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Domestic Relations

by Barry B. McGough*
and
Andrea G. Alpern**

In this survey period, the supreme court stretched its long-arm to overrule two earlier cases and to hold that compliance by a nonresident with a Georgia divorce decree does not insulate the nonresident from jurisdiction in Georgia. With a strong arm, the supreme court held that the child support guidelines are an optional "computational reference" and that trial courts lack the authority to award the federal income tax dependency exemption to noncustodial parents. Overruling a recent decision, the supreme court held that the interlocutory-application subsection, section 5-6-34(b) of the Official Code of Georgia Annotated ("O.C.G.A."), must be followed in domestic relations cases.

Section I of this Article covers cases dealing with jurisdictional issues. Section II, covering cases dealing with child support issues, is divided into three subsections: Guidelines and duty to support, modification, and contempt. Section III, covering cases dealing with the parent-child relationship, is divided into two subsections: Custody and visitation. Finally, section IV deals with divorce and is divided into six subsections: Alimony, division of property, dependency exemption, settlement, procedure and evidence, and attorney fees.

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I. JURISDICTION

In Braden v. Braden, the ex-wife brought a contempt action to enforce the child support provisions of a consent judgment entered in an alimony modification suit. Prior to service of the rule nisi, the ex-husband moved to Connecticut. The trial court declined to issue a subsequent rule nisi to be served in Connecticut, and entered an order dismissing the complaint on grounds that a Georgia court lacks jurisdiction to hold a nonresident in contempt of a Georgia judgment. The Supreme Court of Georgia reversed and held that O.C.G.A. section 9-10-91(5), Georgia's Domestic Relations Long-Arm Statute, applies to contempt actions seeking to enforce a Georgia alimony and child support judgment. The supreme court held further that, pursuant to O.C.G.A. section 9-10-94, a rule nisi, which is the summons in a contempt action, may be served outside of the state upon a person subject to Georgia's long-arm jurisdiction "in the same manner as service is made within the state."

The parties in Straus v. Straus obtained a divorce in Georgia in 1986. One year later the ex-wife moved to Colorado. In 1989, she filed a motion in Georgia for contempt against the ex-husband. Soon afterwards, the ex-husband filed a complaint in Georgia for modification of his child support and alimony obligations. The ex-wife moved to dismiss the ex-husband's complaint on the grounds of lack of personal jurisdiction, and the trial court denied her motion. The supreme court affirmed. The court held that this ex-wife could "reasonably anticipate being haled into court in Georgia," because she had purposefully availed herself of the privilege of using the Georgia courts to end her marriage, had resided within the state for a year after the divorce, had been residing outside the state for only two years at the time the ex-husband filed his action, and had used the Georgia courts to bring an action against the ex-husband for contempt of a Georgia decree. The court overruled Medeiros v. Tarpley and Boyce v. Boyce to the extent those cases held that "compliance by a non-resi-

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2. Id. at 270, 392 S.E.2d at 711.
4. 260 Ga. at 270, 392 S.E.2d at 711.
6. 260 Ga. at 270, 392 S.E.2d at 711.
8. Id. at 328, 393 S.E.2d at 249.
9. Id. at 329, 393 S.E.2d at 251.
10. Id., 393 S.E.2d at 250-51 (quoting Smith v. Smith, 254 Ga. 450, 454, 330 S.E.2d 706, 710 (1985)).
dent with a Georgia divorce decree insulate[d] the non-resident from sub-
jection to jurisdiction in a Georgia court.”

Beasley v. Beasley involved an action for separate maintenance and
division of marital assets against a husband residing in Saudi Arabia. The
husband, who was served while visiting in Florida, moved to dismiss for
lack of personal jurisdiction on the grounds that he lacked the requisite
minimum contacts with Georgia. The trial court granted his motion to
dismiss, and the supreme court reversed. The supreme court stated that,
based on the three-prong analysis set forth in Smith v. Smith, the
proper analysis is to determine whether the husband has established the
minimum contacts necessary for the exercise of jurisdiction. This deter-
mination is made by examining whether he “has done some acts to avail
himself of the laws of the forum state,” and whether the wife’s claim is
related to those acts. If the minimum contacts are found, the court must
then consider whether the exercise of jurisdiction is reasonable, that is,

13. 260 Ga. at 329, 393 S.E.2d at 251. Division one of Straus was overruled by the
supreme court in Scruggs v. Department of Human Resources, 261 Ga. 587, 408 S.E.2d 103
(1991). Scruggs was an action to modify a father’s child support obligation. The case was
before the supreme court on the father’s discretionary application for appeal from the trial
court’s denial of his motion to dismiss. According to the court, the case that enticed the
father’s appeal from the interlocutory order was Straus.

In Straus, a certificate of immediate review, pursuant to O.C.G.A. § 5-6-34(b), was filed
on July 21, 1989, one day after the trial court denied the wife’s motion to dismiss. On Au-
 gust 19, 1989, the wife filed a discretionary application for appeal, pursuant to O.C.G.A. § 5-
6-35(a)(2). “The application was untimely if the wife should have followed the interlocu-
tory-application procedure [O.C.G.A. § 5-6-34(b)], but was timely if the discretionary-appli-
cation procedure [O.C.G.A. § 5-6-35(d)] was the correct route.” Straus 260 Ga. at 327, 393
S.E.2d at 249. The court in division one of Straus held that the certificate of immediate
review was surplusage and that the discretionary-application procedure was the correct one
to follow. Id., 393 S.E.2d at 250.

The court in Scruggs overruled division one of Straus on the ground that the certificate of
immediate review provided for in O.C.G.A. § 5-6-34(b) is “an essential component of a trial
court’s power to control litigation.” Scruggs 261 Ga. at 589, 408 S.E.2d at 104. The court
held that parties seeking appellate review of interlocutory orders “must follow the interlocu-
tory-application subsection, O.C.G.A. § 5-6-34(b), seek a certificate of immediate review
from the trial court, and comply with the time limitations therein.” Id. Thus, pursuant to O.C.G.A. § 5-6-34(b), application for appeal from an interlocutory order must be made
within 10 days after a certificate of immediate review is granted. Presumably, the provision
of O.C.G.A. § 5-6-35(b) that requires the application from an interlocutory order to set forth
the need for interlocutory appellate review must be followed as well.

15. Id. at 420, 396 S.E.2d at 223.
17. 260 Ga. at 421, 396 S.E.2d at 224.
18. Id.
whether it violates notions of fair play and substantial justice. As to the first prong of the Smith test, the court noted that the husband

purposefully availed himself of the privilege of conducting activities in the forum by residing in . . . [Georgia] for two years prior to marryng plaintiff, by obtaining a divorce [in Georgia] from his former wife . . ., by marrying a [Georgia] resident . . ., by maintaining a marital residence in [Georgia] from 1979 to 1981, by returning to Georgia to retire from the military, by residing in Savannah for a short time [after retiring], and by returning to Georgia for visits.

With regard to the second prong of the Smith test, the court concluded that "there is unquestionably a nexus between residence in the forum state with a spouse or family and a domestic relations action to dissolve the relationship or enforce those family obligations . . . especially . . . when the forum is the last or only state in which the parties resided together." The supreme court disagreed with the trial court's conclusion that the claim must arise from conduct or acts committed in Georgia. Finally, with regard to the third prong of the Smith test, finding that no other forum was available or more convenient to try this action, the court concluded that the exercise of jurisdiction was reasonable.

II. SUPPORT OF CHILDREN

A. Guidelines and Duty to Support

The child support guidelines took a direct hit in Walker v. Walker. The guidelines, which are found in O.C.G.A. section 19-6-15(b), went into effect on July 1, 1989. In August 1989, the ex-wife brought this action to modify the child support provisions of a 1985 divorce decree. The trial court found that the guidelines represented a substantive change in the law and could be applied only to modifications of awards entered after July 1, 1989. The supreme court reversed and held that, "the finder of fact is free to apply the guidelines, or to fix child support on the basis of appropriate factors other than those reflected in the guide-
Pursuant to O.C.G.A. section 19-6-1(c), "[t]he trial court's duty is to allocate resources based upon need and ability to pay." That duty is unchanged by the new statute. . . . At the most, the statute offers a computational reference, which the finder of fact may apply if it chooses."

In Weaver v. Chester, the court of appeals held that the support duty of the father of an illegitimate child arises at the child's birth, not upon an adjudication of paternity. Accordingly, the court can award child support retroactively from the date paternity is adjudicated to the date of the child's birth. Weaver raises the issue of whether a court may order the retroactive modification of child support to the date the complaint for modification is filed. The question also arises as to whether Weaver authorizes retroactive support in divorce cases from the date of a temporary hearing to the date of separation.

B. Modification

In Scherberger v. Scherberger, the jury awarded the ex-wife child support in the amount of fifteen hundred dollars per month. In addition, as equitable division of property, the verdict required the ex-husband to sell the "marital home" and purchase two homes, both titled in his name. One home was to be inhabited by the ex-husband, and the other by the ex-wife and the children "'until the youngest daughter reaches the age of 18 years, or [ex-wife] is remarried.'" The trial court incorporated the jury's housing arrangement into the final judgment regarding child support. On appeal, the ex-wife claimed that the award of a home to her and the children until the youngest child turned eighteen or she remarried constituted an "illegal future modification of child support not tied to income fluctuation." The supreme court agreed with the trial court that the provision requiring the ex-husband to provide a home for his children was in the nature of child support. Construing O.C.G.A. section 19-6-15, the supreme court held that a trier of fact may limit the duration of child support, but only if the time limit is tied to financial considera-

28. Id. at 443, 396 S.E.2d at 236.
30. 260 Ga. at 443, 396 S.E.2d at 236.
33. Id. at 472, 393 S.E.2d at 717.
35. Id. at 635, 398 S.E.2d at 363.
36. Id. at 635-36, 398 S.E.2d at 363.
37. Id. at 636, 398 S.E.2d at 363.
Because O.C.G.A. section 19-6-19(a) permits modification of child support only upon a change in financial condition, "[o]nce the jury has set child support for the entire minority of a child, it cannot provide for a future modification of its award based on non-economic reasons." Because the ex-wife's remarriage would not necessarily improve her financial condition, the housing obligation ordered by the jury constituted an illegal future modification of child support. Reversing and remanding, the supreme court overruled Fricks v. Fricks and directed the trial court to strike from the judgment the provision that the wife's use of the home terminated upon her remarriage.

C. Contempt

Pursuant to an agreement incorporated in a final decree of divorce, the ex-husband in Kehayes v. Petch was required to pay two hundred fifty dollars per month child support for his handicapped daughter and one-half of the child's reasonable educational expenses. The ex-husband appealed from an order finding him in contempt for failure to pay certain educational expenses. The court of appeals held that he was entitled to credit the monthly support payments against the child's expenses for room and board at school because the agreement did not specify that he was required to pay room and board in addition to child support.

III. Parent and Child Relations

A. Custody

In Rowe v. Rowe, the court of appeals set aside a "Permanent Order of Custody." The order, which granted permanent custody of a child to his father, was entered while the divorce action was pending. The mother appealed the order. The court of appeals held that, on the basis of O.C.G.A. section 19-9-1(a), the trial court had authority only to issue a

40. Id.
41. Id.
43. 260 Ga. at 636-37, 398 S.E.2d at 364.
45. Id. at 46, 397 S.E.2d at 459.
46. Id.
48. Id. at 495-96, 393 S.E.2d at 752.
49. Id. at 493, 495, 393 S.E.2d at 750, 752.
temporary custody order while the application for divorce was pending. The court reversed the permanent order and remanded for a determination as to whether a temporary custody order was necessary.

Hightower v. Martin was a postdivorce custody-modification action. In 1987, when the parties were divorced, the husband was awarded custody of the children primarily because "the [wife] was living in a state of bigamous cohabitation." In August 1989, the court issued a "temporary order" changing custody from the husband to the wife based on her remarriage and improvements in her home environment. Subsequently, the husband filed a "motion for final adjudication for child custody." The wife's plea of res judicata was sustained on the ground that the August order was a final judgment.

B. Visitation

Worley v. Whiddon concerned an ex-wife's petition to modify visitation rights awarded to the ex-husband in their divorce decree. Attached to the petition was the fourteen-year-old child's affidavit stating that he elected not to visit his father because "my visits with him are unpleasant." Without taking the child's wishes into consideration and concluding that discontinuing visitation was not in the best interests of the child, the trial court denied the petition.

The court of appeals affirmed on the grounds that the 1986 amendments to sections 19-9-1(a) and 19-9-3(a) overruled Prater v. Wheeler. Pursuant to sections 19-9-1(a) and 19-9-3(a), fourteen-year-old children have the right to select the custodial parent. On the basis of these statutes, Prater established the right of fourteen-year-olds to choose whether

51. 195 Ga. App. at 495, 393 S.E.2d at 752.
52. Id. at 496, 393 S.E.2d at 752.
54. Id. at 855, 403 S.E.2d at 862.
55. Id. at 855-56, 403 S.E.2d at 863.
56. Id.
58. 198 Ga. App. at 856, 403 S.E.2d at 863.
61. 261 Ga. at 219, 403 S.E.2d at 800.
63. 261 Ga. at 218, 403 S.E.2d at 799.
to visit the noncustodial parent. The 1986 amendments to sections 19-9-1(a) and 19-9-3(a) provide that: "'Nothing in this Code section shall be interpreted to deny the noncustodial parent the right to reasonable visitation determined by the court as in other cases.' The court of appeals construed these amendments as overruling Prater.

The supreme court disagreed and reversed. Having made the wishes of a 14-year-old as to custody binding upon the court unless the parent chosen is unfit, the legislation could not have intended to preclude consideration of the child's wishes as to visitation.

The supreme court construed sections 19-9-1(a) and 19-9-3(a), as amended, as preserving "the authority of the trial court to set visitation rights based upon the best interests of the child" and not as prohibiting the court from using the wishes of a fourteen-year-old child, together with other factors, as the basis for its decision.

IV. Divorce

A. Alimony

In Pence v. Pence, Mrs. Pence sought to domesticate a New Jersey divorce decree and hold Mr. Pence in contempt for failing to pay alimony. Mr. Pence counterclaimed for modification of the alimony agreement. The agreement that was incorporated in the divorce decree provided that alimony would terminate if Mrs. Pence cohabited with another person "within the meaning of New Jersey law." The supreme court held that it was proper for the trial court to apply New Jersey law to determine whether cohabitation had occurred. The court remanded, giving instructions to apply New Jersey law to determine whether the court should terminate Mrs. Pence's alimony.

B. Division of Property

In Griggs v. Griggs, following a jury verdict that divided marital property between the husband and the wife, the husband moved for a new

64. Id. (construing 253 Ga. 649, 322 S.E.2d 892 (1984)).
65. Id. (quoting O.C.G.A. § 19-9-1(a) (1986) and § 19-9-3(a) (1986)).
66. Id. at 219, 403 S.E.2d at 800.
67. Id.
68. Id.
69. Id.
71. Id. at 75, 401 S.E.2d at 728.
72. Id. at 76, 401 S.E.2d at 729.
73. Id. at 79, 401 S.E.2d at 730-31.
trial specifically on the question of equitable division of the marital residence. The trial court granted the husband’s motion and the wife appealed. Holding that the trial court erred in granting a new trial “on a sole issue of equitable division,” the supreme court reversed and remanded. “If [the motion for new trial] is granted, all issues of the allocation of economic resources must be determined de novo.”

Prior to their 1980 divorce, the parties in Wallace v. Wallace entered into a settlement agreement that created a joint tenancy with a right of survivorship in the marital residence, with the wife having exclusive possession of the home until the property was sold. In 1987 the ex-husband sought partition under O.C.G.A. section 44-6-160. The trial court denied partition and granted summary judgment to the ex-wife. Affirming the trial court’s decision, the Georgia Supreme Court stated: “[W]hether the property is held by the husband and wife as tenants in common or as joint tenants, if it is subject to the exclusive possession of one of them, it is not subject to partitioning by the other.” The court also noted that section 44-6-160 applies only to tenants in common, not to joint tenants with a right of survivorship.

In Millner v. Millner, the supreme court held that in a contempt action it is within the scope of the trial court’s authority to interpret the meaning of an agreement incorporated into a divorce decree. The ex-wife alleged that the ex-husband was delinquent in making interest payments required by the agreement. The supreme court found that the agreement required payment of interest and remanded for a determination of whether the ex-husband’s refusal to pay constituted contempt.

In Pope v. Skipper, an ex-wife sued the surviving wife of her deceased ex-husband, individually and in her capacity as executrix of the ex-hus-
band's estate. The ex-wife sought to recover back child support and to impress an implied trust on the proceeds from a life insurance policy. The ex-wife's divorce decree incorporated a settlement agreement which provided that the ex-husband would maintain and pay the premiums on a twenty-five thousand dollar life insurance policy held by the ex-husband. This policy designated the ex-wife as beneficiary. Following his marriage to defendant, the ex-husband purchased a sixteen thousand dollar life insurance policy, naming defendant as beneficiary. Thereafter, the ex-husband exchanged the two life insurance policies for a third policy equalling the amount of the two original policies; he named the defendant as beneficiary.6 The supreme court upheld the trial court's decision that the ex-wife had a twenty-five thousand dollar vested interest in the proceeds of the existing policy because the ex-husband had "cancelled the [previous] policy [by] redesignat[ing] a beneficiary in direct violation of the divorce agreement."9

Economou v. Economou90 was an in rem action against the ex-husband's property in Georgia. The parties were residents of California. The ex-wife brought this action to domesticate the California divorce judgment that awarded her a sum of money plus one-half of the ex-husband's property in the state of Georgia. The ex-husband claimed that the trial court lacked jurisdiction to determine the ex-wife's interest in his real property in Georgia.91 The court of appeals held that because this action was in rem, personal jurisdiction was not required.92 The court of appeals stated that the general rule, that a foreign court may not adjudicate and vest title to Georgia real property, did not apply to this case.93 The California court had applied California law to determine whether the ex-wife had an interest in the ex-husband's property in Georgia and had not attempted to change title to Georgia real property directly.94

C. Dependency Exemption

The supreme court considered a question of first impression in Blanchard v. Blanchard.95 Affirming the trial court, the supreme court held that in a divorce action the trial court lacks authority to award the federal income tax dependency exemption created by title 26, section

88. Id. at 572-73, 398 S.E.2d at 847.
89. Id. at 573, 398 S.E.2d at 847.
91. Id. at 196-98, 395 S.E.2d at 831.
92. Id. at 196-97, 395 S.E.2d at 831.
93. Id. at 198, 395 S.E.2d at 832.
94. Id.
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152(e)(1) of United States Code. In 1984 this Code section was amended to give, with certain exceptions, the custodial parent the right to claim the children as dependents unless the custodial parent signs a written waiver of the exemption. The court found that under federal law the exemption belongs to the custodial parent unless that parent signs a release. A state court lacks the authority to exert the power of taxation so as to deprive a custodial parent of the federal tax exemption.

Justice Fletcher, in his dissent, argued that the 1984 amendment demonstrates that "Congress is indifferent to the question of which parent claims the exemption, so long as the [Internal Revenue Service] does not have to expend its resources [to resolve that question between disputing parents]." Further, he argued that allowing the state courts to allocate the exemption is not equivalent to allowing them to impose a tax and would merely recognize that the 1984 amendment did not expressly withdraw the state court's discretion to allocate the dependency exemption.

D. Settlement

In Allen v. Allen, the supreme court held that it is a duty of the trial court, not the jury, to determine whether a party procured a settlement agreement through fraud or duress.

In Foster v. Foster, the ex-wife filed a complaint against the ex-husband alleging fraud in connection with a settlement agreement that was incorporated into the final divorce decree. She claimed that the ex-husband told her that he would keep and support the children if she signed the settlement agreement providing for joint legal custody. On appeal, the issue was whether a cause of action in tort existed between former spouses when one alleged that misrepresentations were made during settlement agreement negotiations. The supreme court held that the ex-spouse may not bring such an action against the other ex-spouse, and stated that the ex-husband's motion for summary judgment should have

96. Id. at 15, 401 S.E.2d at 716 (construing 26 U.S.C. § 152(e)(1) (Supp. 1990)).
97. Id. at 13 n.1, 401 S.E.2d at 716 n.1.
98. Id. at 12, 401 S.E.2d at 715.
99. Id., 401 S.E.2d at 716.
100. Id. at 16, 401 S.E.2d at 718 (Fletcher, J., dissenting).
101. Id. at 17, 401 S.E.2d at 719 (Fletcher, J., dissenting).
103. Id. at 778, 400 S.E.2d at 16.
105. Id. at 813 n.1, 400 S.E.2d at 630 n.1.
106. Id. at 814, 400 S.E.2d at 630.
been granted.\textsuperscript{107} The supreme court held that the ex-wife's only remedy was a modification action pursuant to O.C.G.A. section 19-6-19.\textsuperscript{108}

E. Procedure and Evidence

In \textit{McEachern v. McEachern},\textsuperscript{109} the supreme court held that the trial court did not err in excluding evidence of the husband's postseparation payments.\textsuperscript{110} The wife contended that evidence of these payments was admissible in order to establish the husband's financial situation. The husband, an Eastern Airlines pilot, responded that he had made all temporary alimony payments due up to the date of trial and that it would have been extremely prejudicial for the jury to know what he was paying under the temporary award which was based on his salary before the Eastern strike.\textsuperscript{111} The supreme court stated that although evidence of temporary alimony payments is relevant to the issue of income and the ability to pay permanent alimony, such evidence is likely to mislead and confuse a jury because: 1) The temporary payments may reflect a court's determination made without a full hearing; 2) the payments may represent an amount necessary to preserve the status quo or some other accommodation; and, 3) the temporary payments made voluntarily may not be realistic in the long-run.\textsuperscript{112} The court stated, "We now modify \textit{Clifton v. Clifton}"\textsuperscript{113} and \textit{Haselden v. Haselden} . . . to make the following holding: Evidence of postseparation support payments is not admissible unless the court determines that the evidence should be admitted for impeachment purposes to prevent a party's perpetrating a fraud upon the court."\textsuperscript{114} The court also held that the trial court did not err in failing to charge that the jury should consider evidence of the husband's postseparation adultery where there was no evidence that the husband's postseparation affair prevented a reconciliation.\textsuperscript{115}

In \textit{Edwards v. Edwards},\textsuperscript{116} the trial court granted a decree of divorce to Mr. Edwards and denied Mrs. Edwards' subsequent motion to set aside the final decree. Mrs. Edwards did not appear at the trial, but she did file

\begin{footnotes}
an answer.\textsuperscript{118} Citing Georgia Superior Court Rule 24.7,\textsuperscript{119} which provides that "no divorce decree shall be granted unless all contestable issues in the case have finally been resolved,"\textsuperscript{120} the supreme court held that the divorce should not have been granted because "Mrs. Edwards' claim[s] for alimony and an equitable division of property were neither addressed nor resolved by the trial court."\textsuperscript{121}

Robinson \textit{v.} Robinson\textsuperscript{122} concerned a divorce granted upon a complaint served by publication. The trial court denied the wife's motion to set aside the decree on the grounds that the husband knew where she lived at the time the complaint was filed.\textsuperscript{123} The supreme court reversed and remanded on the grounds that the trial court failed to consider whether the husband exercised "reasonable diligence" in attempting to ascertain the whereabouts of his wife.\textsuperscript{124}

In \textit{Stewart v. Stewart},\textsuperscript{125} the supreme court reversed the trial court's denial of a motion to set aside judgment that granted an uncontested divorce less than ninety days after the trial court signed a consent order providing for a ninety day extension for additional discovery.\textsuperscript{126}

\textbf{F. Attorney Fees}

In \textit{Johnson v. Johnson},\textsuperscript{127} the supreme court held that if attorney fees have been incurred or awarded, the dismissal of the action does not divest the court of its discretion to award fees nor divest a party of the fees previously awarded.\textsuperscript{128}

In \textit{McDonogh v. O'Connor},\textsuperscript{129} the ex-wife filed actions for contempt and for modification of visitation and child support. At the ex-husband's request, the trial court allocated its award of attorney fees to the ex-wife. The ex-husband appealed from the award of that portion of the attorney fees allocated to the visitation modification.\textsuperscript{130} The supreme court affirmed the award on the grounds that this was not an action for modification of visitation alone, and therefore, the attorney fee determination was

\begin{footnotesize}
\textsuperscript{118} \textit{Id.} at 440, 396 S.E.2d at 236.
\textsuperscript{120} 260 Ga. at 440, 396 S.E.2d at 236 (citing GA. SUPER. CT. R. 24.7 (1991)).
\textsuperscript{121} \textit{Id.}
\textsuperscript{123} \textit{Id.} at 731, 399 S.E.2d at 64.
\textsuperscript{124} \textit{Id.} at 732, 399 S.E.2d at 65.
\textsuperscript{126} \textit{Id.} at 812-13, 400 S.E.2d at 622.
\textsuperscript{128} \textit{Id.} at 444, 396 S.E.2d at 235.
\textsuperscript{130} \textit{Id.} at 849, 400 S.E.2d at 310.
\end{footnotesize}
in the discretion of the trial court pursuant to O.C.G.A. section 19-6-2.\textsuperscript{131} Under section 19-6-2, the court may award attorney fees "whether the action is for alimony, divorce and alimony, or contempt of court arising out of either an alimony case or a divorce and alimony case . . . ."\textsuperscript{132}

V. CONCLUSION

The cases in this survey period reflect the no-nonsense attitude of the supreme court. The message to attorneys and trial judges is that our supreme court expects family law to be practiced with the same degree of professionalism that is expected in other areas of the law. This is a good message for our segment of the bar that so profoundly impacts the family, the building block of our society.

\textsuperscript{131} O.C.G.A. § 19-6-2 (1991); 260 Ga. at 850, 400 S.E.2d at 310.
\textsuperscript{132} 260 Ga. at 849-50, 400 S.E.2d at 310.