



MATRIMONIAL & ENHANCED EARNINGS CASE OF INTEREST

HOGLE v. HOGLE (Supreme Court, Columbia County) - During the marriage, wife operated a business selling Longaberger baskets. However in recent years, the business generated minimal income due to competition from eBay and decreased demand due to bad economy. Dispute existed between the remaining inventory and value of the baskets. Defendant-husband estimates 900 baskets are in wife's possession and value of \$100 each. Plaintiff-wife claims she has 500 baskets and defendant has 200 baskets and that there is limited, if any value. Court is left with no plausible valuation for the baskets and finds parties valuations not convincing and is doubtful that the business is viable. Court therefore orders plaintiff to turn over 150 baskets to defendant.

On the matter of the husband's enhanced earnings due to the law degree and associated license obtained during the marriage, defendant claims plaintiff is entitled to an EEC award no more than 10% of the value (plaintiff's expert valued at \$118,000, both parties agree to value). Court awards 25% of enhanced earnings to plaintiff due to her having to leave her computer programming job to relocate to White Plains, where defendant attended law school. Plaintiff also provided primary family support during defendant's education and law school loans were eventually paid with marital funds.

Of note is the defendant husband's vocational economic consultant expert who opined that the plaintiff-wife has an earnings capacity of \$56,613 (based on Bachelor's degree discounted for rural market and discounted 10% for plaintiff's age of 56). However, the expert failed to factor into the analysis the actual work-life expectancy while also failing to account for the fact that the wife has been out of the computer field for 25 years and therefore analysis comparing her to a recent college graduate was suspect. Irony arises from defendant, who at age 59, made clear his preference to retire while insisting plaintiff, age 56, return to the workforce.

[LINK TO DECISION](#)

SHAREHOLDER DISPUTE CASE OF INTEREST

BUNTON v. HOUZE (Supreme Court, New York County) - A partnership was formed between plaintiff and defendant with plaintiff purchasing a 10% interest in L'Epicierie for \$100,000. Payment for the stock purchase was made in May 2008. In July 2008, dispute arose between the parties and the \$100,000 was instead turned into a loan which defendant, in March 2009, advised that he would be unable to pay when due. Action was started in August 2010 with plaintiff seeking \$116,618 in damages for defendant's failure to

repay the loan.

The Court determines that, despite defendant's defense of lack of consideration given when loan agreement was signed, the loan agreement signed by both parties with interest constituted consideration.

However, the Court determines that during the time plaintiff was a partner, there was a breach of fiduciary duty as plaintiff worked on business ventures unrelated to the partnership when he was supposed to work for the partnership.

[LINK TO DECISION](#)

Visit Our Website >> www.goKLG.com



COMPUTER FORENSICS · DIGITAL EVIDENCE · eDISCOVERY · DATA RECOVERY

COMPUTER FORENSIC & eDISCOVERY ARTICLES OF INTEREST

Email Signature Ruled Valid to Enforce Settlement - "An Appellate Division, Second Department, panel held unanimously that an agent for a vehicle insurer, by entering her name to the message summing up the terms of a settlement in an auto accident case, provided the "subscription" to the written statement required for an enforceable stipulation under CPLR 2104... Justice Sandra Sgroi, writing for the panel in *Forcelli v. Gelco Corporation*, 27584/08, said that typing the sender's name at the end of an email accomplishes the same purpose of validating the stipulation that signing a paper document by hand does under CPLR 2104."

[LINK TO ARTICLE](#)

"Private" Postings Nevertheless Discoverable - "A judge ordered the parties in a personal injury lawsuit to retain a neutral forensic computer expert, at defendants' expense, to review plaintiff's private Facebook postings for evidence of activities inconsistent with her alleged injuries. In *Perrone v. Rose City HMA, LLC* [PDF], plaintiff Grace Perrone claimed to have suffered severe, life-altering, and disabling injuries as a result of a fall at the Lancaster Regional Medical Center (LRMC)... During settlement discussions, the defendants had produced photographs of Perrone from her Facebook page depicting her shoveling snow, climbing up a snow bank, and riding a sled downhill on her stomach, face first, tumbling, and laughing-all activities inconsistent with her alleged injuries. Perrone claimed that the while she posted the photos to Facebook in February of 2010, they were actually taken at some other, unidentified time... The judge ultimately decided to 'appoint a neutral forensic expert who will get in, get what they need, and get out. They won't be fishing or looking at other things the way an attorney might if they were granted access to the account." The court

limited the expert's review to photos of and references to snow between January 27, 2010 and February 13, 2010."

[LINK TO ARTICLE](#)

Online Evidence Authentication - This article provides a number of resources that outline best practices for preserving, presenting, and authenticating a variety of online evidence such as social media, web-based email, online videos and more.

[LINK TO ARTICLE](#)

Visit Our Website >> www.KLGCF.com

Klein Liebman & Gresen, LLC - 6800 Jericho Turnpike, Suite 206E - Syosset, NY 11791

Phone (516) 364-3232 || **Fax** (516) 364-3186
New York City (212) 505-5770 || **White Plains** (914) 831-1555

Visit Klein Liebman & Gresen, LLC at www.goKLG.com

DISCLAIMER

Our primary purpose in sending this update is to provide information about developments in your industry; however, this email may constitute a commercial electronic mail message under the CAN-SPAM Act of 2003. This email does not contain a complete legal analysis or constitute an opinion of Klein Liebman & Gresen, LLC or any member of the firm or its employees on the issues herein described. This email contains information that may be modified or rendered incorrect by future legislative or judicial developments.

[Forward this email](#)



Try it FREE today.

This email was sent to jgibralter@goklg.com by jeff@goklg.com |
Instant removal with [SafeUnsubscribe™](#) | [Privacy Policy](#).

Klein Liebman & Gresen, LLC | 6800 Jericho Turnpike, Suite 206E | Syosset | NY | 11791