



MATRIMONIAL CASES OF INTEREST

HORN v. HORN (App. Div. 2nd Dep't)

Defendant-husband appealed the decision of the Supreme Court which denied his application for a separate property credit on the marital home and denied his request for equitable distribution of the plaintiff-wife's Estee Lauder vested stock option plan. The Appellate Court held that the lower court providently exercised its discretion in precluding defendant from offering documentary evidence in support of his claim for separate property credit as to the down payment on the marital residence as he "willfully and contumaciously failed to comply with the plaintiff's timely discovery requests." Additionally, the lower court also providently exercised its discretion in denying the defendant's request for equitable distribution of Estee Lauder stop options because there was insufficient evidence of its existence or value.

[LINK TO DECISION](#)

CASTELLO v. CASTELLO (App Div. 2nd Dep't)

After the Supreme Court imputed income of \$240,000 for the defendant-husband, defendant appeals the findings. However, the court held that the Supreme Court correctly imputed income from the defendant's construction business. Where the "party's account of his or her own finances . . . is not believable the court is justified in finding a true or potential income higher than that claimed." Here the Supreme Court relied upon the report of the neutral financial evaluator which found defendant's income to be between \$160,000 to \$240,000 and also upon testimony presented at trial which established that the defendant had total control over the bookkeeping and finances of the construction company and "funneled personal expenses through the company."

[LINK TO DECISION](#)

ROSENSTOCK v. ROSENSTOCK (Supreme Ct, Kings County)

The wife in this matter requested that the court equitably distribute the enhanced earnings capacity of the husband's medical license which she alleges was obtained in part during the parties' marriage. Here, the husband testified that he completed medical school in 2006 and passed his licensing exam in 2008. The parties were married in September 2009. Nothing in the record established that he obtained any board certifications during the marriage. Therefore, the court denied the wife's contention for equitable distribution because the medical license was the husband's separate property. Furthermore, the wife never established the value of such

enhanced earnings capacity through the retention of an expert or court appointed appraiser even if there was a potential entitlement.

[LINK TO DECISION](#)

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