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## New York Divorce and Family Law Blog

### [Parents Cannot Contract Away Child Support Obligations](#)

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A finding of emancipation terminates the parental obligation to pay child support. For this reason, the issue is oft litigated.

The typical divorce settlement agreement provides that child support will terminate on the happening of an “emancipation event” which is defined by parties’ settlement agreement, but generally includes the child’s death, marriage or entry into the military.

Many agreements also provide that a child should be deemed emancipated if the child enters the workforce on a full time employment. However, the Appellate Division, First Department ruled last week that a child’s full time employment alone does not constitute an emancipation event; the child must also be fully self supporting and economically independent.

In [Thomas B.v. Lydia D.](#), the parent’s agreement provided for the termination of support, without any consideration of the son’s economic independence. Support terminated only if the child was employed on a full time basis.

The Court ruled that this provision was contrary to law and public policy.

The parties cannot contract away the duty of child support. "Despite the fact that a separation agreement is entitled to the solemnity and obligation of a contract, when children's rights are involved the contract yields to the welfare of the children." The duty of a parent to support his or her child "shall not be eliminated or diminished by the terms of a separation agreement" nor can it be abrogated by contract.

Whether a child is economically independent requires a fact specific inquiry. Even if a child is working but relies on a parent for significant economic support such as paying for utilities, food, car insurance, medical insurance or clothing, the child cannot be considered economically independent, and thus is not emancipated This is true even where the child is residing with

neither of the parties, so long as the child is still dependent on one of the parties for a significant portion of his or her support.