

Peg v. Andrew

Distribution

January 2024

Distribute the marital and divisible property identified below. Identify all distribution factors and explain your distribution.

Parties

Peg is 49 years old

Andrew is 52 years old

Peg has no health problems at time of trial and no history of health problems.

Andrew is relatively healthy but has chronic back problems because of an injury sustained during his service in the US Army. His back problems limit Andrew's ability to perform physical labor. Andrew also suffers from depression and has been treated twice for addiction to the pain medication he takes due to his back problems. While he is unable to perform much physical labor, he works regularly managing the family businesses. He receives disability pay from the military in the amount of \$200 per month.

Peg is a real estate agent. She was fairly successful earlier in the marriage, but her income dropped significantly during the last several years of the marriage and during separation. During the first three months of the separation, Peg had no income at all. From the fourth month until the time of trial, Peg has earned an average of \$3000 per month. Peg has no retirement account.

22-year marriage at the time of separation. Date of trial is 2 years after DOS. Date of separation was July 2022. Peg and Andrew were divorced 3 months ago.

Two children born to the marriage. At time of trial, the oldest child is 17 years-old and is a senior in high school. The younger child is 14 years-old and in 9th grade. Both children have lived with Peg in the marital residence since the date of separation. No child support order has been entered and Andrew has not paid any child support to Peg.

Andrew earned an MBA during the early years of the marriage. Peg worked and cared for the children while Andrew attended graduate school.

Peg started college but dropped out when she and Andrew decided to marry. She obtained her real estate license before the marriage.

Interim distribution awarded \$50,000 to Peg out of marital savings account. Peg testified that most of the \$50,000 of the interim distribution was used to pay the mortgage payments described above (\$4500) and other household and child-related expenses during the period of separation but \$10,000 was used to pay part of her attorney fees relating to the ED case.

Marital Property and Divisible Property

1. Former Marital Residence and Mortgage

DOS market value: \$300,000

DOS mortgage: (\$200,000)

DOT market value: \$300,000

DOT mortgage: \$94,000

Peg's postseparation payments related to marital residence:

\$6000 principle reduction (\$1500 from marital savings account)

\$8,400 interest (\$2100 from marital savings account)

\$7,200 homeowners' insurance and property taxes (\$900 from marital savings account)

Andrew's payments related to marital residence:

\$100,000 (paid one year after separation with money gifted to him by his parents)

Neither party has paid for repairs or maintenance to the marital home since the DOS. At present, house needs a new roof, as well as some painting and other minor repairs.

2. The LLC described in Classification Problems, paragraph (h) and (i).

- a. Peg and Andrew each own 50% of LLC
 - i. Shopping center that is the primary asset of the LLC was a gift from Andrew's parents during the marriage
- b. DOS value: \$1.2 million
- c. DOT value \$1.3 million (experts testified would be higher if Andrew would have left more cash in corporate account)
- d. LLC earned \$250,000 between DOS and DOT
 - i. \$75,000 deposited by Andrew into LLC account
 - ii. \$175,000 used by Andrew for personal expenses

- e. Andrew managed the LLC during separation by collecting rent, overseeing maintenance of shopping center and handling the finances of the business; Peg had no involvement

3. Joint Savings Account

- a. Opened during marriage
- b. DOS value: \$100,000
- c. Separate funds from Peg in the amount of \$15,000 was deposited during marriage and before DOS but could not be traced out
- d. Separate funds from Andrew in the amount of \$40,000 was deposited during the marriage and before the DOS but could not be traced out
- e. Interim distribution to Peg of \$50,000 described above
- f. DOT value: \$51,000

4. Andrew's military service

- a. Andrew was in the Army when he and Peg married. He had been in the service for 2 years at the time of marriage and remained enlisted until receiving a discharge based on his back injury 10 years after the parties married. He currently receives disability pay based on a disability rating of 20%.

5. Pontoon Boat

- a. Gift from Andrew's parents to Peg and Andrew
- b. DOS value: \$20,000
No DOT evidence offered

6. Credit card debt

- a. Peg's Card
 - i. DOS balance \$15,000: incurred for household purchases, medical and dental bills for children, clothing for Peg and children
 - ii. DOT balance \$25,000: Peg has made all required minimum payments of \$25 per month during the separation but also has continued to use the card for household and child-related expenses
- b. Andrew's card
 - i. DOS balance \$25,000: incurred for household expenses, golf expenses (Andrew and the oldest child of the parties play golf frequently), and medical/treatment expenses related to Andrew's addiction and depression.
 - ii. DOT balance \$0: paid in full during separation by Andrew's parents

7. Vehicles

- a. 2018 Lexus driven by Andrew
 - i. DOS value: \$15,000
 - ii. No DOT value offered
- b. 2017 Honda Van driven by Peg
 - i. DOS value: \$20,000
 - ii. DOT value: \$18,000 (passive decrease in value)

8. Property shown by evidence to be marital property but no DOS value evidence offered

- a. Harley Davidson motorcycle and enclosed trailer: Andrew has had possession since DOS and title to both is in Andrew's name. Peg bought the motorcycle and trailer for Andrew as a birthday present during the marriage – using funds she received as commission on the sale of a particularly valuable piece of real estate.
- b. Andrew's 50% ownership interest in another LLC (also a shopping center; Andrew's father owns other 50%)
- c. Furniture and other household items contained in the marital residence