

Introduction to the 2025 Edition

The purpose of this publication is to serve as a valuable resource to both family law specialists and general practitioners by providing a wealth of practical information about the property relationships between husband and wives. Discussions focus on divorce, separation, creditor suits against an individual spouse, estate planning, and both antenuptial and postnuptial agreements.

As in the past, many cases from across the country have been added throughout the publication to support or illustrate the issues discussed, with particular focus on the affect of antenuptial agreements on property rights upon separation or divorce, separation agreements, and the equitable distribution of property.

What's New in the 2025 Edition:

The 2025 Edition includes new cases and updated references throughout both volumes, including the following:

Caselaw developments

- When considering the likelihood that a party who does not have a presently enforceable right in a potential interest that can be unilaterally revoked or amended by a third party will eventually obtain an enforceable legal right in the interest, in determining whether the interest constitutes marital property subject to equitable distribution, the likelihood that the third party will exercise its right to unilaterally revoke or modify the party's right to the interest is relevant to the analysis. (§ 42:6)
- There was no abuse of discretion in dividing equally between the husband and wife shares of stock that remained following the sale of stock during the marriage, in the equitable division of the marital estate, even though the sale had occurred without the wife's written consent, which had been required by a premarital agreement, and the wife therefore contended that she was entitled to half of the original shares. (§ 42:54)
- Distribution of the marital estate in which the husband, a lifelong farmer, was awarded a net estate of \$4,961,915 that included the marital home, farmland, and debt totaling \$2,388,931 and the wife received a net award of \$3,224,357 including sections of land, a lake home, all retirement funds, and a \$700,000 equity payment was equitable, even though the husband received 61% of the estate as compared to the wife's 39% of estate, where the disparate distribution was based on preserving the farm and cattle operation, avoiding the potential financial harm to the husband, maximizing the offset to the wife by using cash flow capacity, and distributing to the wife an award that exceeded her projected award that would

have resulted from liquidation of the farm business. The trial court's allocation of farm equipment to the wife was not clearly erroneous, despite the argument that the wife had no use for farm equipment and could not sell such equipment, where the court considered the wife's concerns, the court indicated that the equipment was being awarded to provide a more equitable result, the court indicated that the wife was bright, resourceful, and business-savvy, and the court also included a directive within the divorce judgment that the husband was required to prepare the equipment for sale and transport the equipment to a sale or auction site. (§ 42:61)

- Trial court's use of the exercise price, from the time of receipt, to value the stock shares and options the wife had received as compensation from her employer, was error requiring reversal and remand for the court to determine an accurate valuation of the stock shares and options, taking into account either the appreciation in value as of the de facto termination date of the parties' marriage or the actual value when sold. (§ 43:18)
- Ruling that whether an unvested pension plan qualifies as marital property subject to equitable distribution requires a fact-specific analysis, the Connecticut Supreme Court determined that a wife's interest in a potential stream of retirement payments pursuant to the partnership agreement of her law firm did not constitute "marital property" subject to equitable distribution, where the wife did not have a legally enforceable present right to receive payments, the wife would never have an enforceable right to receive payments, given that at any time, before or after the wife began to receive payments, the firm had a contractual right under the partnership agreement to unilaterally reduce or cancel payments, changes in the partner compensation structure and the ratio of retired partners to active partners supported the conclusion that the firm's exercise of its authority to terminate or amend payments was more than a theoretical possibility, and equitable considerations weighed in favor of not treating the interest as property. (§ 48:7)
- In an Ohio case, the trial court determined that frozen embryos were marital property, subject to distribution by the court. The court acknowledged that the parties' desires for the frozen embryos were at odds in that the wife wanted the frozen embryos awarded to her so that she could use them to become pregnant and the husband was adamant that he wanted to be disentangled from the wife and wanted the frozen embryos to be donated to another couple to be used to achieve a pregnancy. Based upon the language of the document, the testimony of the parties, and the paucity of available law, the court awarded seven frozen embryos to the wife and seven to the husband with the requirement that all of the frozen embryos be given to the clinic for donation for another couple to use to achieve a pregnancy. (§ 59:2)

New Sections

- § 42:53 Illustrations—Classification of property as marital or separate—Businesses and associated assets (including goodwill)
- § 42:59 Illustrations—Classification of property as marital or separate—Debt (including student loans, taxes)

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- § 43:23 Illustrations of valuation—Retirement savings

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