



*Eatons*

## Uncertainty Prevents Revision of Divorce Arrangements

One factor that comes into play when decisions are being made about the financial arrangements following a divorce is the earning capacity of the couple.

A problem that can arise in such cases is what to do when the earning capacity of one of the ex-spouses is uncertain. In a recent case, which also involved a number of other issues, the wife of an airline pilot went to court over the level of the maintenance payments she received.

Her ex-husband had suffered a severe depressive illness and he had been suspended from flying duties by his airline. The financial arrangements made in the District Court took account of the uncertainty of his future employment prospects.

Some time later, his condition appeared to improve and he was able to return to ground duties, receiving a captain's basic salary. An occupational physician's report concluded that it was possible that he might be able to return to flying duties in due course.

The Court of Appeal, however, concluded that the uncertainty surrounding the man's future employment had to be taken into account. His current earnings were no guide to his future level of earnings. The original decision regarding the division of assets therefore had to stand.

This decision will be of interest to anyone in similar circumstances and indicates that in the absence of hard and fast evidence of changed circumstances, an appeal is unlikely to change the considered decision of the judge in a lower court.

For advice on all aspects of family and matrimonial law please contact Liz Williams on Tel: 01274 728 327.

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