Creating an Equitable
Distribution: Trial Lawyer
Perspective

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# What legal issues are lawyers concerned about in Equitable Distribution cases?

- Valuation of complex assets
- Forced sale of property
- Allocating debt
- Distributional award

# What practical issues are lawyers concerned about these cases?

- Dividing the pots and pans
- Length of time between hearing and ruling
- Required refinance and precautions
- Administrative hoops to jump through to get to trial

### Valuation of complex assets

- Battle of the experts
- Experience of Judge with complex cases



## Forced sale of property

Bodie v. Bodie\_\_\_\_ N.C. App. \_\_\_\_, 727 S.E. 2d 11

(June 5, 2012)

Trial court ordered parties to sell two parcels of real property

Husband had to maintain properties and pay deficiency.

Husband appealed . . . .

# The Judge was right.

These provisions were within the discretion of the trial court.





# Distributional Awards Law favors in-kind Ability to pay Security of payment



# Who wants to deal with the pots and pans?

N.C. Rule of Civil Procedure Rule 53 Referees

Pass the buck . . . . .

Referees can be appointed by a party's request OR on the Court's own motion.

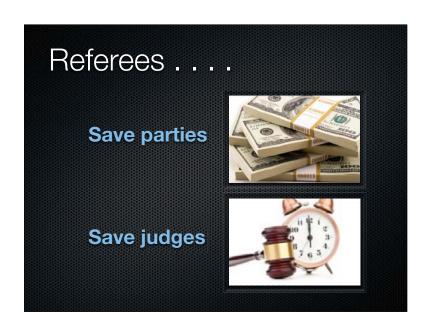
Rule 53(a)(2)

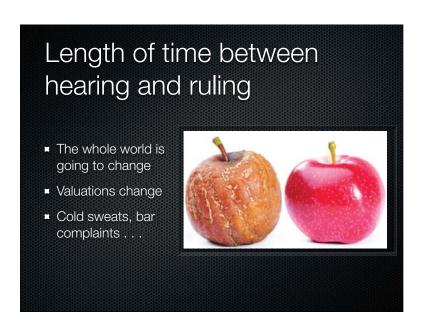
# Order appointing can require:

Equally divide **OR** Divide & equalize

Will it be incorporated into the final Equitable Distribution Order/Judgment?







Running the marathon of an ED case . . . . .

Status Conference
EDIAS
IPT
FPT
Trial

## Interim Distributions

N.C.G.S. 50-20(i1)

Unless good cause is shown that there should not be an interim distribution, the court may . . . . .

## Legislative purpose

"address the need of the spouse not in control of assets pending the final order . . ."

~Lee's North Carolina Family Law, 5th edition (2002)

#### What have you divided?

- **■** Pets
- Pots/pans/sheets
- **Businesses**
- **■** Retirement accounts

# Why not enter?

Burden on the party **opposing** an interim distribution

#### Court can divide

- Marital, divisible, and separate assets
- **Divisible property or debt**
- Order a distributive award related to the items above



What do you want to know from us?