News

Pension Assignments Must be Clear and Unambiguous

Date: August 21, 2012

On July 27, 2012, the Ontario Superior Court of Justice held that if a pension plan member wishes to assign an interest in his or her pension entitlement to a former spouse, the language of the separation agreement or divorce order must be clear and unambiguous. Since the language of the separation agreement and divorce order in this case was drafted more like a beneficiary designation and, in particular, acknowledged that the rights of a future spouse could override those of the former spouse, the language was not an assignment and the former spouse was not entitled to any portion of the pre-retirement death benefit payable to the member's spouse at the time of his death. The case, Vladescu v. CTVglobemedia Inc. is the first clear judicial pronouncement in Canada on this issue and was successfully argued by Frank J. Cesario on behalf of the plan administrator. The plaintiff former spouse is appealing the decision to the Court of Appeal. A FTR Now providing more analysis of the Court's decision will be published shortly.