

FILE

Kantor v. Bellows

Crystal, Hughes & Bernstein
Attorneys at Law
47 Bridge Street
Oakton, Franklin 33311

Memorandum

July 27, 1999

To: Applicant
From: Pat Moore
Re: Linda Kantor

Linda Kantor has asked us to represent her in her divorce from her husband, Bill Bellows. The only contested issue is whether the enhanced earning capacity created by Bill's law degree will be treated as property, subject to division between the parties. Franklin has an equitable distribution statute as part of its divorce law, but two divisions of our Court of Appeal are in conflict on the issue of how to treat spousal contributions to professional degrees. The Franklin Supreme Court has not ruled on this issue.

I want to persuade Bill's lawyer, Shawn Martin, that we have a good chance of convincing a court that the enhanced earning capacity created by Bill's law degree and license to practice law is property subject to equitable distribution. As the law now stands in Franklin, there are two conflicting policy views. It won't do us any good to simply distinguish the two cases. Our job is to convince the other side that the Supreme Court will most likely end up adopting the view that favors us.

As the first step in the negotiation process, I want to send a letter to Shawn Martin that:

- argues that Linda is entitled to a share of Bill's enhanced earning capacity;
- addresses counter-arguments that would deny or diminish her share; and
- includes a specific dollar demand that is justified in light of these arguments.

Please draft such a letter for my signature. Be sure to discuss both the legal principles and the facts of our case in making the arguments. Shawn is a thoroughly competent family law practitioner and a straight-shooter. I have no hesitancy in honestly laying out my entire case.

Crystal, Hughes & Bernstein
Attorneys at Law
47 Bridge Street
Oakton, Franklin 33311

Memorandum

June 1, 1999

To: File
From: Pat Moore
Re: Linda Kantor - Interview Notes

Linda Kantor, who is 29, has been married to William Bellows, also 29, for seven years. They have one child, Jason, who is three. They have agreed that they want to be divorced, and Linda believes that they are in agreement as to most issues. The only issue about which there seems to be dispute is how William's law degree will be treated in the divorce.

The parties married soon after they both graduated from the University of Franklin in June 1992. Linda began work as a programmer for Computech, a computer consulting firm specializing in the development of software, and Bill as a legislative aide in the office of Andy Pepper, a state assemblyman from Oakton. Three years later, Bill entered law school at the University of Franklin Law Center, which is in Oakton. Linda was also interested in attending law school, but the parties decided that Bill would attend first, with Linda attending after Bill graduated. They both wanted to have children soon and thought it would be easier to stagger their law school careers. Jason was born just as Bill began law school in the fall of 1995. Linda got a three-month, paid parental leave from Computech, after which she returned to work full time. Linda arranged to share with another couple who have a child Jason's age the cost of hiring a child care worker to care for the two children from 8:30 a.m. to 5:30 p.m. While Bill was in law school, Linda did most of the housework and child care. (She estimates that she did more than 75% of each.) She usually did Jason's morning routine with him, picked him up from the child care worker at 5:30 p.m., gave him dinner and a bath, and played with him in the evening. Bill participated in these activities, but usually in a secondary kind of role. Because of flexible policies at Computech, Linda was able to take time off work when Jason was sick.

Linda has continued at Computech to the present, where she has advanced steadily, gaining an increasingly important role in the development of specialized software programs for small- to medium-

sized institutions. The company is committed to personnel development, devoting significant resources to those employees it sees as promising. Although Linda has been identified as one of the "stars," she has not been able to take full advantage of all the educational opportunities they offer because of her many responsibilities at home. She has been able to attend only one extended, out-of-town workshop in software design each year, but could have gone to as many as three each year at the company's expense if her circumstances had permitted it. In addition, the company pays for employees to take up to four graduate-level courses in computer science each year at the university, but Linda has been able to take advantage of this opportunity only one semester in which she took one course. Linda has contributed all of her earnings to the family. When she first started at Computech, her salary was \$16,000. She has received steady raises as her responsibilities have increased, and she currently earns \$35,000 per year.

Bill was successful in law school, graduating in June of 1998 *magna cum laude*, with a special award for the high quality of his performance in the clinical program. During the three years Bill was attending law school, Linda contributed her entire pay of \$85,000 to support the family. Bill's tuition averaged approximately \$12,000 per year; he obtained loans amounting to \$25,000, and his parents gave him another \$10,000. For two of the six semesters, he worked ten hours per week, earning a total of \$3,000 from this employment. Last summer, he took and passed the Franklin bar exam. He obtained a position in the prestigious Honors Program at the Franklin State Attorney General's Office, which he began in September 1998. In that program, he rotates for a year through the different divisions in the A.G.'s office and at the end of the year can choose a permanent position among any of the positions available, if he wishes. His salary for the first year of the program is \$35,000, but it will go up to \$40,000 the following year if he decides to work there on a permanent basis. Because of his excellent law school record and the prestige of the Honors Program, he would have no trouble getting a job with a major law firm in Oakton, or anywhere else in the state, where a beginning salary could be as high as \$61,000.

Linda and Bill have accumulated almost no assets during their marriage. Before Bill entered law school, they purchased two cars, one in the first year of their marriage and the other in the third year, both of which they continue to drive. They rent the modest two-bedroom house they live in. They accumulated savings of approximately \$3,000 when they were both working, but that money was spent after Jason was born and Bill began law school. All of their money has gone into paying living expenses, raising a child, and putting Bill through school.

Linda feels very strongly that, as part of the divorce, she should be able to share in the benefits from Bill's law degree. They decided together that he would go to law school first, and she worked very hard for three years to make that possible. Now it's supposed to be her turn. She also is anxious to get on with her own education, although she has decided that she would like to pursue full-time graduate studies in computer science rather than go to law school. Although Computech has been a good place for her, she has become interested in the more theoretical aspects of computer science. After all her sacrifices, Linda feels that she should be able to share in the benefits of Bill's law degree.

Although Linda and Bill have been able on their own to agree that they will share joint legal and physical custody of Jason and that Bill will pay child support, they have not been able to agree on how to treat Bill's law degree. I discussed with Linda litigation of this issue, including the uncertain state of the law. She is not averse to trial on the issue, if necessary, but she would prefer to resolve the matter through negotiation because she would like to avoid the expense of a trial and maintain a cordial relationship with Bill.



Franklin State University
Bentonville, Franklin 33312

Millicent

Professor of Economics

July 20, 1999

Patricia Moore Crystal,
Hughes & Bernstein
Attorneys at Law
47 Bridge Street
Oakton, Franklin 33311

Dear Ms. Moore:

Please excuse the delay in responding to your inquiry. As requested, I provide the following summary of my analysis of the value of the law degree held by Bill Bellows.

In arriving at the present value, I began by comparing the projected life earnings of an average college graduate to the projected earnings of two types of lawyers: a lawyer engaged in private practice in a large law firm and a lawyer employed in government service. I used the time between Mr. Bellows' admission to practice and his 65th birthday in making these projections. I then considered the impact of taxes, inflation, and interest rates. From all this, I calculated the present value of these projected earnings.

Based on these calculations, it is my opinion that the present value of Mr. Bellows' law degree is \$520,000 should he choose to remain in government service and \$820,000 should he enter the private practice of law.

A complete report will follow under separate cover. If I can be of any additional assistance, please let me know.

Sincerely,

Millicent Elstein

Millicent Elstein, Ph.D.