Introduction to the 2026 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 2026 Edition:

The 2026 Edition includes new cases and updated references throughout both volumes, including the following:

Caselaw developments

- Clear and convincing evidence supported the trial court's finding that, during divorce negotiations, the wife committed fraud between the parties by intentionally concealing or withholding an additional insurance policy covering the parties' largest marital asset, namely Canadian residential property that was destroyed by fire during the pendency of the divorce, thereby preventing the full and fair division of marital assets and entitling the husband to relief from the final divorce decree that incorporated the parties' stipulation and settlement agreement where, according to affidavits, the wife produced a $2 million policy, represented it as the sole policy, and refused to provide additional information during discovery, after which the parties negotiated the settlement based on the policy provided by the wife, who did not disclose the policy with a $4 million limit. (§ **26:17**)
- Property division that included an equalization payment of $3,032,408 to the wife fully compensated her for the award of the family business to the husband, and no award of spousal support was necessary as further compensation, despite her arguments that he had a higher ceiling for income growth and that she could no longer tap into the business's retained earnings; an award of spousal support would have double-counted the company's equity, in that the property division took the husband's future income into account by valuing the equity partly by using an income-based approach that relied on the experts' estimate of future earnings, the wife received half the equity through the equalization payment, and the husband had the risk of operating the business, which

was encumbered by a loan to fund the equalization payment. (§ **42:40**)

- Evidence supported the court's finding that funds from the former husband's personal investment accounts were marital property, where the account report of the LLC, of which the former husband was the sole owner, categorized transfers that the former husband made from the LLC to investment accounts as member draws, the accounts were titled in his individual name, even though they were started during the marriage, and at one point, benefited both parties, deposits made into the investment accounts were earnings generated by the LLC during the marriage, and the former husband did not trace the investment accounts to be treated as separate property. (§ **42:54**)
- There was no clear error in the valuation of the husband's pending lawsuit against former business partners at $350,000, representing $50,000 retainer and 10% of $3 million the husband believed he was owed, for purposes of equitable division, despite the husband's argument that such value was arbitrary and speculative, and that there was no evidence to establish a present value for the suit. On the contrary, the wife introduced the complaint and demand letter from the lawsuit, which sought reimbursement of over $3 million and detailed legal theories of recovery, and the court deeply discounted the demanded amount, which it considered the "best-case scenario," to account for contingencies of litigation, arriving at the "most conservative calculation" it was "logically comfortable with." (§ **43:13**)
- The trial court was within its discretion to assign the wife a 50% interest in shares of nonvoting common stock and investor entity units that the husband bought from his employer three months after filing for divorce, even though the court did not assign the wife any interest in additional shares and units bought two years later. (§ **54:3**)

New and Retitled Sections

- § 5:13 Statute establishing rebuttable presumption as to community property—Presumption not apply *[New]*
- § 42:54 Illustrations—Classification of property as marital or separate—Investments (including stocks and attendant dividends, voting rights) *[Retitled]*
- § 43:17 Illustrations of valuation—Real property—Marital residence—Equity and mortgage debt *[Retitled]*

Thank you for subscribing to *Marital Property Law, Rev. 2d.* We work diligently each year to make the publication the most important resource available on this topic.