

# Justice Is Done

Due to the efforts of Obermayer attorney Michael E. Bertin, a long-held wrong has been righted in high-income child support cases in Pennsylvania.

by PHIL GIANFICARO

photography by  
JEFF ANDERSON

**Michael E. Bertin believed the basis of his argument before the Pennsylvania Supreme Court was as simple as it was important:** The application of the law is unfair and must be changed.

It was November 2017 when Bertin, a partner in the Philadelphia-based law firm Obermayer Rebmann Maxwell & Hippel LLC, stood before the Pennsylvania Supreme Court in a landmark high-income child support case and convinced the justices that justice was long overdue.

In a historic unanimous decision rendered in June 2018, the Pennsylvania Supreme Court reversed the application of the law that victimized wealthy parents who were required to pay child support based only on an arbitrary percentage formula of their total income rather than on the reasonable needs of the children.

The case involved Bertin's client and the client's ex-wife, both attorneys, who had been married for 17 years and had two children before divorcing in 2009. In their divorce agreement, Bertin's client was required to pay child support for their two children under Pennsylvania support law and they agreed to have shared physical custody of their children equally on a 50/50 basis.

The high-income child support guidelines were changed in 2010 and the trial

courts across the state began misapplying the guidelines as there was no guidance because it was new, according to Bertin. That is when the courts began mistakenly calculating high income child support solely by using a formula and disregarding the children's reasonable needs. "By doing that, you were getting absurd results that had no reasonable relation to the needs of the children," says Bertin.

Then, in 2012, his client had an extraordinarily profitable year, earning \$15.5 million. Under the parties' divorce agreement, they recalculated child support each year. By using the percentage high-income child support formula, Bertin's client would have to pay approximately \$60,000 per month, on top of the \$70,000 he was paying per year for the children's tuitions and camps. This would be the case even though the reasonable needs for the children were approximately \$2,000 per month while they resided at their mother's home half of the time.

Bertin felt the amount was exorbitant and unreasonable. Because the parties did not

agree upon how much Bertin's client should pay in child support, they went to court. As was customary in high-income cases, the trial court applied the formula and ignored the children's reasonable needs. This resulted in a child support order of approximately \$60,000 per month. Bertin's client appealed to the Pennsylvania Superior Court, but the Superior Court upheld the trial court's order, and the children's reasonable needs were disregarded. Bertin and his client had one more chance to try to correct the wrong: They appealed to the highest court in the

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—MICHAEL E. BERTIN,  
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state—the Pennsylvania Supreme Court—but it was a long shot.

"The Pennsylvania Supreme Court only accepts 2 to 3 percent of all total cases appealed to it," Bertin says. "Until now, the Pennsylvania Supreme Court never addressed this wrong regarding high-income people. It was never brought to the Supreme Court and accepted by the Court until our case. In a loud voice, unanimous in their decision, the Supreme Court reversed the Superior Court and the trial court. Now there will be fairness and justice and high income child support will be based on the reasonable needs of the children."

#### **Committed to Correcting Injustice**

Justice realized is often viewed from a distance. Landmark court decisions, such as *Brown v. The Board of Education* and *The New York Times v. Sullivan*, tend to be viewed from afar, on television or in newspapers. But there are those moments, as was the case with Bertin, when one finds himself at the center of it all.

"It was amazing to walk to the State Capitol building in Harrisburg, see that green dome, the murals on the walls, feel dignity and justice in the air," Bertin recalls. "Then being before the seven justices, and listening to them, and engaging with them, having them be receptive and knowledgeable on the issue—it's the pinnacle of being a lawyer. You feel justice happening."

Bertin joined Obermayer Rebmann Maxwell & Hippel LLC 15 years ago, and he has been a partner since 2009. He possesses extensive experience in the areas of family law, including child custody and divorce, negotiation and litigation of domestic relations cases, support, alimony, property distribution, and prenuptial agreements, among other issues.

A Cum Laude 1995 graduate of the University of Pittsburgh, Bertin earned his Juris

Doctorate at the Temple University School of Law in January of 2000. In addition to keen trial skills, he is known as a straight shooter and creative in solving problems. He has been recognized and honored by his peers for his outstanding work for many years. Among his honors are being admitted as a Fellow to the American Academy of Matrimonial Lawyers; inclusion the past five years in *The Best Lawyers in America*, the definitive guide to legal excellence in the region;

and being named to the Pennsylvania Super Lawyers list. He also served as past chair of the Philadelphia Bar Association's Family Law section, and in July he will become chair of the Family Law Section of the Pennsylvania State Bar Association.

In addition, Bertin is very involved in child-custody matters. He was awarded a Special Achievement Award by the state bar association for his contributions to the enactment of child custody laws. Bertin also co-wrote the book *Pennsylvania Child Custody Law, Practice, and Procedure*, which consists of carefully condensed law and forms that help to keep attorneys and courts current on all areas of child custody law in the state. "I find custody cases one of the most rewarding, because you can change the life of a child," Bertin said.

Above all, Bertin sees a commitment to correcting injustice as paramount in the practice of law. "When you can help change the law and correct injustice, it's exhilarating," he continues. "That's what fuels me." ■



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