

Your Divorce Will Not Look Like That Of Brad Pitt And Angelina Jolie

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When parties divorce, if they cannot come to an agreement themselves as to how to divide their property, the courts will divide it for them. New Jersey is an *equitable distribution* state, which means that assets which were acquired during the course of a marriage will be divided in a manner that is fair and equitable. California is a *community property* state, which means that everything that was acquired during the course of a marriage will be divided equally. So, when you see the headline that the Pitt-Jolie marital estate totals \$500 million, if a court were called upon to divide it, each party would walk away with \$250 million, either in cash or in property.

There are only nine community property states in the country – Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Texas, Washington, and Wisconsin.

In divorce cases in community property states, the primary focus is on ascertaining what property has been acquired during the course of the marriage and on determining the value of that property. The property will then be divided equally. In New Jersey, the same inquiry exists, except that when it comes to the allocation of property, the division is not always equal.

For example, gifts and inheritances one spouse receives are not subject to equitable distribution upon divorce if they are kept separate from the assets of the other spouse. If inherited assets are put into assets in joint names, however, the inherited assets would lose their separate character as they have then become a gift between spouses, which *are* subject to equitable distribution. Assets which were acquired prior to the date of the marriage are also not subject to equitable distribution, unless a spouse's actions have enhanced the value of the asset during the marriage.

For example, if one spouse inherited \$250,000 during the marriage and then put it into an asset in joint names such as a house at the shore, the shore house would not be divided equally between the parties, even though it is in joint names. Rather, there would be some other disproportionate distribution of the value of the home to avoid an inheritance from one spouse's parents going to the other spouse. Ask yourself this question – would my mother or father want his or her money going to this person who I am now divorcing? Probably not.

The passage of time can change the fairness of that scenario, however. If the \$250,000 inheritance was placed in the shore home, in joint names, 20 years prior to divorce, any disproportionate distribution may have evaporated. The assumption would be that the other spouse has contributed to the increase in the value of the home by pooling income which was used to pay the mortgage interest and taxes or to renovate and upgrade the home over those 20 years.

What about a person who owns her own business and the other spouse goes out to work at a job or stays home and cares for the children? The business has value. But how should it be allocated? Equally or disproportionately? The answer will vary in every case as the facts in every case will vary. More often than not, however, the spouse who has not been working at the business will not receive the same percentage share of the business as the owner.

Dividing assets upon divorce between spouses looks different in just about every state of the union as a result of a state laws or as a result of precedents set by cases which have been decided by interpreting those laws.

In New Jersey, the court must always look at what is fair, equitable and just when it defines the allocation of an asset. This does not always mean a 50/50 split.