LAW·FLASH
A CLIENT ALERT FROM THE EMPLOYEE BENEFITS PRACTICE
Morgan Lewis
COUNSELORS AT LAW
www.morganlewis.com

Legislation Enacted Abolishing Common Law Marriage in Pennsylvania

February 3, 2005

Pennsylvania Governor Ed Rendell recently signed new legislation that abolished common law marriage on a prospective basis after January 1, 2005. The legislation specifically provides that it does not invalidate any common law marriage "otherwise lawful and contracted on or before January 1, 2005." Thus, the legislation appears to attempt to settle the debate regarding the status of the doctrine of common law marriage in Pennsylvania resulting from recent Commonwealth Court and Superior Court decisions.

Pennsylvania was one of the few remaining states to permit common law marriages until the Pennsylvania Commonwealth Court's September 2003 decision in *PNC Bank Corp. v. Workers' Comp. Appeals Board*, 831 A.2d 1269 (Pa. Commw. Ct. 2003) that purported to abolish common law marriage. However, in two separate subsequent decisions (*Stackhouse v. Stackhouse*, 2004 A.2d 427 (Pa. Super. 2004) and *Bell v. Ferraro*, 849 A.2d 1233 (Pa. Super. 2004)), the Pennsylvania Superior Court declined to follow the holding in *PNC Bank*, citing the Pennsylvania Supreme Court's observation in *Staudenmayer v. Staudenmayer*, 714 A.2d 1016 (Pa. 1998), that the abolition of common law marriage should be a legislative action, not a judicial action.

Although the new legislation clearly invalidates any new common law marriage purported to be entered into Pennsylvania after 2004, its statement about existing common law marriages leaves their status somewhat ambiguous. Given the debate between Pennsylvania's two intermediate appellate courts, some confusion remains concerning what constitutes an "otherwise lawful" Pennsylvania common law marriage.

If you would like further information regarding the issues raised in this Morgan Lewis LawFlash, contact any of the following Morgan Lewis attorneys:

Philadelphia

Robert Abramowitz	215.963.4811	rabramowitz@morganlewis.com
Brian Dougherty	215.963.4833	bdougherty@morganlewis.com
I. Lee Falk	215.963.5616	ilfalk@morganlewis.com
Robert Lichtenstein	215.963.5726	rlichtenstein@morganlewis.com
Vivian McCardell	215.963.5810	vmccardell@morganlewis.com
Joseph Ronan Jr.	215.963.5793	jronan@morganlewis.com
Steven Spencer	215.963.5714	sspencer@morganlewis.com

Mims Zabriskie 215.963.5036 mzabriskie@morganlewis.com

Pittsburgh

John Ferreira 412.560.3350 jferreira@morganlewis.com
Randall Tracht 412.560.3352 rtracht@morganlewis.com

This LawFlash is provided as a general informational service to clients and friends of Morgan, Lewis & Bockius LLP. It should not be construed as imparting legal advice on any specific matter.
© 2005 Morgan, Lewis & Bockius LLP. All Rights Reserved.