

Persistence Prevails

Spousal support payment secured

Leaving
Oregon



Kelly L. Andersen

By Kelly L. Andersen

I was in my first year of practice when "B. Martin" contacted me. She had been through a very bitter divorce. Her former husband, a medical doctor, had been ordered to pay spousal support and had also been ordered to pay a lump sum cash payment to equalize the property division. Instead of paying the spousal support and the property division payment, he had moved out of state and joined the military as a medical doctor. Openly hiding behind the Soldiers' and Sailors' Civil Relief Act and his out-of-state residence, he had made it clear that he would not make the required support and the substantial property division payments. And his divorce attorney had flatly told me there was nothing B. Martin could do about it. When she came to me I was inexperienced and naïve—I didn't know enough to reject the case as several older and

more experienced attorneys had already done. I flung considerable energy into the case, only to be met with an absolute refusal of the husband to pay anything.

The husband's divorce attorney rested solidly on the Soldiers' and Sailors' Civil Relief Act, and on the impracticality of the wife ever being able to collect in another state. He also probably felt quite comfortable in dealing with a green attorney.

I filed a motion asking the court to compel the defendant to travel back to Oregon and answer questions under oath regarding his assets. The defense attorney responded by submitting an unsigned affidavit of the husband, in which the husband recited that he was not obligated to come because of the Soldiers' and Sailors' Civil Relief Act and that it would present an unbearable hardship for him to come in any event. The husband's attorney indicated in a cover letter to the judge that he had reviewed the affidavit with the husband and that he had sent it to the husband who would sign it, whereupon the original would be submitted to the court.

In an amazing turn of events, at the very time I received the husband's unsigned affidavit, I also received a telephone call from another attorney who said he was contemplating representing the former husband. The second attorney indicated that the husband was in town and that he had just met with him. I then submitted to the court my own affidavit showing that the husband's unsigned affidavit was patently false and

fraudulent and that he was in fact in town at the very time that the first attorney indicated he was unavailable to be here.

The first attorney was probably so embarrassed that his own client had attempted to defraud both the court and himself that he immediately indicated a willingness to resolve the case by principle rather than by technicality. In short order, a Judgment Debtor Exam was conducted with the husband traveling to Oregon at his own expense. At the conclusion of the Judgment Debtor Exam a sizeable check was written to the ex-wife for payment in full for everything owing for spousal support and property division.

A very grateful client cheerfully paid a generous fee and several weeks later brought to me a beautiful oil painting of a cabin nestled in the woods by a lake with "B. Martin" written inconspicuously in the lower right hand corner. The painting hangs in my office today, a frequent reminder that we are in the business of helping people, and that sometimes when the cause is just all things work together for our good so that the end result is better than the combination of all our efforts.

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