

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.



Who gets the debt???

Reductions since
DOS
Order vs creditor
Required refinance
and protections



Distributional Awards

- Law favors in-kind
- Ability to pay
- Security of payment

WWJD??

Audience participation
required . . . possibly rewarded

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?



Referees

Save parties



Save judges



Length of time between hearing and ruling

- The whole world is going to change
- Valuations change
- Cold sweats, bar complaints . . .



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?