

Survey of Post-2014 Amendment New Jersey Cohabitation Cases

By Barry S. Sobel

Predictability ... the desire of every client. They want to know the outcome of their case before it even begins. As all lawyers know (but only some confirm), we cannot predict the future. What we can do, however, is research and understand how courts apply legal principles to facts and then use that analysis to effectively advise our clients. As we approach the eight-year anniversary to the reformatory statutory alimony amendments, I researched how our courts across the state have adjudicated cohabitation – a legal issue drowning in subjective analysis – and its impact upon alimony. As these cases appear more prevalent, it is important to understand how our courts are applying the law – and whether they are applying it uniformly – so that we, as practitioners, can counsel our clients appropriately. The following chart is a compilation of post-amendment cohabitation litigations and provides a condensed analysis of each litigation. For each litigation, the chart identifies if there is a settlement agreement and the terms of that agreement regarding alimony, if the amended statute was applied, and the ruling and rationale from the court. For a more macro perspective, here are my top six observations:

1. **Consistency:** Courts consistently apply pre-amendment law to applications that pre-date the statutory effective date or when parties expressly and/or contractually agree to use pre-amendment law in their property settlement agreement. Conversely, courts consistently apply post-amendment law to applications filed after the effective date that are silent on the issue (even if the underlying divorce litigation was adjudicated prior to the effective date) or when parties expressly and/or contractually agree to use current law at the time the application was filed.
2. **More Than a Dating Relationship:** A payor seeking to modify their obligation must establish more than a dating relationship. Even being engaged may not necessarily be controlling.¹
3. **Cash is King but is Neither Mandatory Nor**

Indispensable: The statute enumerates seven factors courts are required to consider when analyzing an application to modify/terminate alimony based on cohabitation; however, it does not require all factors be present or that any one factor is more important than another. That being said, it appears courts place greater weight on financial intertwining (or lack thereof) than any other factor when adjudicating an application based on cohabitation. In reviewing post-amendment litigations, courts often denied applications based on the lack of financial relationship/intertwining. Nevertheless, financial intertwining is not an indispensable factor. Trial courts have found *prima facie* evidence even absent financial intertwining – especially given the difficulty in obtaining financial records before an application is filed – so long as there is credible evidence under other statutory factors.² The issues now at the forefront are (a) whether financial intertwining alone without evidence of any additional factor equates to automatic *prima facie* evidence and (b) whether, after a final hearing on the merits, evidence of financial intertwining alone permits permanent modification. Moreover, although courts have found *prima facie* evidence of cohabitation without financial intertwining warranting further discovery, and a presumption can therefore be extrapolated that cohabitation can be found after a final hearing on the merits without the financial intertwining, this too is an issue ripe for adjudication.

4. **Temple is the New Barometer:** Although the definition of what constitutes *prima facie* evidence of cohabitation has not changed post-amendment from pre-amendment, it appears that *Temple v. Temple*³ has now supplanted *Gayet v. Gayet*,⁴ *Lepis v. Lepis*⁵ and their progeny as the benchmark for adjudicating *prima facie* evidence. In virtually every litigation after Temple, courts analyze if modification is warranted under the penumbra of Temple.

5. **Cohabitation Without Sex:** One question that remains is whether cohabitation can occur absent a sexual relationship. In *Waldorf v. Waldorf*,⁶ the trial court opined that absence a sexual relationship there can be no cohabitation. The Appellate Division affirmed the trial court’s denial of the alimony payor’s application to terminate (based on an analysis of the statutory factors not the lack of sexual relationship); however, the trial court’s comment went unchallenged, leaving ambiguity. Although litigants can freely negotiate definitions of cohabitation and eliminate any sexual relationship requirement, in matters/agreements silent on the issue and/or adjudicated under the amended statute, it remains unclear if cohabitation without sex can exist. Given the morphing of relationships in culture today, the express statutory language providing that a single common household is not required to establish cohabitation,⁷ and the lack of statutorily language requiring the presence of a sexual relationship, this too is an issue ripe for discussion.
6. **One Residence Under All is Not Required:** The amended statute expressly provides that cohabitation “involves a mutually supportive, intimate personal relationship ... but does not necessarily [obligate maintaining] a single common household.”⁸ After enumerating the factors, courts must consider when assessing whether cohabitation is present, the statute provides courts “may not find an absence of cohabitation solely on the grounds that the couple does not live together on a full-time basis.”⁹ Certainly, this was to reflect the morphing of familial relationships, as the definition of what constitutes a nuclear family does not exist today as it did in the past. Accordingly, courts frequently found *prima facie* evidence of cohabitation despite the fact that the spouse and purported paramour do not reside together full time. ■

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Endnotes

1. *Charles v. Charles*, 2022 WL 1420605 (App. Div. May 5, 2022) (holding an engagement to marry is not the equivalent of cohabitation and denying an application to terminate based on the failure to proffer any evidence of marriage-like activities); see also *Pagan v. Pagan*, 2019 WL 4858302 (App. Div. Oct. 2, 2019).
2. *Goethals v. Goethals*, 2020 WL 64933 (App. Div. Jan 7, 2020); *Wajda v. Wajda*, 2020 WL 1950772 (App. Div. Apr. 23, 2020); *Temple v. Temple*, 468 N.J. Super. 364 (App. Div. 2021); and *Kowal v. Hartman*, 2021 WL 5997252 (App. Div. Dec. 20, 2021).
3. 468 N.J. Super. 364 (App. Div. 2021).
4. 92 N.J. 149 (1983).
5. 83 N.J. 139 (1980).
6. See 2018 WL 2186644 (App. Div. May 14, 2018).
7. N.J.S.A. 2A:34-23(n).
8. N.J.S.A. 2A:34-23(n).
9. N.J.S.A. 2A:34-23(n).

Analysis of Cohabitation Cases

Post-September 10, 2014

Case	Date of MSA / JOD	Date of Application	What does MSA/ JOD provide?	Was Amended Statute Applied?	Ruling	Rationale / Key Facts
<i>Schlumpf v. Schlumpf</i> , 2014 WL 7891589 (App. Div. Feb. 19, 2015)	June 2005 (MSA)	Summer 2012	Alimony to be modified or terminated upon a showing of cohabitation pursuant to <i>Gayet and Garlinger</i> .	No	App. Div. reversed and remanded termination of alimony, concluding alimony should have been terminated 4 months prior	Husband sought to terminate alimony as of 12/1/2012. Wife agreed she was cohabiting but sought to terminate as of 4/1/2013. App. Div. held that proper termination date was 12/1/2012 (date cohabitation began) because once husband established cohabitation burden shifted to wife who failed to rebut presumption of receiving economic benefit
<i>G.M. v. A.M.</i> , 2014 WL 7954507 (App. Div. Mar. 4, 2015)	October 2009 (JOD)	June 15, 2010	Alimony to be terminated upon Defendant's cohabitation with an unrelated adult in a relationship similar to marriage	No	App. Div. affirmed trial court's denial of application to terminate	Although Defendant admitted to having an intermittent dating relationship, Plaintiff failed to present any evidence that she had a relationship akin to marriage and pursuant to <i>Konzelman v. Konzelman</i> , 158 N.J. 185 (1999)
<i>Fringo v. Fringo</i> , 2014 WL 8390328 (App. Div. April 2, 2015)	August 2011 (MSA)	April 2013	Cohabitation shall constitute a substantial changed circumstance" pursuant to NJ law	No	App. Div. affirmed trial court's 9 month suspension of alimony	Wife admitted to living with her boyfriend for 9 months, but argued it was a temporary stay and relationship was no longer active. Trial court held that wife and boyfriend were in relationship akin to marriage and failed to satisfy her burden that she did not receive economic benefit.
<i>Wachtell v. Wachtell</i> , 2015 WL 1511181 (App. Div. Apr. 6, 2015)	October 2009 (MSA)	January 2014	Permanent alimony terminated upon cohabitation with a male unrelated by blood/marriage in relationship akin to marriage without the need to prove any economic dependency	No	App. Div. vacated trial court's order of termination	Admission by ex-wife and her paramour that they spent 2-3 nights/week together is insufficient to establish cohabitation. Frequency of overnights coupled with vacations and attending functions together is also insufficient to establish cohabitation.
<i>Kundro v. Kundro</i> , 2015 WL 2416367 (App. Div. May 22, 2015)	March 2011 (JOD)	August 2013	Alimony terminates on the death of either party, remarriage, or cohabitation of wife	No	App. Div. affirmed trial court's denial of termination	Trial court held that husband failed to meet <i>prima facie</i> burden of establishing cohabitation or show that wife derived any economic benefit. Husband failed to provide any proof in support of allegation of cohabitation. Husband's PI investigation revealed few overnights and no evidence of living together.

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<i>Coshland v. Coshland</i> , 2015 WL 9700652 (App. Div. Aug. 28, 2015)	March 2011 (PSA)	Pre-Effective Statutory Date August 2013 – March 2014	Alimony terminated upon plaintiff's "residing with an unrelated person . . . or where plaintiff is receiving an economic benefit" for a period of 30 consecutive days	No	Affirmed trial court's denial of motion to terminate	Despite the fact the alleged cohabitant stayed at plaintiff's residence (where the alleged cohabitant use to live) 2-5 nights/week, the trial court found no cohabitation and no economic benefit as there was no evidence plaintiff and alleged cohabitant shared finances.
<i>Spangenberg v. Kolakowski</i> , 442 N.J. Super. 529 (App. Div. 2015)	June 2012 (MSA)	December 2013	Cohabitation triggers review of alimony obligation consistent with <i>Gayet</i> and evolving case law	No	Order reducing alimony obligation based on cohabitation was not issue on appeal App. Div. reversed trial court's denial of application to modify alimony on other grounds	Amendments to statute not applicable because the post-judgment order became final before the statutory amendment effective date. Plaintiff conceded she began cohabiting with her paramour on August 31, 2013. Accordingly, trial court reduced alimony based on economic benefit received by Plaintiff.
<i>Canal v. Canal</i> , 2015 WL 5944174 (App. Div. Oct. 13, 2015)	2010 (MSA)	November 2013 (Date of Application)	Husband could move to seek relief from alimony obligation if he established cohabitation "pursuant to New Jersey law"	No	App. Div. affirmed trial court's reduction of alimony	Trial court concluded cohabitation based on: PI observing wife staying overnight with paramour 12/31 days in a month; low electricity usage at paramour's PA home; paramour's frequent attendance at gym near Wife's home showed he frequently went between 5-6am
<i>Chernin v. Chernin</i> , 2016 WL 799756 (App. Div. Mar. 2, 2016)	1992 (MSA)	1st Application filed in 1996 2nd Application filed post-statutory effective date	MSA provided for permanent alimony without any express language mandating termination upon cohabitation	No	App. Div. reversed trial court's order terminating alimony based on 2014 amendments	After plenary hearing in 1996, Defendant found to have cohabitated and Plaintiff's alimony obligation lowered. Plaintiff subsequently moved for relief based on same relationship post-amendment. Trial court erred by utilizing amended statute in pre-amendment case and not implementing anti-retroactivity provision.

*Reported cases are marked with bold text.

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<i>Quinn v. Quinn</i> , 225 N.J. 24 (2016)	January 2006 (MSA)	March 2010	“[Permanent] alimony shall terminate upon the Wife’s death, the Husband’s death, the Wife’s remarriage, or the Wife’s cohabitation, per case or statutory law, whichever event shall first occur.”	No Parties agreed the facts would be evaluated under the definition of cohabitation in <i>Konzelman v. Konzelman</i> , 158 N.J. 185 (1999)	Supreme Court reversed the trial court’s suspending alimony, holding wife’s cessation of cohabitation one month after husband moved to terminate did not warrant a departure from MSA that expressly stated alimony terminates upon cohabitation	Trial court found that wife and boyfriend had a 2+ year intimate and exclusive relationship, that the boyfriend lived in her home for over 2 years (despite him having his own home), the boyfriend used the wife’s address as his own, made phone calls from the home, was consistently at the home even when the wife was absent, the relationship was recognized by their family and social circles, and that they acted akin to a husband and wife. Trial court suspended alimony for the period of cohabitation but declined to terminate. Supreme Court held termination was proper as the MSA did not provide for suspension in the case of cohabitation – it only provided for termination
<i>Robitzski v. Robitzski</i> , 2016 WL 2350466 (App. Div. May 5, 2016)	2004	November 2014	Alimony to be modified/terminated in accordance with New Jersey statutes and case law in event of cohabitation	Unclear The trial court held the amended statute did not apply; the App. Div. did not opine on the issue, finding that the husband failed to meet his PF burden regardless	App. Div. affirmed trial court’s denial of application for further discovery relating to cohabitation	Wife with significant, long-standing relationship with paramour; trial court concluded husband failed to meet <i>prima facie</i> burden to warrant further discovery. Wife only spent 100 nights each year with paramour; Facebook posts insufficient; no financial intertwining; no promises of support; no economic dependence
<i>Ponsetto v. Barbetti</i> , 2015 WL 11090338 (App. Div. June 28, 2016)	September 2011 (JOD)	January 2014	N/A	No	App. Div. reversed trial court’s order terminating alimony	Issue had already been adjudicated by prior motion practice where different judge ruled no cohabitation existed based on no shared bank accounts, household expenses and/or intertwined finances
<i>Klemash v. Klemash</i> , 2016 WL 3918858 (App. Div. July 21, 2016)	December 2012 (JOD)	September 2014	N/A	Yes	App. Div. reversed and remanded trial court’s order denying motion to reduce or terminate alimony	Application really concerned motion to modify based on decrease of income. Regarding cohabitation, on remand, trial court was instructed that cohabitation qualified as changed circumstance and ordered court to make findings of fact pursuant to amended statute

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<i>Knox v. Knox</i> , 2016 WL 3943386 (App. Div. July 22, 2016)	April 2008 (JOD)	Late 2012	N/A	No	App. Div. affirmed trial court's order retroactively reducing and then terminating alimony	Trial judge found that wife and boyfriend spent time together in her home during 36-month period in question, but each maintained own residence. Boyfriend only gave wife money when husband stopped paying alimony. Court retroactively credited alimony payor ex-husband and terminated alimony obligation as of date wife married boyfriend
<i>Verga v. Verga</i> , 2016 WL 4367331 (App. Div. Aug. 16, 2016)	July 2004 (JOD)	August 2014	N/A	No	App. Div. affirmed termination of alimony	Date of termination was the date of application – was not retroactive (to date of circumstantial evidence) because alimony payor failed to provide essential financial information to give complete financial picture prior thereto.
<i>Islam v. Davis</i> , 2016 WL 6543640 (App. Div. Nov. 4, 2016)	August 2001 (MSA)	December 2014	Permanent alimony to expire upon the death of either party or if Wife remarried – silent on issue of cohabitation	Yes	App. Div. reversed trial court's denial of application to terminate and remanded for hearing	Defendant conceded that paramour resided with her in her home from October 2011 to February 2015. Defendant admitted paramour contributed to some expenses while he resided in her home (mortgage payments, cable, and utilities), the extent of which should be subject to discovery. Defendant also acknowledged paramour has attended various family functions. "Although defendant insisted that she and [her paramour] did not hold themselves out as married, a fact-finder might reach a different conclusion."
<i>Frick v. Frick</i> , 2016 WL 7030475 (App. Div. Dec. 2, 2016)	September 2009 (PSA)	Motion to terminate filed PRIOR to effective date	N/A	No	App. Div. reversed trial court's order terminating alimony and reinstated the alimony obligation	App. Div. held termination based on cohabitation was waived as PSA only terminated alimony upon death or remarriage of wife. All other scenarios (i.e., cohabitation were foreseeable). Court also statutory amendments were inapplicable given date of execution of the PSA
<i>Kinee v. Kinee</i> , 2017 WL 542019 (App. Div. Feb. 10, 2017)	1997 (JOD)	July 2014	N/A	No	App. Div. affirmed order terminating alimony	Trial court found wife was cohabiting since 1999. Notwithstanding that knowledge, husband did not file for relief until 2014. Based on that knowledge, court held alimony terminated as 2014 and was not retroactive to 1999

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<i>Sloan v. Sloan</i> , 2017 WL 1282764 (App. Div. April 6, 2017)	June 2014 (MSA)	January 2016	Permanent alimony governed by existing NJ statutory and decisional law as of December 17, 2013. Husband's remarriage would release Wife from alimony obligation	No	App. Div. reversed order terminating alimony obligation	Plaintiff and his girlfriend participated in "civil commitment ceremony" but did not obtain a marriage license and were never married. They referred to each other as husband/wife on social media. App. Div. held that because parties were not married, termination of alimony was inappropriate; however, nothing prevented the court from considering if modification was appropriate based on cohabitation or changed circumstances as there was no anti-Lepis clause
<i>Klyachman v. Garrity</i> , 2017 WL 2730239 (App. Div. June 26, 2017)	July 2012 (PSA)	July 2015	Alimony terminates if wife cohabits with an unrelated person in accordance with applicable NJ law	Yes	App. Div. reversed trial court's denial of application to terminate and permitted limited discovery	Court found cohabitation existed based on the alimony recipient wife being in long term romantic relationship with paramour; resided in same residence; vacation together; present themselves as married in social settings.
<i>T.L.H. v. M.H.</i> , 2017 WL 5478488 (App. Div. Nov. 14, 2017)	July 2013 (JOD) August 2013 (Amended JOD)	Post-October 2015	Alimony terminates upon cohabitation of plaintiff, which shall include residing with any family members (other than the children of the parties) or friends.	No	App. Div. affirmed trial court's order terminating alimony	Plaintiff was forced out of the former marital home due to sheriff sale and moved in with her sister. Plaintiff paid her sister \$800/month to live with her sister. Pursuant to terms of MSA, termination was appropriate because plaintiff admitted to living with sister.
<i>CC v. RC</i> , 2017 WL 6577480 (App. Div. Dec. 26, 2017)	2004 (PSA)	April 2013	N/A	Yes	App. Div. affirmed trial court's denial of application to terminate	Even though PSA and application filed pre-amendment, Court analyzed application under both <i>Konzelman</i> and amended statutory factors and found no evidence of financial support; no mutually supportive relationship, no social recognition
<i>Kafader v. Navas</i> , 2018 WL 481785 (App. Div. Jan. 18, 2018)	August 2000 (PSA)	June 2016	Permanent alimony until the death of either party or Wife's remarriage. PSA silent on issue of cohabitation.	Unclear	App. Div. reversed trial court's conclusion that because PSA was silent on issue of cohabitation, it did not constitute a changed circumstance permitting review; remanded on other grounds	Trial court erred by inferring PSA silence on issue of cohabitation required denial. Nevertheless, the court correctly rejected the application as Defendant did not demonstrate any actual evidence – only hearsay statements attributed to unidentified third-parties, and a few pictures showing plaintiff and her alleged paramour together. He offered no competent evidence showing plaintiff was cohabiting and therefore failed to satisfy his burden of making a <i>prima facie</i> showing of changed circumstances

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<i>JS v. JM</i> , 2018 WL 1597961 (App. Div. Apr. 3, 2018)	2010 (PSA)	September 2015	Alimony terminate upon wife's cohabitation with unrelated male in lieu of marriage for 30+ days	No	App. Div. affirmed trial court's denial of application to terminate	A dating relationship does not constitute cohabitation; evidence demonstrated that wife would only spend 1-2 nights per week with paramour and there was no economic intertwine
<i>Waldorf v. Waldorf</i> , 2018 WL 2186644 (App. Div. May 14, 2018)	December 2011 (JOD)	January 2015	N/A Judgment of divorce provided that alimony shall terminate as defined by law	Unclear; trial court applied, but App. Div. "unsure" if applicable as the JOD predated the 2014 amendments App. Div. side-stepped saying the statutory factors mirror <i>Konzelman</i>	App. Div. affirmed trial court's denial of application to terminate	Trial judge opined that absence a sexual relationship there can be no cohabitation – comment goes unchallenged by App. Div. though noted that trial court analyzed correct factors (whether case law or statutory), concluding there was no comingling money or financial relationship between party and alleged cohabitant
<i>Schmitt v. Lupo-Schmitt</i> , 2018 WL 2223750 (App. Div. May 16, 2018)	October 2014 (MSA)	May 2016	Alimony terminates if the wife cohabits with a person of opposite sex	Yes	App. Div. affirmed trial court's denial of application to terminate	No evidence presented; court noted that even though the trial judge afforded limited discovery, husband was unable to demonstrate proof; allegation concerned brother of a friend wife had for 40+ years – court noted it put the friendship into perspective
<i>Salvatore v. Salvatore</i> , 2018 WL 3149808 (App. Div. June 28, 2018)	February 2011 (MSA)	May 2017	Cohabitation with an unrelated adult in a relationship akin to marriage is a re-evaluation event. Parties entered into an addendum (2011) based on defendant advising plaintiff of planned cohabitation, temporarily reducing alimony during cohabitation and stipulating alimony would return if ended	No	App. Div. reversed trial court's denial of termination, holding plaintiff established <i>prima facie</i> to warrant termination	Plaintiff sufficiently established <i>prima facie</i> evidence of a relationship akin to marriage warranting a hearing – i.e., defendant and her paramour represented themselves to be step-parents of each other's children, the parties' children consider the boyfriend to be part of their family unit, the defendant shared responsibilities for the boyfriend's daughter, and that the boyfriend and his daughter were named in the wife's mother's obituary
<i>Leonard v. Leonard</i> , 2018 WL 5316097 (App. Div. Oct. 29, 2018)	2013 (MSA)	January 2017	Alimony terminated upon remarriage of wife or death of either party	No	App. Div. affirmed trial court's denial of application to terminate	MSA did not provide for any review of alimony based on cohabitation. Given Husband's concerns during underlying divorce that Wife was cohabiting, Court concluded agreement intended to be silent on issue and denied application.

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<i>Gille v. Gille</i> , 2018 WL 333486 (App. Div. Jan 9, 2018)	September 2011 (MSA)	April 2015	Cohabitation is a basis for modification or termination and is governed by the law at the time the application is made	Yes	App. Div. affirmed order denying application to terminate	Of the statutory elements, the plaintiff only demonstrated that the defendant's paramour spent a limited number of nights in the home. No demonstration that he lived with defendant.
<i>L.R. v. R.R.</i> , 2019 WL 437954 (App. Div. Feb. 5, 2019)	2013 (MSA)	June 2015	Cohabitation with unrelated person as defined by <i>Garlinger</i> and <i>Gayet</i> for 6 months shall be a change of circumstances warranting review	No	App. Div. affirmed trial court's alimony termination	Termination was warranted based on Wife's cohabitation with paramour for 6+ months (concluding they cohabited even before the JOD and through the present), intertwined finances, shared household chores, vacations together and recognition amongst family
<i>M.D. v. M.D.</i> , 2019 WL 980648 (App. Div. Feb. 27, 2019)	September 2008 (PSA)	2017	Alimony shall terminate upon Defendant's cohabitation with another man subject to <i>Gayet</i> .	No	App. Div. affirmed trial court's denial of motion to terminate	Trial court concluded that Plaintiff was aware Defendant had begun cohabiting with another man prior to finalizing their divorce. Therefore, no changed circumstance occurred
<i>Mennen v. Mennen</i> , 2019 WL 1468745 (App. Div. Apr. 2, 2019)	January 2004 (PSA)	Post-effective statutory date	In the event of cohabitation with an unrelated person in a relationship akin to marriage, alimony may be revisited pursuant to <i>Gayet</i> and its progeny	Yes	App. Div. affirmed trial court's denial of application to terminate	Evidence reflected wife and paramour engaged in social and familial activities together and with families, but no evidence of intertwined finances or dependency
<i>Wood v. Wood</i> , 2019 WL 2152584 (App. Div. May 16, 2019)	September 2016 (PSA)	December 2017	Alimony can be modified or terminated in accordance with existing case law	Yes	App. Div. affirmed trial court's denial of application to terminate	Insufficient evidence presented. Movant only demonstrated a common residence – no financial intertwinement; no recognition of relationship in family or social setting
<i>MM. v. JY</i> , 2019 WL 2476630 (App. Div. June 13, 2019)	February 2013 (JOD)	Post-August 2016	N/A	Yes	App. Div. affirmed trial court's denial of application to terminate	No sharing household chores; no promises of support; no co-mingling or intertwining finances; no social recognition. Court noted living together does not automatically constitute cohabitation
<i>Peters v. Peters</i> , 2019 WL 2896229 (App. Div. July 5, 2019)	July 2010 (JOD) May 2011 (MSA)	May 2018	Wife's cohabitation with an unrelated adult in a relationship akin to marriage for 9 months constituted an alimony termination event	No; decided under <i>Konzelman</i> – cohabitation does not require residing together	App. Div. reversed trial court's denial of application to terminate	Court found sufficient <i>prima facie</i> evidence of cohabitation based on intertwined finances; frequent observation together/overnights; wore ring akin to engagement ring; significant time away together

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<i>Dalton v. Dalton</i> , 2019 WL 3244526 App. Div. July 19, 2019	December 2008 (MSA)	May 2018	Alimony may be modified or terminated upon defendant's cohabitation with an unrelated person pursuant to the cases <i>Gayet</i> and <i>Ozolin</i>	No	Appellate Division affirmed trial court's denial of application for further discovery	Movant failed to establish <i>prima facie</i> evidence – only demonstrated 1 overnight stay in 2018 and 4 in 2016; no financial dependency; wife and paramour had completely separate living arrangements.
<i>Landau v. Landau</i> , 461 N.J. Super. 107 (App. Div. 2019)		December 2017	Wife's cohabitation as defined by then-current statutory and case law shall be a basis for the husband to seek modification, suspension, or termination of his alimony obligation	Yes	App. Div. reversed the trial court's determination that a litigant need not establish <i>prima facie</i> evidence of cohabitation to warrant further discovery, concluding <i>prima facie</i> evidence was still required	The amendments did not render prior case law – which required <i>prima facie</i> evidence of cohabitation to warrant discovery – moot, as the “Lepis paradigm requiring the party seeking modification to establish a <i>prima facie</i> evidence of changed circumstance . . . before a court will order discovery of an ex-spouse's financial status, continues to strike a fair and workable balance between the parties' competing interests.” Because Husband had not established <i>prima facie</i> evidence of changed circumstance of cohabitation, he was not entitled to discovery. NOTE: whether Husband actually established <i>prima facie</i> evidence of cohabitation was not an issue on appeal
<i>B.S. v. A.S.</i> , 2019 WL 4567486 (App. Div. Sept. 20, 2019)	February 2018 (JOD)	N/A Cohabitation arose in context of initial divorce proceedings	N/A	Yes	App. Div. affirmed the trial court's rejection of cohabitation allegation	Evidence established that alleged paramour spent some overnights, assisted in caring for the parties' children and provided limited household assistance, but actions did not equate to cohabitation
<i>Pagan v. Pagan</i> , 2019 WL 4858302 (App. Div. Oct. 2, 2019)	2006 (MSA)	September 2018	Alimony terminates upon cohabitation with an unrelated member of opposite sex for 60+ days, irrespective of financial contribution	No	App. Div. affirmed order denying motion to terminate	Defendant's presentation of Facebook pictures purporting to show Plaintiff's engagement party proved neither the 60-day period of cohabitation nor remarriage. Even unopposed claims must make a <i>prima facie</i> showing of cohabitation
<i>Watkins v. Howard</i> , 2019 WL 5302858 (App. Div. Oct. 21, 2019)	1993 (MSA)	2018	Alimony shall continue until the death of either party, the wife's remarriage or the wife's “entry into a relationship tantamount to marriage”	No	App. Div. affirmed the trial court's denial of application to terminate	Evidence presented (which mirrored evidence submitted in previously denied application to terminate based on cohabitation in 2009) failed to establish <i>prima facie</i> showing of either physical cohabitation or financial interrelationship demonstrating a lack of need for continued alimony, and no evidence of a relationship tantamount to marriage.

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<i>Rosenberg v. Rosenberg</i> , 2019 WL 7116147 (App. Div. Dec. 23, 2019)	May 2012 (MSA)	August 2018	MSA had anti-Lepis provision barring modification or termination based on cohabitation or changed circumstance	No	App. Div. affirmed trial court's denial of application to terminate	Request to terminate alimony based on cohabitation or other changed circumstances was prohibited by the anti-Lepis provision of the PSA. In addition, the court found alleged proofs (unsworn, conclusory, out of court statements by 3rd parties) did not establish either cohabitation or any basis for further proceedings.
<i>Goethals v. Goethals</i> , 2020 WL 64933 (App. Div. Jan 7, 2020)	2016 (MSA)	May 2017	Cohabitation in an intimate, mutually supportive, personal relationship shall be considered a change of circumstance warranting a review	Yes	App. Div. reversed trial court's denial of application to terminate finding sufficient evidence existed warranting discovery	Trial court misapplied law by dismissing the substantial evidence amassed by defendant (overnights, private investigator work, evidence of engagement, social media posts) and requiring evidence of intertwined finances and living together on a full-time basis to establish <i>prima facie</i> evidence, which was improper
<i>Smith-Barrett v. Snyder</i> , 2020 WL 563468 (App. Div. Feb. 5, 2020)	November 2007 (PSA)	Post-June 2018	Alimony shall terminate upon wife's cohabitation with an unrelated female	Yes	App. Div. affirmed trial court's denial of application to terminate	Movant only demonstrated evidence of a romantic relationship. Movant failed to demonstrate economic intertwining or any other evidence of possible cohabitation
<i>Garcia-Travieso v. Garcia-Travieso</i> , 2020 WL 1866939 (App. Div. Apr. 14, 2020)	April 21, 2014 (MSA)	2018/2019	Alimony may be modified or terminated upon the cohabitation pursuant to the then-law at that time	Yes	App. Div. affirmed trial court's denial of application to terminate	Court concluded no cohabitation based on no financial dependence; the boyfriend lived elsewhere (with lease); most of the boyfriend and wife's time together was on weekends and boyfriend brought his own items; no changed circumstances present
<i>Wajda v. Wajda</i> , 2020 WL 1950772 (App. Div. Apr. 23, 2020)	February 2018 (MSA)	December 2018	Alimony would terminate in the event of defendant's remarriage or cohabitation with another person	Yes	App. Div. reversed trial court's denial of application to terminate	Although husband failed to show that defendant and her paramour had intertwined finances, shared living expenses, or their relationship was recognized in social circle, wife's paramour stayed overnight at her home every night for 2 months and made numerous purchases in same town where wife resided, which constituted <i>prima facie</i> evidence warranting further discovery
<i>Kelly v. Brannin</i> , 2020 WL 3980398 (App. Div. July 15, 2020)	2005 (MSA)	July 2017	Alimony to cease based on cohabitation or remarriage of alimony recipient.	No The Appellate Court stated both parties agreed that analysis under <i>Konzelman</i> was appropriate	App. Div. affirmed trial court's order terminating alimony retroactively	Defendant and her paramour rented apartment in North Carolina together, living there for 21 months. Thereafter, they moved back to NJ and lived together in that home for an additional 21 months, sharing one bathroom and all living expenses. Trial court terminated alimony

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<i>Chernin v. Chernin</i> , 2020 WL 4723344 (App. Div. Aug. 14, 2020)	1992 (MSA)	3rd application to terminate alimony based on cohabitation filed POST-Amendment effective date	N/A <i>See Chernin v. Chernin</i> , 2016 WL 799756 (App. Div. March 2, 2016) and <i>Chernin v. Chernin</i> , 2018 WL 2922054 (App. Div. June 5, 2018)	No	App. Div. affirmed trial court's denial of application to terminate	3rd application to terminate based on alleged cohabitation Cannot prevail on changed circumstance application based on same facts previously denied given anti-retroactivity of statute
<i>Logan v. Brown</i> , 2020 WL 6166087 (App. Div. Oct. 22, 2020)	2012 (PSA)	Application to terminate alimony based on cohabitation filed POST-Amendment effective date	Wife's cohabitation with an unrelated adult may constitute a changed circumstance consistent with the law then in effect	Yes	App. Div. affirmed the trial court terminating alimony	Court held that Wife was perpetuating a fraud that she lived elsewhere, as evidence demonstrated she lived with boyfriend. Further evidence of cohabitation included: social media pictures; wearing rings; being engaged (despite alleged no intention to marry); boyfriend paying for house renovations without receiving compensation; article referred to boyfriend as fiancé
<i>Campton v. Campton</i> , 2020 WL 6852595 (App. Div. Nov. 23, 2020)	October 2011 (MSA)	June 2017	Permanent alimony "will terminate [upon] Defendant's cohabitation with an unrelated adult in a relationship tantamount to marriage consistent with the decision of <i>Konzelman v. Konzelman</i> , 158 N.J. 185 (1999)	No	App. Div. affirmed order terminating alimony	Testimony from the parties and private investigator showed Defendant and paramour had a long, stable, mutually supportive relationship akin to marriage. The evidence demonstrated they resided together, the paramour performed tasks for her/her family and shared resources. Social media posts further showed they were a part of each other's family and social circles and held themselves out as a couple. Economic dependence (Defendant failed to provide financial documents in discovery) was not required
<i>Clemas v. Clemas</i> , 2021 WL 1084487 (App. Div. Mar. 22, 2021)	January 2013 (JOD)	April 2019	N/A	Yes	App. Div. affirmed trial court's denial of Defendant's application to terminate	Defendant failed to establish <i>prima facie</i> case of cohabitation – no evidence of intertwined finances, joint responsibility for living expenses, or promises of support. No indication of social circle recognition.

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<i>Temple v. Temple</i> , 468 N.J. Super. 364 (App. Div. 2021)	January 2004 (MSA)	July 2020 (Date of Application)	N/A Court noted that the factual record has not been developed to allow for any clear determination as to whether the parties intended the <i>Konzelman</i> standard apply or law at time of cohabitation	Yes The MSA preceded the amendment, but allegations focus on events after enactment. The Court did not expressly opine as to whether the prior law or statute applied, but analyzed the facts pursuant to amended statutory factors	App. Div. reversed and remanded trial court's finding, concluding Husband established <i>prima facie</i> evidence warranting discovery and evidentiary hearing	To establish <i>prima facie</i> evidence of cohabitation, a movant does not need to provide evidence of all 6 factors listed in the statute – just that the supported spouse and another are in a mutually supportive intimate relationship and have undertaken duties associated with marriage. Husband presented evidence: (a) that wife and paramour resided together; (b) were in a 14+ year relationship, (c) traveled together, (d) were in 7 social media posts over 5 years where the paramour referred to wife as his wife; and (e) spent holidays together. The Court held not that this was <i>prima facie</i> evidence, but that it was sufficient to warrant discovery.
<i>R.J.E. v. R.I.E.</i> , 2021 WL 3730966 (App. Div. Aug. 24, 2021)	March 2020 (JOD) July 2020 (Amended JOD)	N/A Allegation of cohabitation arose in initial divorce proceedings	N/A	Unclear, but court analyzed statutory factors	App. Div. affirmed trial court's awarding of alimony	Defendant did not demonstrate plaintiff cohabited, and neglected to utilize the discovery tools available (she was permitted to depose the alleged cohabitant, but forewent same), court not compelled to accept bare allegations
<i>J.R. v. F.R.</i> , 2021 WL 4978706 (App. Div. Oct. 4, 2021)	October 2017 (MSA) January 2018 (JOD)	January 2020	Alimony subject to review upon wife's cohabitation, as defined by NJ law, to determine whether to terminate, irrevocably terminate, suspend or modify (if modification is a remedy provided by NJ law at the time of filing of the application)	Yes	App. Div. affirmed trial court's denial of motion to terminate	Unlike in <i>Temple</i> , the movant provided no third-party certification, submitted only one social media post (not made by the couple), and produced a few photos depicting the occasional household responsibilities. Court noted there were no evidence of intertwined finances, no evidence of share responsibilities, no evidence of living together on full-time basis, they maintain separate households, no sharing household chores, and no promise of support
<i>Kowal v. Hartman</i> , 2021 WL 5997252 (App. Div. Dec. 20, 2021)	2005 (MSA)	2016	Defendant's cohabitation shall be an event subjecting alimony to review consistent with existing case law	No	App. Div. affirmed trial court's order terminating alimony	Cohabitation existed based on social media posts and that Defendant received economic benefit (payment of expenses by paramour) that was 3x-4x more than her alimony she received from Plaintiff.
<i>A.W. v. A.C.W.</i> , 2022 WL 29894 (App. Div. Jan. 4, 2022)	October 2017 (JOD)	July 2020	N/A	Yes	App. Div. affirmed trial court's denial of motion to terminate	Husband provided no evidence on any statutory factor – relied only on a private investigator's limited surveillance (the wife and paramour lived in same apartment building but separate apartments)

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<i>Manley v. Manley</i> , 2022 WL 128599 (App. Div. Jan. 14, 2022)	2016 (MSA)	2020	Alimony shall irrevocably terminate upon wife's cohabitation with someone in the manner of husband/wife for 3 months, regardless of financial contribution	Yes	App. Div. affirmed trial court's denial of termination	Wife and alleged paramour did not live under same roof, maintained separate finances and held different households. Husband presented evidence on only 2 of 7 factors, but court concluded evidence showed adult-dating relationship, not cohabitation.
<i>Charles v. Charles</i> , 2022 WL 1420605 (App. Div. May 5, 2022)	February 2014 (MSA)	February 2021	Wife's cohabitation with an unrelated adult in a relationship akin to marriage shall be a change of circumstance warranting review pursuant to New Jersey case law. Husband would be entitled to a plenary hearing on that issue unless the Court determines to reduce or eliminate alimony in a manner acceptable to Wife without the need for a hearing	Yes	App. Div. affirmed trial court's denial of motion to terminate	Husband only presented "scant evidence" of cohabitation and for only two of the seven statutory factors. Husband did not retain a private investigator or present evidence of any marriage-like activities (attending events, vacationing, performing house chores) nor did he proffer any third-party certification describing a mutually supportive, intimate personal relationship tantamount to marriage. The fact that Wife became engaged to the boyfriend was not controlling, as the trial court noted "an engagement to marry is not the equivalent of cohabitation." Wife and boyfriend did not share expenses or residences.
<i>Smiley v. Sheedy</i> , 2022 WL 1487004 (App. Div. May 11, 2022)	July 2018 (MSA)	N/A	Termination of alimony in the event wife is cohabiting as defined by the amended statute. Alimony terminates upon wife's cohabitation with another individual of the same or opposite sex, unrelated by blood or marriage, in a relationship similar to that of marriage.	Yes	App. Div. reversed trial court's denial of motion to terminate and remanded for discovery	Husband's evidence demonstrates a 6-year dating relationship that commenced prior to the divorce being finalized, a private investigator surveillance report detailing the boyfriend at Wife's home when Wife was at work/vacation, an admission from Wife that she and her boyfriend previously cohabited for a period of time, social media posts demonstrating they hold themselves as a couple and shared holidays constitutes <i>prima facie</i> evidence. Court did not permit unfettered discovery, limiting discovery to the payee spouse. Only if that was fruitful would further discovery, including depositions of non-parties (i.e., the boyfriend) be permitted

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<i>Meixner v. Meixner</i> , 2022 WL 1499027 (App. Div. May 12, 2022)	Approx. 2015 (MSA)	April 2020	Alimony terminates upon Wife's cohabitation with an unrelated adult in a relationship tantamount to marriage in accordance with the New Jersey case law at the time	Yes	App. Div. affirmed trial court's denial of motion to terminate	Dating relationship was not disputed by Wife. While the boyfriend spent time at the Wife's home, including overnights, he maintained his own residence. There is no evidence of financial intertwining. The minimal photographic evidence (pictures of boyfriend in Wife's home), and evidence of spending holiday and vacations together is insignificant and not indicative of a relationship tantamount to marriage.
<i>Cardali v. Cardali</i> , 2022 WL 2297126 (App. Div. June 27, 2022)	October 2006 (MSA)	December 2020	Alimony terminates upon cohabitation as defined by NJ law	Yes	App. Div. affirmed trial court's denial of motion to terminate	Evidence only established dating relationship, which was not disputed. Despite having independent access to the home of the other and social recognition of relationship, no financial entanglement and the spouse and paramour kept separate residences