


Equitable Distribution Update


Cheryl Howell
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Equitable Distribution





- ▶ If you cannot value an asset or a debt, you can't distribute it to either or both parties
 - *Ikechukwu v. Ikechukwu*
- ▶ No \$ 'credit' for postseparation rental value
 - *Martin v. Martin*
- ▶ When classification is disputed, order cannot simply list classification and value.
 - Findings required to support classification
 - *Duruanyim v. Duruanyim*

Divisible Property/Debt

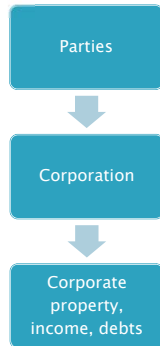


- ▶ It's all about classification
- ▶ Statute says nothing about distribution
- ▶ Trial judges have discretion to distribute any way they deem equitable
 - Give 'credit' as you deem appropriate
 - *Wirth v. Wirth* (divisible property)
 - *McNeely v. McNeely*, 673 SE2d 778 (2009)(divisible debt)



CORPORATIONS

What is the marital property/debt?



Corporations

- ▶ *Mugno v. Mugno* (July 2010)
 - Corporation is a third party
 - Cannot order corporation to pay within context of ED claim
- ▶ *Burgess v. Burgess* (July 2010)
 - The 'property' to be classified and valued in ED is the corporate shares owned by parties on date of separation
- ▶ *Cf. Hodges v. Hodges* (Nov. 2009)
 - Passive income from corporation is divisible property
