

KLG EVENTS

[David Gresen, CPA/ABV/CFF, CFE](#) will be presenting on May 8, 2015 in White Plains for the NYS Bar Association Family Law Section. The topic is '*Divorce Anniversaries II: Valuation & Executive Comp*'. [Click Here To Learn More](#)

[Jeffrey Gibraltar, CPA/ABV/CFF, CFE](#) will be speaking on May 18, 2015 from 1:55 p.m. to 3:15 p.m. at the 17th Annual Business Valuation Conference in New York City on the topic of '*Valuing Businesses in Divorce*'. [Click Here to Learn More](#)

[Ronald Klein, CPA/ABV/CFF](#) will be presenting on June 5, 2015 in New York City for the NYS Bar Association Family Law Section. The topic is '*Divorce Anniversaries II: Valuation & Executive Comp*'. [Click Here To Learn More](#)

MATRIMONIAL CASE OF INTEREST

ANTINORA v. ANTINORA (Appellate Division, 4th Dep't)

The Appellate Court reversed the lower court's holding and found that the wife's retirement account was a premarital asset not subject to equitable distribution while the husband's Roth IRA was presumed to be marital property.

The wife provided sufficient evidence to rebut the presumption that her retirement account was a marital asset with sufficient records establishing that her premarital employer sponsored the account and that contributions to the account only occurred prior to the marriage. However, the husband failed to rebut the presumption either with testimony or evidence that his Roth IRA was separate property. Furthermore, the fact that the Roth IRA was listed on his net worth statement is also insufficient to rebut the marital presumption.

However, the Court rejected the wife's contention that awarding the husband portions of her pension's cost of living adjustments was improper. Citing [Majauskas](#), the Court reasoned that "[v]ested rights in noncontributory pension plan are marital property the extent that they are acquired between the date of marriage and the commencement of the matrimonial action, even through the rights are unmaturing at the time the action is begun." As long as the post retirement cost of living adjustments paid by the pension plan were supplements and enhancements to already existing pension benefits, the husband was entitled to such adjustments.

[LINK TO DECISION](#)

ENHANCED EARNINGS CASES ON INTEREST

BADWAL v. BADWAL (Appellate Division, 2nd Dep't)

The Court affirmed the Supreme Court's decision not to award any equitable distribution to the husband from the wife's enhanced earnings due to her nursing license obtained during the marriage. There was no evidence that the husband made any substantial contributions to the wife's acquisition of her nursing license; he made no career sacrifices and did not assume a disproportionate share of housework as a consequence of the wife's educational endeavors. His "modest contributions" indicate that the attainment of the nursing license was "directly the result of the [wife's] own ability, tenacity, perseverance, and hard work and therefore, the Court was allowed to preclude the husband from sharing in any enhancements.

[LINK TO DECISION](#)

AGUIRRE v. SABBETH (Appellate Division, 2nd Dep't)

In contrast to *Badwal v. Badwal*, here, the Court affirmed a wife's entitlement to 30% of the plaintiff-husband's enhanced earnings capacity. The wife demonstrated that she provided "substantial contributions" to husband's attainment of his license by working full time while her husband was in school, contributing her earnings to pay household expenses, and assuming primary responsibility for the household duties.

[LINK TO DECISION](#)

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