

Divvying Up Everything from Family Silver to DVDs During Divorce

Sweating The Small Stuff

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Warning: If you are arguing over who gets the “Endless Love” CD or a hairbrush, you and your soon-to-be ex-spouse are spiraling out of control. Yes, your “stuff” may have great sentimental value. And yes, telling your soon to be ex-spouse that you want something that you know he or she will want—just to annoy them—may give you some sense of satisfaction at the time. But you have to stop and regroup.

It is very important that you take a practical approach when dividing up your marital “stuff” (or as we lawyers like to call it, “personal property”). It makes no sense to spend more money on attorney’s fees or appraisal fees than your “stuff” is worth.

The most effective approach is for you and your soon to be ex-spouse to make a list of what you want to take with you after the divorce. Exchange your lists and negotiate the items you both want. In this day and age of technology, this is no reason to fight over photos anymore...just make copies. And when it comes down to the fishing pole, just give it to him. You can even flip a coin for the unresolved items, especially if these items do not have substantial value.

If you have personal property of great value and you cannot agree on the value and how to divide the items, you will have to get them appraised. You will incur appraisal fees and probably counsel fees in order to resolve the issue.

In most jurisdictions, if you brought personal property into the marriage, these personal items will be considered separate property and not subject to division. If you purchased items during your marriage, these items will be considered marital property, and are subject to division.

If you inherited personal items during your marriage, these are considered separate property and not subject to division. If you received gifts, given only to you, during your marriage, in most jurisdictions these items are considered separate property and not subject to

division. However, in some jurisdictions, inter spousal gifts (ie. gifts that you and your spouse have given to each other) may be considered marital property and are subject to division.

If you are concerned that marital items with great sentimental value may disappear from the marital home before you resolve your personal property dispute, take steps to preserve those items. No money in the world can replace the sentimental value. Don’t get rid of them, just keep them in a safe place with a family member or your attorney (if he or she is willing) until there is a resolution of how those items are going to be divided. Remember, your attorney does not have any magical powers to get something back if it disappears.

The bottom line is that you and your soon to be ex-spouse should take a practical approach in dividing your stuff....sweating the small stuff may cost you more in the end.