

SEPTEMBER NEWSLETTER**KLG EVENTS**

[Glenn Liebman, CPA/ABV](#) will be speaking on September 22, 2014, from 9:30 a.m. to 12:30 p.m. at the Family & Divorce Mediation Council of Greater New York on the topic of 'Double Dipping with Respect to Business Valuation, Enhanced Earning Capacity and Support Obligations'.

MATRIMONIAL CASES OF INTEREST

HYMOWITZ v. HYMOWITZ (Appellate Division, 2nd Dept) - Plaintiff-husband was gifted a 1/3 interest in a family hardware store business (Weinstein & Holtzman, Inc.) during the marriage which the Supreme Court determined was separate property not subject to equitable distribution. The Appellate Court found that although the transfer was a gift, the defendant-wife was entitled to 25% of the appreciation in value of the interest for her indirect contributions as homemaker, caretaker, companion, and for forgoing her own career.

The hardware store was also located on property which was owned by a holding company (BSH Park Row, LLC) which the husband had purchased a 1/3 interest in during the marriage. The Appellate Court found that husband failed to trace the sources of money used in acquiring the interest which husband claimed came from separate funds. Therefore, the wife was entitled to a 25% share of the interest in the holding company.

Furthermore, the Appellate Court determined that the wife was entitled to an equitable share in husband's 12.9% interest in HGH Family, LLC, a MRI facility, rather than just receiving 50% of the plaintiff's annual distributions from such an interest. The parties had already stipulated that the entire interest was marital property and therefore, the Appellate Court remanded this matter for a final determination on the percentage interest wife should be awarded which, based upon records and contributions during the marriage, should be 40%.

[LINK TO DECISION](#)

MYERS v. MYERS (Appellate Division, 3rd Dept) - In an effort to consolidate marital debt, the wife conveyed her separate real property to herself and her husband sometime during the marriage to take out a joint mortgage on the property. The parties incurred debt totaling \$160,000 which the Supreme Court divided equally without first allowing a separate property

credit for the wife. The Appellate Court reaffirms the decision; although initially separate real property, funds from the joint mortgage, subsequent refinancing, and home equity loans enabled both parties to support their lifestyle during which time, portions of the debt were paid off primarily by the husband's income for years. Therefore, a separate property origination credit "is not strictly mandated since the property is no longer separate."

[LINK TO DECISION](#)

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