

# memo

To: Judge Quinn, Judge Dezso, Magistrates  
From: Julie Toth  
Date: 7/25/2016  
Re: June 2016 Case Law Update

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## **Sysack v. Ciulla, 2016-Ohio-3380**

The Court of Appeals affirmed the trial court's decision finding that Father failed to prove a change of circumstances necessary to modify custody under R.C. 3109.04(E)(1)(a).

## **Stickney v. Stickney, 2016-Ohio-3379**

The Court of Appeals affirmed in part and reversed in part the trial court's decision involving the sale of the marital home, spousal support award and tax filing. The appellate court affirmed the trial court's decision to order an absolute auction of the marital home as well as the trial court's division of the parties' assets and liabilities.

However, the Court of Appeals sustained Husband's assignment of error related to spousal support. When a spousal support award is terminable upon the death of the obligor (Husband), the trial court errs in ordering the obligor to secure the obligation with an insurance policy on his life.

The appellate court also sustained Wife's assignment of error that the trial court abused its discretion by failing to order the parties to file an amended income tax return to reflect a joint finding. The Court remanded the issue since the trial court did not explain its reasoning.

## **Alvarez v. Alvarez, 2016-Ohio-3432**

The Court of Appeals affirmed in part and reversed in part the trial court's rulings on post-decree motions involving spousal support modification.

Trial courts only have jurisdiction to modify a spousal support award when the divorce decree expressly reserves jurisdiction to make the modification and the court finds that a substantial change in circumstances has occurred that was not contemplated at the time of the original decree. Here, Husband did not meet his burden to show that there was a substantial change in circumstances that was not contemplated at the time of divorce to modify spousal support.