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September 7, 2018

Superior Court of New Jersey
Appellate Division
Hughes Justice Complex
25 West Market Street
PO Box 006
Trenton, NJ 08625-0006

RE: Fattore v. Fattore
Docket No. A-003727-16 T-1

Dear Sir/Madam:

Enclosed please find an original and four copies of the letter memorandum of the Plaintiff-Respondent in the above matter in response to Defendant-Appellant's reply brief.

Kindly docket the enclosed and return a filed copy in the self addressed stamped envelope.

Very truly yours,

Howard L. Felsenfeld

HLF:la

Enc

cc: David Perry Davis, Esquire
Ms Margaret Fattore

TABLE OF CITATIONS

1. Torwich v Torwich 282 N.J.Super.524 (App.Div.1995).....2
2. Whitfield v Whitfield 373 N.J. super. 573 (App.Div.2004)...2
3. Howell v Howell, U.S. (2017).....2

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RE: Fattore v. Fattore
Docket No. A-003727-16 T04

Dear Judges of the Appellate Division:

Please accept this letter memorandum in lieu of a formal reply brief to the Appellant's reply brief.

The position of the Defendant that the trial court denied the Plaintiff's application for alimony is mischaracterizing the court's decision given the fact that the trial court fashioned an equitable remedy as a result of the loss of income by the Plaintiff from the Defendant's military disability pension. The Defendant presumes without any basis that the trial court's not granting alimony is based upon a determination that the Plaintiff was not legally entitled to alimony rather than the court's decision awarding additional equitable distribution to Margaret

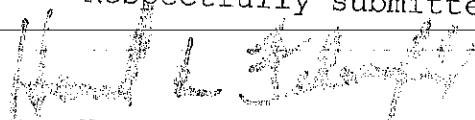
Fattore in fashioning an equitable remedy.

Clearly, the court in rendering its decision based upon Torwich v Torwich 282 N.J.Super.524 (App.Div.1995) and Whitfield v Whitfield 373 N.J. super. 573 (App.Div.2004) simply utilized equitable distribution as a remedy rather than alimony although clearly, the current income of the Defendant compared to that of the Plaintiff is such that the court could have chosen to award alimony.

This characterization by Defendant in his brief is not an exercise of discretion by the trial court in choosing one remedy but does not preclude a different type of remedy. Accordingly, it is submitted that the trial court's decision did not reflect upon the appropriateness of alimony.

Moreover, there is no authority for the Defendant's assertion that Howell v Howell 581 US ____ (2017) precludes the consideration of non military pension whether a regular military pension or disabled one in reference to spousal support.

Respectfully submitted,



Howard L. Felsenfeld

HLF:1a

cc: David Perry Davis, Esquire

Ms. Margaret Fattore