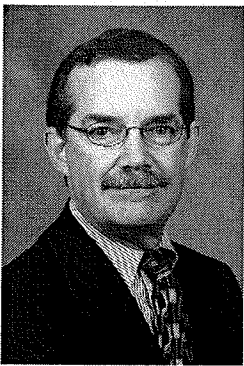


Domestic Help

Published by the Family Law Section of the Allen County Bar Association

ALLEN COUNTY BAR PRESENTS NIEMANN CITATION FOR EXCELLENCE AND PROFESSIONALISM TO JOHN BRANDT



On September 28, 2007, the Allen County Bar Association presented its Niemann Citation for Excellence and Professionalism to Fort Wayne family law attorney John Brandt. The Niemann Citation was established by the Allen County Bar Association in 2004 to honor the memory of attorney Scott T. Niemann. The purpose of the Citation is to recognize ACBA members who, like Scott, exemplify professionalism and excellence in the practice of law, as reflected in distinguished legal work, professionalism, public service and/or leadership. The award was presented at the ACBA annual meeting by Allen Circuit Court Magistrate Craig Bobay.

In presenting the award, Magistrate Bobay identified Brandt as "a friend of all lawyers, and a true friend of the Court," and read from the several letters submitted by local attorneys and judges in support of the nomination, such as:

"John sets a standard of professionalism and excellence not only in each and every case in which he is involved, but also in his efforts on every committee and board on which he serves."

"John Brandt is the epitome of professionalism and is known to treat everyone he deals with, be it staff, clients, judicial officers or opposing counsel, with courtesy and respect."

"John exemplifies professionalism and excellence in every case in which he is involved."

"John is an accomplished family law attorney and mediator and has served the profession well for almost thirty (30) years."

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ICLEF CLE Discount Program for 50-Hour Pro Bono Attorneys

This program is designed to provide a 20% discount on Indiana Continuing Legal Education Forum (ICLEF) CLE products (online products excluded) to Indiana attorneys who have performed at least 50 hours of pro bono service during the past calendar year. The program would begin on January 1, 2008. To be eligible for the discount, an attorney must have completed the required number of pro bono hours during the 2007 calendar year.

On a calendar year basis, each of the pro bono districts will maintain a list of attorneys within the district that the local plan administrator can verify have completed at least 50 hours of pro bono work during that calendar year. In early January, the list of eligible attorneys will be sent to the Executive Director of ICLEF with a copy to the Indiana Pro Bono Commission. This list must be submitted using the attached Indiana Pro Bono Commission ICLEF discount verification form. The attorneys who are on the list submitted to ICLEF will be eligible to receive a 20% discount on any ICLEF course, excluding internet courses, for a maximum of 12 hours during that calendar year. The 20% discount will be applied to the ISBA member rate for that course.

In order to obtain the discount, each attorney must register with ICLEF for the particular course by phone or fax and specifically mention that he or she is eligible for this pro bono discount. ICLEF will then verify the attorney's eligibility for the discount by checking the list of approved attorneys that it has received from each of the 14 pro bono districts. Attorneys may continue to be eligible for the discount as long as they continue to perform at least 50 hours of pro bono service as certified by the pro bono district during each calendar year. There will only be one annual submission of the eligibility list to ICLEF in January of each year.

*Submitted by Judith Whitelock, Executive Director
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LATEST CASE SUMMARIES

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reversed for failing to give Alex a credit for social security retirement benefits received by the child.

Alex and Carmen divorced in 2002. The settlement agreement provided that the parties' only child was receiving Alex's Social Security retirement benefits. The benefits received by the child discharged Alex's support obligation. There was no reference that a child support worksheet was attached or included within the settlement agreement. In 2004, Carmen filed a petition to modify Alex's child support obligation. The trial court ordered Alex to pay child support and that Alex received no credit for the Social Security retirement benefits that the child was receiving.

It is noteworthy that the trial court determined that there was not a previously entered child support order. Therefore, the petition to modify was treated as if it was a request for an initial support order. Neither party challenged this on appeal.

The appellate court noted that the Child Support Guidelines did not consider the effect of income paid to, or on behalf of, a child by payors outside the family unit. There was a split in case law. According to *Stultz*, the Supreme Court held that the receipt of Social Security retirement benefits by children of divorcing parents should not be treated as an automatic credit against the support obligation but should be considered. *Stultz v. Stultz*, 659 N.E.2d 125 (Ind.1995). In *Brown*, the Supreme Court held that Social Security disability payments benefits paid to children of divorcing parents should be treated as an automatic credit against the support obligation of the disabled, non-custodial parent. *Brown v. Brown*, 849 N. E.2d 610 (Ind.2006).

The *Thompson* court determined that *Stultz* should be applied to provide that trial courts should exercise discretion when a child receives social security retirement benefits. A dollar-for-dollar credit when the child receives the social security retirement benefits is likely an abuse of discretion. But, it is also likely an abuse of discretion for the trial court to ignore the child's receipt of the retirement benefits, in part because the household would have had the benefit of the payments had the marriage remained intact. When a court concludes that it is appropriate to provide the parent with a credit paid to the child, the trial court should include that amount in the recipient parent's adjusted income for purposes of calculating the parents' relative share of the total support obligation.

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SECTION UPDATE

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"John Brandt - He is a wonderful person and has all the qualities that a highly regarded attorney should have. He is honest, extremely competent, focused on problem-solving, and a promoter of our judicial system. His championing of Allen County's Cooperative/Collaborative Divorce model, an innovative effort to lessen and/or eliminate conflict in divorce cases."

"John's tireless work on behalf of the bar has assisted all attorneys and families who come before the family Courts. This work has likewise helped the bench significantly. In short, there is no one more deserving of this recognition."

"When I think of John H. Brandt, Esq., the word professionalism comes to mind. John treats everyone with respect. This includes the legal process, judicial officers, courthouse staff, his clients and, probably most challenging, opposing counsel, parties and witnesses. I have never seen John be disrespectful to anyone, and quite frankly, in the family law practice, that is not always easy, noting that emotions run high in family law cases."

"The immediate reason I felt compelled to nominate John for this citation, is his tireless work, over the last several years, expended in introducing and implementing the cooperative and collaborative law methodologies in Allen County. The goal of cooperative and collaborative law is 'divorce with dignity,' so that the children of divorces are not unduly damaged, and the negative cycle of divorce not perpetuated."

Submitted by Magistrate Craig J. Bobay
Allen Circuit Court
715 South Calhoun Street, Room 308
Fort Wayne, Indiana 46802

*** IMPORTANT REMINDER ***

Please remember contributions to this newsletter are always welcome. Submit articles to: Suzanne M. Wagner, Haller & Colvin, P.C., 444 East Main Street, Fort Wayne, Indiana 46802, swagner@hallercolvin.com, telephone: (260) 426-2218. A big thank you to those who contributed to this edition!

