



NOVEMBER 2010

RECENT CASES OF INTEREST:

MATRIMONIAL:

[Wasserman v Wasserman](#) - The Appellate Division determined that even though the court had properly distributed 50% of the value of Plaintiff's business interests to the Defendant, they modified the payment terms, to avoid the Plaintiff having to liquidate assets in order to satisfy the order. They also affirmed the amount and number of years of maintenance to the Defendant wife and denied Plaintiff's request for a credit for his separate property contribution of the down payment on the marital residence as he failed to properly establish the source of the separate funds.

[Peritore v Peritore](#) - The Appellate Division determined that because the Plaintiff wife had pursued her own full time career, she was entitled to 15%, not 40% of the value of Defendant's dental practice. They also determined that because the Plaintiff had not presented evidence as to the tax consequences of the value of her pension, the court erred in deducting \$7,585 from the defendant's distributive award of the pension.

SHAREHOLDER DISPUTE:

[Matter of Ravitz v Furst](#) - Disagreement arose with respect to whether goodwill should be valued. The Appellate Division affirmed the court's decision to deny Defendant's motion for post dissolution supervision by the Supreme Court in order to value the goodwill related to two offices when distributing the corporation's assets.

They found that the absence of an agreement by the parties to value and distribute goodwill in the event of dissolution precludes the inclusion of goodwill in the corporate assets to be distributed pursuant to Business Corporation Law § 1104.

COMPUTER FORENSICS:

[United States District Court, District of Oregon](#). Judge Mosman reversed a Magistrate's Order and ruled that in connection with emails, no notification of a warrant served on a third party – in this case the ISP holder – is required to be given to the individual who wrote the email(s). In the decision, the Judge notes that there is a "...fundamental misunderstanding of the lack of privacy we all have in our e-mails. Some people seem to think that they are as private as letters, phone calls, or journal entries. The blunt fact is, they are not."

“In this third party context, the Fourth Amendment notice requirement is satisfied when a valid warrant is obtained and served on the holder of the property to be seized, the ISP. In this case, the ISPs were served with the warrants to obtain the relevant e-mails.”

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