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# PENSION VALUATORS OF CANADA

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Attention: Family Law Lawyers

Bulletin No. 140

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## SALIB v. CROSS OR BASCELLO v. BASCELLO?

In the 1993 case of *Salib v. Cross* (15 O.R. 3d) Chapnik J. favoured the value of the pension determined by the termination method over the value determined by a retirement or hybrid method of valuation. The Ontario Court of Appeal (1995 O.J. No. 4147 NO.C17295) upheld this decision.

Some lawyers are now arguing that the court of appeal decision in *Salib v. Cross* overrules the opposite decision that Justice Kurisko arrived at in the now famous case of *Bascello v. Bascello* (September 20, 1995 D.O.C. 09174-91 Ont. Gen. Div.).

They are claiming that the value arrived at by the termination method (usually the lowest possible value) is the one and only

proper value to consider on marriage breakdown. They claim that all other values should be ignored.

Other lawyers are arguing that based on a careful reading of the details in *Salib v. Cross* the termination value is not necessarily the proper value for marriage breakdown purposes. Because of the possibilities of arguing both ways we are now including the "Termination" value in our reports in addition to the value as determined in the *Bascello* case.

For a detailed explanation of this matter complete with arguments for and against the Termination Method please contact Pension Valuers of Canada at **1-800-891-9122** or fax us at 1-705-749-6762.

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