



# KLEIN LIEBMAN & GRESEN, LLC

BUSINESS VALUATION · FORENSIC ACCOUNTING · LITIGATION SUPPORT · CONSULTING

## MARCH NEWSLETTER

### UPCOMING EVENTS

Klein Liebman & Gresen, LLC will be one of the presenters on Tuesday April 4, 2017 at the Central Islip Courthouse for the Suffolk Academy of Law. The topic is 'Reading & Evaluating Individual Tax Returns'.

### MATRIMONIAL CASES OF INTEREST

#### ***IACONO v. IACONO (App Div, 2<sup>nd</sup> Dep't)***

The defendant-wife appealed from a Supreme Court decision crediting the plaintiff-husband \$105,000 for separate funds which he claimed was used to purchase the marital home. The plaintiff claimed that he derived \$105,000 from the sale of separate property which was then used to purchase the parties' first marital home which was held jointly and subject to joint mortgage obligations. In 2001 the first marital home was sold and the proceeds applied toward the purchase of the current marital home.

Upon review, the Appellate Court determined that the alleged \$105,000 were converted into marital property because the husband did not establish his entitlement to separate property by offering clear and convincing evidence to substantiate the specific amount claimed or that any comingling of separate funds was created solely for convenience without intention of creating a marital beneficial interest.

#### [LINK TO DECISION](#)

#### ***PFISTER v. PFISTER (App Div, 3<sup>rd</sup> Dep't)***

Defendant-husband appealed from a Supreme Court judgment of divorce in which husband's support obligations was based on an income of \$85,000. Husband argues that the Supreme Court should not have imputed additional income to him and should have imputed more income to plaintiff-wife. The parties were married in 1998 and the divorce action was commenced in 2011. During the marriage, the husband owned a property management business and claimed that he earned approximately \$63,000 in 2010 and \$43,000 in 2013. The wife has two Master's degrees and is a certified school counselor who worked part time in 2010 earning \$18,000. In 2013, wife disclosed income of \$16,000 but the court found that she also worked a second part-time job making \$2,125/month. Thereafter, the Supreme Court imputed annual income of \$44,447 to the wife and \$85,000 to the husband based upon these facts.

In affirming the Supreme Court's "sound" determination of the parties' imputed income, the Appellate Court restated the lower court's "substantial support" for its finding. There was sufficient evidence that the husband earned more than \$120,000 per year until 2009 when he changed his method of accounting and that he had a history of paying personal/family expenses through the business accounts. Furthermore, the court noted that the husband's income decreased in a similar fashion during a prior divorce action and that his business' gross profits were disproportionate to the net income. With regard to the wife's imputed income, the Appellate Court also agreed with the lower court in stating that the wife had two advanced degrees and it was proper to reject the wife's claim that she should not be required to work full-time.

[LINK TO DECISION](#)

**Visit Our Website >> [www.goKLG.com](http://www.goKLG.com)**

**KLEIN LIEBMAN & GRESEN, LLC**

<b>Long Island</b>	6800 Jericho Turnpike, Suite 206E, Syosset, NY 11791   Tel (516) 364-3232
<b>New York City</b>	60 East 42nd Street, Suite 1600, New York, NY 10165   Tel (212) 505-5770
<b>Westchester</b>	120 Bloomingdale Road, Suite 100, White Plains, NY 10605   Tel (914) 831-1555
<b>Connecticut</b>	2777 Summer Street, Suite 401, Stamford, CT 06905   Tel (203) 344-3200

**Visit Klein Liebman & Gresen, LLC at [www.goKLG.com](http://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.