

Matheu Nunn and Colleagues Obtain Supreme Court Win



On August 8, 2023, the New Jersey Supreme Court issued its

opinion in *Cardali v. Cardali*, 255 N.J. 85 (2023). *Cardali*, a cohabitation case, followed more than 60 appeals about cohabitation in the preceding 8 years, most of which centered on the question answered in the *Cardali* Opinion: *how does an alimony payor establish a prima facie showing of cohabitation sufficient to obtain discovery and a hearing so that the payor can terminate alimony?* Matheu Nunn argued that due to several incorrect legal decisions, both trial courts and Appellate courts made it nearly impossible to establish cohabitation. The Supreme Court agreed and held that: “if the movant presents a certification supported by competent evidence as to at least some of the relevant factors, and if that evidence, if unrebutted, would sustain the movant’s burden of proof as to cohabitation, the court should find that the movant has made a prima facie showing even if the spouse or civil union partner receiving alimony presents a certification contesting facts asserted by the movant.”

The Court added that it is unnecessary for a litigant to provide financial evidence of cohabitation in the initial motion because the information is generally unavailable without discovery and therefore “would impose too onerous a burden.”

The Court concluded, as to the specifics of the *Cardali* matter—which included a private investigator report, evidence of an eight-year relationship, social media posts, holidays, and travel—that “although defendant did not proffer evidence that plaintiff and [her boyfriend] had intertwined finances such as joint bank accounts” or that they were “sharing living expenses,” he did present evidence about other factors, including evidence relevant to whether plaintiff and her boyfriend were “living together,” evidence that they shared household chores, and evidence relevant to “recognition of the relationship in the couple’s social and family circle[.]” which the Court deemed as sufficient *prima facie* evidence of cohabitation. Accordingly, the Court reversed the Appellate Division and remanded the case to the trial court.

Nunn was supported by his co-counsel, Taryn Zimmerman of the DeTomasso Law Group; and Einhorn Barbarito attorneys, [Bonnie C. Frost](#) and [Jessie M. Mills](#). The case also included participation by *Amicus Curiae* from the New Jersey State Bar Association as well as the American Academy of Matrimonial Lawyers, who supported Nunn’s argument.