



---

## Labor and Employment/ Employee Benefits Alert

### Pennsylvania Common Law Marriage Bill

December 2004

---

#### Governor Rendell Signs Common Law Marriage Bill

On November 23, 2004, Governor Rendell signed into law HB 2719, abolishing common law marriage. The new law states that "[n]o common law marriage, contracted after January 1, 2005, shall be valid." The law further provides that it does not invalidate an otherwise lawful common law marriage contracted on or before that date. As a result, most, but not all of the issues presented by a series of court decisions relating to common law marriage have been resolved.

The principal issue remaining is how courts will treat common law marriages entered into after September 17, 2003 and before January 2, 2005. On September 17, 2003, the Pennsylvania Commonwealth Court, in PNC Bank Corp. v. Workers' Compensation Appeal Board, purported to abolish common law marriage, asserting that "henceforth, this court will recognize as valid only those Pennsylvania marriages entered into pursuant to the Marriage Law procedures." Although the Commonwealth Court stated that its decision was to have "purely prospective application," it was unclear whether the court meant to abolish only marriages entered into after the date of its decision or the enforceability of all common law marriages, even those existing at the time of its decision, with respect to matters arising after the decision. It was also unclear whether the Commonwealth Court would be seen as having the authority to abolish common law marriages in Pennsylvania.

The question as to whether other courts would follow the Commonwealth Court's decision came into focus this spring when, in Bell v. Ferraro, the Pennsylvania Superior Court declined to treat common law marriage as abolished. More recently, in Stackhouse v. Stackhouse, the Superior Court specifically preserved the validity of common law marriages entered into on or before September 17, 2003. As to common law marriages contracted after September 17, 2003, the Superior Court was vague, stating that their validity may be questioned.

Thus, it is clear that common law marriages could be established in Pennsylvania on or before September 17, 2003 and that common law marriages may not be established in Pennsylvania after January 1, 2005. It remains to be seen whether the relatively bright line drawn by the new legislation will convince courts to recognize common law marriages entered into after September 17, 2003 and before January 2, 2005.

***Comments.** In light of these recent developments, we believe an employer with Pennsylvania employees should review its plan documents, communications, contracts, policies and administrative practices and consider how it will address issues relating to the establishment of common law marriages in Pennsylvania as they arise.*



**The Ballard Spahr Andrews & Ingersoll, LLP**  
**Labor and Employment Group**

**Philadelphia Office:**

Lorena E. Ahumada	215.864.8213
Arlene J. Angelo	215.864.8133
David E. Brier	215.864.8323
Frank A. Chernak	215.864.8234
Lucretia C. Clemons	215.864.8137
Jason A. Collier	215.864.8143
Katerine A. Crawford	215.864.8244
Stephanie K. Deiger	215.864.8664
Shannon D. Farmer	215.864.8221
H. Thomas Felix, II	215.864.8136
David S. Fryman	215.864.8105
Marjorie A. George	215.864.8781
Farrah I. Gold	215.864.8280
Jordana I. Greenwald	215.864.8132
Patrick J. Harvey	215.864.8240
Joshua S. Horenstein	215.864.8343
Kenneth M. Jarin	215.864.8135
Daniel V. Johns	215.864.8107
William K. Kennedy	215.864.8243
Samuel R. King	215.864.8310
Allison Kinsey	215.864.8782
Amy Weiss Kramer	215.864.8131
John B. Langel	215.864.8227
Jamie B. Lehrer	215.864.8318
Charisse R. Lillie	215.864.8204
Karen D. McCarthy	215.864.8182
John P. McLaughlin	215.864.8241
Mary Theresa Metzler	215.864.8242
Bernadine J. Munley	215.864.8205
Matthew S. Parker	215.864.8269
Brian D. Pedrow	215.864.8108
Maureen M. Rayborn	215.864.8216
Randall J. Sommovilla	215.864.8245
Richard L. Strouse	215.864.8228
Anthony F. Visco, Jr.	215.864.8110

**Philadelphia Legal Assistants:**

Keith A. Garland, Sr.	215.864.8262
Carole F. Miller	215.864.8260
Caroline P. Pollard	215.864.8261

**New Jersey Lawyers**

Shereen C. Chen	856.761.3475
Lisa Ann Cooney	856.761.3496
Michelle M. Fox	856.761.5522
Edward T. Groh	856.873.5527
Denise M. Keyser	856.761.3442
Louis M. Moffa, Jr.	856.761.3493
Patricia A. Smith	856.761.5521
Jennifer L. Sova	856.761.3473
Steven W. Suflas	856.761.3466
Richard S. Swartz	856.873.5526

**@ ballardspahr.com**

ahumadal
angelo
brierd
chernakf
clemonsl
collierj
crawfordk
deigers
farmers
felixt
fryman
georgema
goldf
greenwaldj
harvey
horensteinj
jarink
johns
kennedyw
kingsr
kinseya
kramera
langel
lehrerj
lillie
mccarthyk
mclaughlinj
metzlerm
munleyb
parkerm
pedrow
rayborn
sommovillar
strouse
viscoa

garlandk
millerr
pollard

chens
cooneyl
foxmm
grohe
keyserd
moffal
smithpa
sovaj
suflas
swartzr

**Denver Lawyers**

Leslie Eaton	303.299.7302
Michael E. Lindsay	303.299.7310

**Salt Lake City Lawyers**

Jason D. Boren	801.517.6827
Mark R. Gaylord	801.531.3070
Anthony C. Kaye	801.531.3069
Boyd L. Rogers	801.517.6824
James W. Stewart	801.517.6876
David B. Watkiss	801.531.3066

**Washington, DC Lawyers**

Kirsten E. Keating	202.661.2283
Jeffrey W. Larroca	202.661.2213
F. Joseph Nealon	202.661.2201
Constantinos G. Panagopoulos	202.661.2202

**Wilmington Lawyer**

William M. Kelleher	302.252.4460
---------------------	--------------

**@ ballardspahr.com**

eaton
lindsay

borenj
gaylord
kaye
rogersb
stewartj
watkiss

keating
larroca
nealon
panagopoulos

kelleherw
-----------

**The Ballard Spahr Andrews & Ingersoll, LLP**  
**Employee Benefits Group**

**Lawyers**

John M. Bernard	215.864.8408
Kurt R. Anderson	215.864.8432
Michele Berman Golkow	215.864.8403
Rhonda K. Grubbs	215.864.8481
Jean C. Hemphill	215.864.8539
Barry L. Klein	215.864.8415
Edward I. Leeds	215.864.8419
Brian M. Pinheiro	215.864.8511
Sharmon Priaux	215.864.8409
Marla G. Roshkoff	215.864.8417
Esther L. von Laue	215.864.8406

**Benefit Plan Analysts**

Neil B. Sizer	215.864.8460
Jennifer DeMarco	215.864.8423
Pamela G. Forston	215.864.8367
Kristin K. McCarthy	215.864.8338

**@ballardspahr.com**

bernard
andersonk
golkow
grubbsr
hemphill
kleinb
leeds
pinheiro
priaux
roshkoff
vonlaue

sizer
demarco
forstonp
mccarthyk