



KLG NEWS & EVENTS

CONGRATULATIONS to **David Gresen, CPA/ABV/CFF, CFE** on his nomination by the Family Law Committee of the American Bar Association Section of Litigation as the **recipient of the Outstanding Subcommittee Chair Award** for the 2012-2013 Bar Year. David will be honored at the upcoming 2013 Section Annual Conference in Chicago!

CONGRATULATIONS to **Kevin Kilfoil, CPA, CFE** for successfully passing and completing the requirements to become a New York State licensed CPA (Certified Public Accountant) and to receive the CFE (Certified Fraud Examiner) designation!

MATRIMONIAL CASE OF INTEREST

Bennett v. Bennett (Appellate Division, Second Department) - In a prenuptial agreement, the parties agreed that "marital property" would constitute any property jointly owned and all household furniture acquired hereafter. After the marriage, the wife purchased a home in East Hampton for \$295,000 of which she made a down payment of \$150,000 and the husband took out a mortgage for the balance and paid all bills. Husband, in the divorce action, sought to have the house deemed as marital property, however, the Supreme Court and the Appellate Court agreed that the prenuptial agreement clearly defined such property as separate regardless of whether the husband helped to pay for expenses or took out a mortgage.

[LINK TO DECISION](#)

ENHANCED EARNINGS CASE OF INTEREST

Pankoff v. Pankoff (Appellate Division, First Department) - The Appellate Court supports the decision by the Supreme Court to award the defendant 10% of the plaintiff's enhanced earnings capacity obtained during the marriage as defendant demonstrated economic and non economic contributions to plaintiff's license and career during the marriage.

[LINK TO DECISION](#)

ESTATE CASE OF INTEREST

Estate of Dorothy Brown v. Commissioner of Internal Revenue (U.S. Tax Court) - The U.S. Tax Court is charged with determining, amongst other things, whether the transfer of some of Dorothy Brown's interest in a living trust into two other trusts in the year 2004 and receiving a subsequent interest in those trusts was deficiently valued. Commissioner sought a summary judgment on this issue but the Court determined that due to the disputed nature of material facts, this could not be decided.

[LINK TO DECISION](#)

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COMPUTER FORENSIC & eDISCOVERY ARTICLES OF INTEREST

Seven Cost-Cutting E-Discovery Tips for Small Firms - "Amendments to the federal and state rules of civil procedure brought significant challenges to the small-firm plaintiffs' lawyer who now has to deal with the burdens created by the new electronic discovery rules. The amendments present difficulties to smaller plaintiffs law firms with limited financial resources for several reasons. In this article, [the writers] propose seven fundamental cost-cutting and time-saving tips to assist small plaintiffs firms in dealing with the new electronic discovery rules."

[LINK TO ARTICLE](#)

Are Documents Containing Agreed-Upon Keywords Responsive Per Se? - "When requesting parties hammer out agreements on search terms to be run against the producing party's ESI, sometimes the requesting party's expectation is that *any* item responsive to the agreed-upon keywords (that is, any item that's "hit") must be produced unless withheld as privileged. Put another way, the requesting party believes that, by agreeing to the use of a set of keywords as a proxy for attorney review of the entire potentially-responsive collection, and thereby relieving the producing party of the broader obligation to look at everything that may be responsive, those keywords define responsiveness *per se*, requiring production if not privileged... Perhaps; but, there's sufficient ambiguity surrounding the issue to prompt prudent counsel to address the point explicitly when negotiating keyword search protocols, and especially when drafting agreed orders memorializing search protocols."

[LINK TO ARTICLE](#)

Facebook Password Exchange Between Parties to Litigation Results in Spoliation Debacle - While the article discusses the relevant facts of the associated case, the site owner's comments to the article sum up perfectly what attorneys should take away from the article as a whole: "There is no situation where Litigant A should be given the login credentials to Litigant B's social media account. It's never a good idea for either side, it's never necessary, and it can lead to goofy unintended consequences like this. I can't imagine any circumstance where litigants would turn over the keys to their houses to let their litigation opponent rummage around freely. Handing over social media login credentials is at least as invasive, which makes it a concept that needs to be stomped out ASAP."

[LINK TO ARTICLE](#)

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