How Is Property Divided When You Get Divorced?

Michigan is a no-fault divorce state, which means if one person wants a divorce, the court will grant a divorce without any need for a showing of fault within the marriage. People contemplating divorce often inquire as to how property will be divided by the courts in Michigan. Unless there is an enforceable prenuptial and/or postnuptial agreement between the parties, the court will make an “equitable” division of marital property. If there are no prenuptial/postnuptial agreements, the judge assigned to the case will review the matter and determine a fair division of the assets and/or debts of the marital estate. For the most part, the court will likely split the assets and the debts of the marriage on a 50/50 basis, unless there is a determination that this split is not fair for the parties.

Marital Assets vs. Separate Assets

Most people are confused about what qualifies as a marital asset. Some people believe that ownership is determined by the name on the property such as a title to a vehicle or a deed to real estate. The name on the property does not automatically dictate ownership. The minute the vows are complete and the marriage is legal, every dollar acquired during that marriage is shared evenly or 50 cents on the dollar per spouse. Also, every debt acquired after the marriage is also shared evenly between the parties. For example, whether a vehicle was purchased and titled exclusively for the use by one spouse over the other is completely irrelevant; the court will likely split that asset 50/50 between the parties.

If a spouse actively increases the value of separate investments such as stocks, bonds, etc., by actively trading and reinvesting, it may be argued that the separate investment is marital and should be split between the parties. This, of course, will be decided by the judge, based on his/her review of fairness. Passive assets are easier to prove as separate property.

Another example of separate property may be an inheritance from a relative, as long as the relative does not name the spouses to inherit the property jointly and, again, the inheritance remains separate from marital assets. Martial money contributed to invest into the inherited property, for example, renovating an inherited home with marital assets, may take the property out of the separate property category.

The future proceeds of existing lawsuits for workers’ compensation benefits, social security disability claims, or any other liability litigation may also be subject to division if those lawsuits seek recovery for work-loss benefits or some type of disability benefits that reimburse for loss of income during the marriage. Just because the award may be received after the divorce is final does not preclude it from the marital estate.

It’s Complicated

To really accurately evaluate whether an asset or debt is marital or nonmarital, you will need to consult with a professional, such as an attorney. An attorney can review the evidence and advise you, based on the information provided, whether the asset is likely or not likely to be a marital asset or debt. However, ultimately, it will be the judge assigned to your case who will decide.
Merry Christmas Dad... Here’s Your Medical Information Binder!

This past year for Christmas, I gave my father a “Medical Information Binder.” It was not his favorite gift, but it was the one thing he did not have and actually needed.

Mortality is not a glamorous topic. Nor is it something you want to think about in relation to your parents and especially over the holiday season. As an estate planning attorney, it is my job to make sure my clients are informed and prepared for what comes next.

As my Dad’s “favorite” daughter (he has four), I am honored to be able to take him to his various doctor’s appointments. (I also live the closest to him so that may have something to do with the favoritism.)

My Dad has a zest for life and a larger than life personality. In the summer months, we put the top down on his convertible and make a day of it zipping around town after his appointments. In the winter months, we take my more practical Michigan car. It is not as fun as his convertible, but spending the one-on-one time with him is always an adventure.

Currently, Dad is healthy and happy and has the capacity to make his own decisions. That may not always be the case. My Christmas gift to him last year was having his Durable Power of Attorney For Health Care prepared.

As he ages and his doctors’ appointments increase, it is important that we not only have these documents in place but that we can find them when needed. How do we accomplish this task? Our firm provides a convenient Medical Information Binder that we take to each appointment. It contains a place for: Emergency Names and Numbers; Pharmacy, Physician and Specialist Contact Information; Upcoming Medical Appointments; a Medication List; Notes and Instructions from his last Primary Care Physician visit; Test Results and Medical Documents such as a Durable Power of Attorney for Health Care.

The Medical Information Binder is a wonderful organizational tool and is helpful to medical professionals as well. Willingham & Coté, P.C. has these (free) Medical Information Binders in stock.

If you would like one for yourself or your family member, please contact me at hgilkey@willinghamcote.com or at 517.324.1043. Although your holiday shopping is done and the gifts have been unwrapped and put away, this is one gift that will keep on giving throughout the New Year!

Attorney Wins Volunteer Award

Willingham & Coté, P.C. is very proud to announce that Appellate Attorney Kim Hillock was recently awarded the Volunteer of the Year Award by the Michigan Defense Trial Counsel (MDTC). Kim was chosen in recognition for her role as the former associate editor of and regular contributor to the Michigan Defense Quarterly. She is also a co-chairperson of the Michigan Defense Trial Counsel Amicus Committee.

Congratulations Super Lawyers

Anthony Kogut, Michael Stephenson and John Yeager of Willingham & Coté, P.C., have been selected to the 2016 Michigan Super Lawyers list. The firm would also like to congratulate David Nelson for being acknowledged as a “Rising Star,” which recognizes attorneys who are 40 and under or who have been practicing ten years or less. Super Lawyers is a rating service of outstanding lawyers from more than 70 practice areas who have attained a high degree of peer recognition and professional achievement. Each year, no more than 5 percent of the lawyers in the state are selected by the research team at Super Lawyers to receive this honor.
Community Involvement

**Save the Date! Estate Planning Tea**

As you plan for the new year, please mark your calendars for **Thursday, May 18, 2017, at 3:00 p.m.** for our annual Estate Planning Tea held at the MSU University Club. More details to follow!

**Navigating the Waters of Retirement**

The MSU Retirees Association, in conjunction with Straightline of Troy, MI, invited **Lee Reimann** to answer some important questions regarding financial and legal planning to over 80 attendees on Tuesday, November 1, 2016. Straightline provides investment education and management to educational institutions. They generously invited Lee to the seminar to collaborate with other speakers from their organization.

**Legal Experts by Day...Santa’s Helper by Night**

Operation Santa has been providing Christmas gifts to Lansing area children for over 20 years. Our firm adopted a family via our “giving board” located in the breakroom. Once gifts were purchased, our conference room was soon transformed into Santa’s workshop, as we wrapped gifts and prepared them for delivery. Thank you to our entire staff for making time in their busy holiday schedule to support the less fortunate in our community.

2017 Board Announcements and Promotions

Willingham & Coté, P.C. is proud to announce its 2017 corporate officers.

**Michael Stephenson** is the firm President. **Curt Hadley** is Vice President, **Scott Breen** is the Treasurer and **Torree Breen** is serving as Secretary.

In addition, attorney **Dave Nelson** has been voted in as a Class A Shareholder. Mr. Nelson is the chair of the Insurance practice group.

In addition to enjoying traditional tailgate fare, we enjoyed the skills of **Klinker the Clown** and **Professor Magic**, who made balloon animals for the young and the young at heart! We also raffled four tickets to the game, while showing the game via satellite in our tent — everyone participated in the excitement of being a Spartan.

**Thank you to all who attended and we look forward to seeing you in October 2017!**
Other Announcements

Website Receives a Facelift

In early December, our website received a new look. Please visit us at www.willinghamcote.com to view firm announcements, read attorney blogs and enjoy the updated platform.

MAC Avenue Parking Garage is TEMPORARILY CLOSING

The MAC Avenue parking garage will close for construction as of Monday, January 23, 2017. The suspended concrete deck, ventilation fans, lighting, and ceiling tiles will be replaced. This project is scheduled for completion by August 25, 2017.

Similar to the existing MAC garage, the firm will validate client parking passes from the Charles St. garage during the construction period.

The entrance to the Charles St. garage is on Charles Street (highlighted in yellow).

Staff Announcements

Firm Welcomes New Attorneys

Willingham & Coté, P.C. is pleased to announce that Theodore (Ted) Marshall and Zachary (Zach) Zurek have joined the firm. Both attorneys are members of the firm’s Insurance Defense Group.

Mr. Marshall earned his law degree in 2016 at Wayne State University School of Law, and was recently admitted to the Bar. While in Law School, he served as the President of The Federalist Society and participated in the Wayne State Business and Community Law Clinic.

Mr. Zurek earned his law degree in 2012 at the University of Michigan Law School. Mr. Zurek provides exceptional legal services to his clients at both the trial and appellate levels.