinations.

Art Balbirer pointed out that our alternative is to simply make no suggestion and leave such awards in the total discretion of the Court, which has not proven satisfactory. There is no current predictability or consistency. Art Balbirer noted that the eight members of the Commission initially voted 7-1 for the considerations, with Art Balbirer being against any Guidelines or considerations. However, after running real life scenarios through the considerations, he was convinced that the end result was where he would have expected to be in the various scenarios.

Jim Hennenhoefter suggested that these are not "Guidelines" per se; rather, they are simply factors to be considered in an overall award, an additional tool in the tool shed of a good Family Court advocate.

Maria Cognetti raised the issue that if the Academy adopted these considerations as policy, Fellows might have difficulty presenting contrary positions.

Ron Tweel suggested that before we have such a policy, 75% of the Board should be in favor (rather than a simple majority). He requested that the Minutes reflect that he is against the proposed considerations.

Sy Chase felt that these Guidelines were not necessary.

Gary Nickelson suggested that the Board exercise care in what these "considerations" are called. While he felt that Child Support Guidelines worked well in low income cases, his experience has been that there have been unreasonable limits in high income cases.

Nancy Shafer suggested that Deviation Factor #3 should be specifically noted as applying to either spouse. She also suggested that this matter be reported out as a "model for consideration of calculating spousal support". She also suggested that Table #2 be gender neutral, denominating the parties as "Spouse #1" and "Spouse #2". She also agreed that the overlap in the duration tables be clarified and suggested that the 30% cap be increased to a 50% cap.

Alan Mantel suggested that these considerations might be helpful in some states, but opposed in other states.

Cary Mogerman suggested that Deviation Factor #4 adds in the necessary discretion.

Tom Vick suggested that if this proposal is to become a national standard for alimony, then we also ought to have a national standard for child support and equitable division.

Joan Kessler suggested that the report of the AAML ALI Commission may not be perfect, but what is out there, specifically the ALI Report (the tort claim approach), is far worse. She suggested that these considerations are a good starting point for making these determinations and we would be doing our clients a good service to do so.

Margaret Anderson stated that the proposed considerations give priority to alimony over child support (as alimony is determined first before determining child support, which would be contrary to the Child Support Guidelines in California). Professor Kisthardt suggested that most jurisdictions, when calculating child support, must consider all income, including alimony, before determining child support.

Joanne Wilder stated that child support is a priority obligation. Just because alimony is calculated first, that only means and demonstrates that both parents have an obligation to support their children. She further suggested that we need a model for

alimony calculations, as equitable division and community property are generally being handled properly nationwide. However, only with spousal support is there a general absence of any Guidelines or considerations - spousal support is normally determined by how a particular Judge feels that day. Litigants in spousal support controversies need to be treated more fairly.

Jim Cahn suggested that formulas of any nature simply give Judges an easy way out. He suggested that the factors to be considered should be more specifically addressed.

Marlene Moses then moved that the Board of Governors adopt the report of the AAML ALI Commission as a recommendation of considerations when determining Alimony/Spousal Support/Maintenance, adding specific Deviation Factors for age, health, and when a spouse gives up a career, a career opportunity, or otherwise supported the career of the other spouse, with the technical correction of the example Tables to be gender neutral, which was seconded by Joslin Davis. After a tie vote broken by the President, the Report of the AAML ALI Commission passed and was adopted by a vote of 22 for and 21 against. A copy of the Amended Report is attached.

IX. Proposal of the Best Interest Standards Committee:

Maria Cagnetti presented the report and proposal of the Best Interest Standards Committee (copy attached). On motion, which was duly seconded and passed by the Board, the matter is referred back to the Best Interest Standards Committee for further study and with a specific instruction to come back to the Board with a plan by which the Academy will have more control and not be in the position of funding the proposal.

X. Recommendations of Executive Committee to File an Amicus Brief Regarding "Marriage Cases" Pending in California.

President-Elect Jim Hennenhoefer presented the recommendation of the Executive Committee to file an Amicus brief regarding "Marriage Cases" pending in California. Jim Mahood addressed the specifics of the proposal and stated that the Amicus position had been approved by the AAML Amicus Committee and that it was consistent with the policy of the Academy. On motion of President-Elect Hennenhoefer, duly seconded, the filing of an Amicus brief regarding the "Marriage Cases" pending in California was approved.

XI. Spring - 2008 Meeting, La Costa, California:

President-Elect Hennenhoefer informed the Board of Governors on the progress made for the arrangements concerning the Spring - 2008 Meeting in La Costa, California.

XII. Electronic Newsletter and Directory; CD Course Materials Recommendations:

Treasurer Tom Vick explained to the Board that approximately \$80,200.00 was spent on the hard copies of the Newsletter and Directory. The next Newsletter will be published electronically and on paper, and then mailed. The electronic version will include color pictures and hyper-links, all at far less cost. The Blue Book formerly

listing all Fellows will now be on the website. The Academy will save approximately \$10,000.00 to \$15,000.00 by publishing the CLE Materials on a CD, which allows electronic cutting and pasting. On motion of Tom Vick, which was duly seconded, (a) the Fellow Directory will now be published on the website and the hard copy Blue Book will be dispensed with, as a considerable cost saving measure; (b) the Newsletter will go to electronic publishing only; and (c) the CLE materials will be published and provided on a CD, was approved.

XIII. Recommendation of Executive Committee to Offer a 50% off the Registration Fee to Associates Who Attend the Advanced Institute Training Program:

Ken Altshuler reported that the Executive Committee had recommended that Associates who attend the Advanced Institute Training Program be offered a 50% reduction off of their registration fees at the first Chicago Meeting after receiving training. This recommendation was made in order to encourage new attorneys to get involved with the Academy and to stay involved. On Motion of Ken Altshuler, duly seconded, the Board approved the 50% reduction in the registration fee for new Associate attendees at the first Chicago Meeting following attendance at the Associates Advanced Training Institute, retroactive to the first session of the Advanced Institute Training Program.

XIV. What's New with the AAML Website:

Co-Chairs Jim McLaren and Deb Eldrich reported on the status of the website. Responsibility for the website has been formalized, with National having the responsibility for the day-to-day running, maintenance and operation of the website. Andy Lambert, an independent website designer, has been engaged to take on the larger projects and to help National on the technical side. The Website Committee continues to oversee projects, subject matter, and the work of National and Andy Lambert, subject to Academy policies. Overall, it was reported that the site is now more comprehensive, has much more content, and a frame work has been set up for additional items to be added to the website.

The following projects have been authorized and are in the process of implementation:

- A. Upgrades of National's computers and software.
- B. Mechanisms for acceptance of credit cards on line and fulfillment.
- C. Capacity for streaming video to be used for Hot Tips, messages from the President and Past-Presidents, news and other matters.
- D. Maximization of our Google ranking, including restructuring of the website content, spending funds for "buy rank", and oversight of success of these efforts based upon money spent.
- E. Preparing a repository on the website for Newsletters, CLEs, the Fellow Blue Book, etc.

- F. The Find-A-Lawyer function is being improved to include a click box on the Home Page, more extensive bios, and interactive maps, state by state,
- G. A Fellow of the Year Page is to be added, featuring the current Fellow of the Year and a news piece on that Fellow, together with a listing of Past-Fellows of the Year.
- H. Addition of a Policy Page.
- I. Addition of the Fellows Only section.
- J. Applicant Only sites to allow access to forms and suggested preparation materials.
- K. A Family Law Update Page.
- L. Posting of CLEs.
- M. Posting of Newsletters.

XV. Report on the AAML Institute:

Tom Ries reported that the AAML Associates Institute is progressing. There are currently 40 basic attendees and 23 advanced course attendees.

XVI. Future Academy Meetings:

Gary Nickelson reported on the following future Academy Meetings:

Annual Meeting
Renaissance Chicago Hotel
Chicago, Illinois
November 7-10, 2007

Mid-Year Meeting
La Costa Resort & Spa
La Costa, California
March 5-8, 2008

Annual Meeting
Renaissance Chicago Hotel
Chicago, Illinois
November 5-8, 2008

Mid-Year Meeting
Hyatt Kauai
Kauai, Hawaii
First or second week of March 2009

XVII. President's Report:

President Gaetano Ferro thanked everyone for their hard work and reported that all went well with our meeting at the Grand Cayman.

XVIII. Other Business:

Jay Mahood reported that the California brief involved state constitutional issues. Past-President Cheryl Hepfer reported that the issue was similar to that which had been previously authorized in the Maryland briefs and was consistent with Academy policy. On motion of Past-President Cheryl Hepfer, duly seconded, the Board of Governors approved signing on the briefs submitted by the Chapter and National.

Jay Mahood then reported on the New York relocation case, which had the effect of extending the emancipation age for child support purposes from age 18 to 21. The Amicus Committee had voted unanimously not to file a brief in the New York case. Bruce Wagner argued that the Uniform Act should be applied nationally with consistency and that forum shopping such as was done in the *Spencer* case should not be promoted. He further argued that the New York case will create a "wrong-minded" interpretation of the national Acts and will subvert the intention of full faith and credit constitutional considerations. Joan Kessler suggested that the New York case really involves a conflict of law issue (rather than a full faith and credit issue) and raised the question of how the Board would know which is the better choice of law in that conflict of law issue. Arnold Rutkin suggested that this case raises important issues and that National should support the New York Chapter.

Jay Mahood then moved, with a second, that the Academy not file an Amicus brief in the New York case and accept the report from the Executive Committee. That motion failed in a vote of 19 to 21.

Alan Mantel then moved to file an Amicus brief in the New York case, which was duly seconded. Linda Lea Viken suggested that the New York case gave the Academy an opportunity to make a contribution. There needs to be consistency in setting child support, and this case has national implications.

Art Balbirer voiced concern with National becoming involved in a case where a Fellow is bringing or defending a case in which the Academy is asked to take a position for or against a Fellow's case.

Alan Mantel's motion, which had been duly seconded, was then put to a vote, which was passed. The Academy will file an Amicus brief in the New York case.

XIX. New Business:

Foundations Report:

Arnold Rutkin reported that the AAML Foundation is making an effort to raise \$500,000.00 by November 2008, by creating a different level of membership and giving within the Foundation.

Jim Hennenhoefer then thanked President Ferro, In-Coming Executive Director, Vicki West, and Executive Director, Lorraine West, for the fine job they had done with the Grand Cayman Meeting.

Adjournment:

There being no further business, on motion of Brian Webb, duly seconded, and passed unanimously, the meeting was adjourned by President Ferro. The next meeting of the Board of Governors will be held on November 8, 2007, at 1:30 P.M. in Chicago.

APPROVED at the meeting of the Board of Governors on November 8, 2007.

James T. McLaren, Secretary

Gaetano Ferro, President

National Headquarters

150 North Michigan Avenue
Suite 2010
Chicago, Illinois 60601
312.263.6177
FAX: 312.263.7682
E-Mail: office@aaml.org

Protecting the family. Improving the practice.

*American Academy
of Matrimonial Lawyers*

June 11, 2008

Officers

President

James A. Hennenhoefer
516 N. Melrose Dr., Ste. 200
Vista, CA 92081-0618
Ph: 760/911-2200
Fax: 760/915-1805
johesq@aaml.com

President-Elect

Gary L. Nickelson

First Vice President

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Bruce J. Wagner
Daphne Webb
Joanne Ross Wilder
Executive Director
Vicki L. West

Allan D. Mantel
President, New York Chapter
AAML
405 Lexington Avenue
New York, NY 10174

Re: Alimony Guidelines

Dear Mr. Mantel:

The purpose of this letter is to respond to your letter dated June 5, 2008. Appended hereto are the Minutes of the Board of Governors meeting when the AAML adopted the AAML/ALI Commission Report.

As you can see:

1. In accepting the AAML/ALI Commission Report on March 9, 2007, the AAML did not approve the report as a guideline of any kind.
2. It was the intention of the Board of Governors of the AAML to approve the report and that the report be used as a tool in settlement or resolution of family law cases as a factor in any spousal support determination and no more. It was intended that the report not be the basis for any legislation.
3. The report and its contents was approved as a tool and a reference point when the issue of spousal support is addressed. The AAML has never endorsed any guideline or any legislation proffering a guideline related to spousal support.


The report was specifically adopted by the Board of Governors of the AAML as a consideration when determining alimony/spousal support/maintenance to be utilized with any other factors related to spousal support.

Allan D. Mantel
June 11, 2008
Page 2 of 2

It is my hope that this letter clarifies the AAML's position when the report was adopted.

If you have any further questions, please do not hesitate to contact me.

Sincerely,



James A. Hennenhoef
President, AAML

JAH/dk
Enclosure

cc: Guy Ferro, Immediate Past President
Vicki West, Executive Director

Excerpts from November 8, 2013 AAML Board of Governors Meeting Minutes

Excerpts from November 8, 2013 AAML Board of Governors Meeting Minutes:

VII. New Jersey Alimony Guidelines.

Dale Console asked the Board of Governors to clarify its intention with respect to the 2007 Alimony Guidelines Report issued by the American Academy of Matrimonial Lawyers. Groups in Connecticut, Florida and New Jersey are attempting to use the AAML Report to substantively lower alimony amounts and durations. The minutes of the 2007 meeting indicate they were for consideration only. However alimony reform groups are using the Report to say that the American Academy of Matrimonial Lawyers has supported the use of alimony guidelines. Dale submitted the following resolution:

Resolution Regarding The Use of Alimony Guidelines

WHEREAS, the American Academy of Matrimonial Lawyers appointed a Commission to critically review the American Law Institute's 2002 Principles of the Law of Family Dissolution and to make recommendations consistent with the mission of the Academy; and

WHEREAS in 2007 the Commission rendered a Report on Considerations when Determining Alimony, Spousal Support or Maintenance that recommended a formula approach to alimony/spousal support/maintenance based upon income and duration of the marriage subject to deviation based upon enumerated factors; and

WHEREAS on March 9, 2007 the Board of Governors voted to adopt the Commission Report solely as "a recommendation of considerations when determining Alimony/Spousal Support/Maintenance, adding specific Deviation Factors for age, health, and when a spouse gives up a career, a career opportunity, or otherwise supported the career of the other spouse"; and

WHEREAS the approval of the Report by the Board of Governors has been interpreted as a policy of the AAML and an endorsement of legislative reform mandating alimony guidelines;

NOW, THEREFORE, IT IS RESOLVED that the American Academy of Matrimonial Lawyers has never adopted a policy endorsing alimony/spousal support/maintenance guidelines nor has it endorsed any legislation proffering such guidelines and the Report was never intended to be the basis for any legislation.

Respectfully submitted,

The__ day of November 2013 by the American Academy of Matrimonial Lawyers

During discussion, it was reported that the focus of the Alimony Committee in 2002 was to address the Uniform Law Committees position to move alimony away from the tort/personal injury damages analysis. AAML thought it best to develop its version of Alimony Guidelines to address the ALI Committee's Alimony Guidelines, in order to preserve AAML's status as a

leader on family law issues. Guy Ferro, 2007 AAML President, cast the vote to break the tie of the Board of Governors on the approval of the Report. Guy suggested that the Academy form a committee to review the Alimony Guideline Report, to do it carefully and not to make a rash decision. He advised that the Alimony Guidelines Report was never designed to be “anti-woman.”

Other Board of Governors members urged that there is an urgency since the Report is negatively effecting states and they need immediate action. A suggestion was made that the Guidelines should be taken off of the website. Other comments included that we needed to be clear that the Report is not to be misinterpreted as it is not a policy, it is only a Report.

It was recognized that the substance and existence of the Alimony Guidelines Report is not modified by its removal from the website, nor was any amendment to the Report the proper subject for consideration at this meeting.

Tom Sasser moved that a statement be issued that the AAML neither supports nor endorses Alimony Guidelines.

Additional comments were that the courts are asking what the AAML position is with respect to alimony guidelines and states need clarification.

Another comment was made that domestic violence advocates are concerned that the AAML Report forces onerous guidelines on money spouses and they are using the AAML's Report to support their position. The AAML Report is repeatedly being misquoted and misused.

A question was raised that if the National AAML is neutral on the guidelines would it prohibit a chapter from taking a position either for or against guidelines. The concern is raised because a chapter cannot take a position contrary to a National policy. If the policy was to be neutral, then would that prevent a chapter from taking a position? The Bylaw Chair, Linda Lea Viken, opined that if AAML takes the position that it is evaluating the Report then a state could not take a position either way, but if AAML simply stated that it neither supports nor opposes alimony guidelines, a state Chapter could take a position. Lee Rosenberg, Parliamentarian, said that nothing would prevent a Chapter from taking a position on either side if AAML is neutral.

A Google search of the term “Alimony Guidelines” resulted in the AAML's Alimony Guidelines Report to come up as first and second position.

Madeline Marzano-Lesnevich proposed a motion to remove the Alimony Guidelines Report from the website. The motion was seconded by Charles Hodges. Further discussion followed regarding how the information could be publicized including the potential of a press release. Tom Sasser requested a friendly amendment to add a statement that American Academy of Matrimonial Lawyers takes no position for or against the use of guidelines for alimony which Madeline Marzano-Lesnevich accepted. After further debate, Madeline withdrew her motion.

Tom Sasser then moved that the 2007 Alimony Guidelines Report be removed from the website and substituted with the Resolution as proposed by Dale Console, as set forth above. Hal Stanton seconded the motion. Cary Mogerman proposed a friendly amendment to the motion to require that the Alimony Guidelines Report be sent back to the Alimony Committee for review which was accepted by Tom Sasser and Hal Stanton. The question was called. The motion carried with 27 voting yes and 11 voting no.