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**2020 Edition**

# Equitable Distribution of Marital Property in Connecticut

A Guide to Resources in the Law Library

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*Prepared by Connecticut Judicial Branch, Superior Court Operations,  
Judge Support Services, Law Library Services Unit*

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# Introduction

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- “We must, however, consider, the paramount purpose of a property division pursuant to a dissolution proceeding [which] is to unscramble existing marital property in order to give each spouse his or her equitable share at the time of **dissolution.**” [Greenan v. Greenan](#), 150 Conn. App. 289, 311, 91 A. 3d 909 (2014).
- “At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either spouse all or any part of the estate of the other spouse. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either spouse, when in the judgment **of the court it is the proper mode to carry the decree into effect.**” Conn. Gen. Stat. [§ 46b-81](#)(a) (2019).
- “As a general framework, [t]here are three stages of analysis regarding the equitable distribution of each resource: first, whether the resource is property within [General Statutes] § 46b-81 to be equitably distributed (classification); second, what is the appropriate method for determining the value of the property (valuation); and third, what is the most equitable distribution of the property between the parties (distribution).” [Brady-Kinsella v. Kinsella](#), 154 Conn. App. 413, 423, 106 A.3d 956 (2014).
- **Connecticut’s all property equitable distribution scheme:** “It does not limit, either by timing or method of acquisition or by source of funds, the property **subject to a trial court’s broad allocative power.**” [Krafick v. Krafick](#), 234 Conn. 783, 792, 663 A.2d 365 (1995).
- “Importantly, ‘[a] fundamental principle in dissolution actions is that a trial court may exercise broad discretion in...dividing property as long as it considers all **relevant statutory criteria.**’” [Coleman v. Coleman](#), 151 Conn. App. 613, 617, 95 A.3d 569 (2014).
- “[W]e conclude in part I A of this opinion that a trial court possesses inherent authority to make a party whole for harm caused by a violation of a court order, even when the trial court does not find the offending party in contempt. In part I B of this opinion, we conclude that the trial court properly exercised that authority in **the present case.**” [O'Brien v. O'Brien](#), 326 Conn. 81, 96, 161 A.3d 1236, 1249 (2017).

# Section 1: Connecticut's All Property Equitable Distribution Scheme

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to Connecticut's all property equitable distribution scheme in distributing property as part of an action for dissolution, legal separation or annulment of marriage.

## **DEFINITIONS:**

- "It is black letter law that Connecticut is an **equitable distribution property state . . .**" [Wendt v. Wendt](#), 59 Conn. App. 656, 662, 757 A.2d 1225 (2000) (emphasis added).
- "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, **the Superior Court may assign to either spouse all or any part of the estate of the other spouse.**" Conn. Gen. Stat. [§ 46b-81](#)(a) (2019). (Emphasis added.)
- "This approach to property division is commonly referred to as an **'all-property' equitable distribution scheme.**" [Krafick v. Krafick](#), 234 Conn. 783, 792, 663 A.2d 365 (1995). (Emphasis added.)

## **CHECKLISTS:**

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part II. Introducing the basic concepts of property division  
§ 6.03. Checklist

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Al-Fikey v. Obaiah](#), 196 Conn App. 13, 21, 228 A.3d 668 (2020) "In the court's decision, it recognized that the Cos Cob home was foreclosed on account of the defendant's misconduct. In lieu of the marital home, the court instead awarded the plaintiff a single property.... At the same time, the court awarded the defendant his current residence at the Washington Terrace property along with seven additional properties. We conclude that the trial court acted within its broad discretion in dividing the properties as it did. The trial court was confronted with a complicated record regarding the defendant's property ownership. Its decision to award separate residences to each party and to allow the defendant to retain whatever interest he possessed in the seven other Bridgeport properties was reasonable."
- [Lawrence v. Cords](#), 165 Conn. App. 473, 483-484, 139 A.3d 778 (2016). "Although the court does not have the authority to modify a property assignment, a court, after distributing property, which includes assigning the

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debts and liabilities of the parties, does have the authority to issue postjudgment orders **effectuating its judgment.**' *Roos v. Roos*, 84 Conn. App. 415, 421-22, 853 A.2d. 642, cert. denied, 271 Conn. 936, 861 A.510 (2004). '[I]t is ...**within the equitable powers of the trial court to fashion whatever orders [are] required to protect the integrity of [its original] judgment.**' *Santoro v. Santoro*, 70 Conn. App. 212, 217, 797 A.2d 592 (2002)."

- [Sousa v. Sousa](#), 322 Conn. 757, 777-780, 143 A.3d 578 (2016) **"...as the Appellate Court has recently recognized, Connecticut's case law is in conflict** regarding whether the modification of a property distribution postdissolution implicates the court's subject matter jurisdiction or merely **its statutory authority.**' *Lawrence v. Cords*, 165 Conn. App. 473, 483 n. 8, 139 A.3d 778, cert. denied, 322 Conn. 907, **140 A.3d 221 (2016)**...**The mere existence of this conflict**, along with the Superior Court's general jurisdiction over family matters under § 46b-1, demonstrates that, even if we assume, without deciding, that the restriction of postjudgment modification of property distributions in § 46b-86 (a) is in fact jurisdictional in nature, it is far from **'entirely obvious'** that Judge Resha was without subject matter jurisdiction in this case when he modified the pension distribution. See *Broaca v. Broaca*, supra, 181 Conn. at 472 (Peters, J., dissenting); *Wells v. Wells*, 2005 SD 67, 698 N.W.2d 504, 510 (S.D. 2005). Accordingly, we conclude that the Appellate Court improperly determined **that it was 'entirely obvious'** that Judge Resha lacked subject matter jurisdiction to modify the underlying **judgment of dissolution in 2007.**"
- [Ferri, et al. v. Powell-Ferri, et al.](#), 317 Conn. 223, 224-225, 116 A.3d 297 (2015). **"This appeal arises from a dissolution action, dissolving the marriage of the named defendant, Nancy Powell-Ferri, and the defendant, Paul John Ferri, Jr. (Ferri). The dispositive issue in this appeal is whether the trial court properly rendered summary judgment in favor of Ferri on the cross complaint filed by Powell-Ferri on the ground that it failed to plead a legally sufficient cause of action. Specifically, Powell-Ferri's cross complaint alleged that Ferri had breached his duty to preserve marital assets during the pendency of their marital dissolution action by failing to take any affirmative steps to contest the decanting of certain assets from a trust by the plaintiffs, Michael Ferri and Anthony Medaglia, who were then serving as trustees. We conclude that this state does not require a party to a dissolution action to take affirmative steps to recover marital assets taken by a third party and, accordingly, affirm the judgment of the trial court."**
- [Radcliffe v. Radcliffe](#), 109 Conn. App. 21, 26 Fn.6, 951 A.2d 575 (2008). **"In O'Neill, we observed that 'an equitable distribution of property should take into**

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consideration the plaintiff's contributions to the marriage, including homemaking activities and primary care taking **responsibilities'**; *O'Neill v. O'Neill*, [300]supra, 13 Conn. App. 311; and that 'a determination of each spouses' contribution within the meaning of General Statutes § 46b-81 includes nonmonetary as well as monetary **contributions.'**" (Internal quotation marks omitted.) *O'Neill v. O'Neill*, [300] supra, 312.

- [Ricciuti v. Ricciuti](#), 74 Conn. App. 120, 124, 810 A.2d 818 (2002). "Here, the defendant began receiving a pension from the Department of Defense after his retirement in 1996. The pension accrued over twenty-two years, during nineteen of which the parties were married. The court, therefore, correctly determined that the defendant's pension was subject to distribution under § 46b-81."
- [Mongillo v. Mongillo](#), 69 Conn. App. 472, 481-482, 794 A.2d 1054 (2002). "In fashioning its orders for the disposition of property, the court is obligated to consider the statutory factors relating to the disposition of property in marital dissolution. See General Statutes § 46b-81. The statutory scheme setting forth the criteria for the court's exercise of discretion in making property awards provides no support for the plaintiff's argument that it was error for the court not to award the plaintiff a portion of the defendant's retirement benefits."
- [Wendt v. Wendt](#), 59 Conn. App. 656, 673, 757 A.2d 1225, cert. den. 255 Conn. 918. (2000). "The court made extraordinary efforts to ensure that the valuation and the division of the marital property was within the bounds of our statutes, case law and constitution. We will not disturb the court's thoughtful analysis and conclusion, which falls well within the bounds of its broad discretion."
- [Lopiano v. Lopiano](#), 247 Conn. 356, 365, 752 A.2d 1000 (1998). "Recent decisions from this court have indeed empowered trial courts to deal broadly with property and its equitable division incident to dissolution proceedings."
- [Watson v. Watson](#), 221 Conn. 698, 607 A.2d. 383 (1992). "Trial court must be accorded discretion in fashioning equitable assignment of property. The power to act equitably is the keystone to the court's ability to fashion relief in the infinite variety of circumstances which arise out of the dissolution of a marriage."
- [Weiman v. Weiman](#), 188 Conn. 232, 235, 449 A.2d 151 (1982). "The division of property was structured in such a manner as to return to the defendant her contribution and that of her family. Payments for the defendant's counsel fees, medical bills, her outstanding debts and any capital gains tax on the property were to be made from the proceeds resulting from the sale of the real estate. The

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defendant, in addition, is to receive significant sums of money and one-half the remainder of the net proceeds from the sale of the real estate....

...The alimony awarded the defendant was not substantial in amount nor was it for a long period of time. When considered, in the context of other orders which required the plaintiff to pay for the full support, college education, and medical expenses of the five children of the marriage and to maintain insurance on his life for the benefit of the defendant, we cannot say the award is clearly erroneous."

- [Lane v. Lane](#), 187 Conn. 144, 147, 444 A.2d 1377 (1982). "Differences inherent in particular family situations require that the court's discretion be broad enough to make suitable orders upon dissolution of marriage to fit the circumstances."
- [Carpenter v. Carpenter](#), 188 Conn. 736, 740-741, 453 A.2d 1151 (1982). "While the trial court must consider the delineated statutory criteria, no single criterion is preferred over the others, and the court is accorded wide latitude in varying the weight placed upon each item under the peculiar circumstances of each case."
- [Tsopanides v. Tsopanides](#), 181 Conn. 248, 435 A.2d 34 (1980). "The principal issue raised by this appeal is whether in a dissolution action the court may properly render a judgment ordering the conveyance of property to a party who has not filed a claim for such relief."

**WEST KEY NUMBERS:**

- *Divorce*  
# 650-895 Allocation of property and liabilities;  
Equitable distribution

**ENCYCLOPEDIAS:**

- 27B *C.J.S.* Divorce (2016)  
Disposition of Property  
§§ 896-907 In general
- 24 *Am Jur 2d* Divorce & Separation (2018)  
§§ 465-549. Equitable Distribution  
§§465-470. In general  
§ 465. Generally  
§ 466. Limitations on court's discretion  
§ 467. Disposition of community property  
§ 468. Alimony or maintenance distinguished  
§ 469. Extent of court's jurisdiction  
§ 470. Procedural matters

**TEXTS & TREATISES:**

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of property  
Part I. Scope and overview  
Part II. Introducing the basic concepts of property division

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).
  - Chapter 37. Principles of property division
    - § 37.01 Theories and Principles
      - [b] Equitable distribution: an overview
      - [i] Equitable distribution defined
      - [ii] Goals of equitable distribution
      - [iii] Validity of equitable distribution statutes
      - [v] "All property" regimes
- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.
  - Chapter 10 Equitable distribution of property
    - §10.03. Characterizing property for the purpose of equitable distribution
      - [B]. All property equitable distribution jurisdictions
- John Tingley and Nicholas Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).
  - Chapter 42. Equitable distribution doctrine
    - § 42: 1. General aspects of equitable distribution
    - § 42: 3. Meaning of "Equitable," "Just," or "Fair"
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).
  - Chapter 1. Introduction to equitable distribution
    - § 1.1. The equitable distribution concept
    - § 1.2. Equitable distribution: background and overview
    - § 1.3. –History
    - § 1.4. –Policy
    - § 1.5. –Current trends
    - § 1.6. Constitutionality
    - § 1.7. Retroactive application
    - § 1.8. Equitable distribution practice
  - Chapter 2. Property Division Systems
    - § 2.1. Introduction
    - § 2.2. Goals of Property Division
    - § 2.7. Equitable distribution
    - § 2.8. All property model
    - § 2.9. Dual classification model
    - § 2.10. All property versus dual classification: a comparison
- The American Law Institute, *Principles of the Law of Family Dissolution*, 2002, with 2020 supplement, Thomson West (also available on Westlaw).
  - Chapter 4. Division of Property Upon Dissolution
    - § 1. Introductory Provisions
    - § 2. Definition and Characterization of Property
    - § 3. Allocation of Property on Dissolution of Marriage



### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

- Jennifer F. Dalenta, *Mickey v. Mickey: The Long-awaited Clarification of the Landscape of Equitable Distribution of Marital Assets*, 43 *Conn. L. Rev.* 949 (2011).
- Craig W. Dallon, [The Likely Impact of the ALI Principles of the Law of Family Dissolution on Property Division](#), 2001 *B.Y.U.L. Rev.* 891 (February, 2001)
- Ann Laquer Estin, *International Divorce: Litigating Marital Property and Support Rights*, 45 *Family Law Quarterly* 293 (Fall 2001)

### **WEBSITES**

- [Divorce and Money Matters](#), a booklet by the Connecticut Women's Education and Legal Fund

# Section 2: Classification of Property

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to what types of property are classified as property in Connecticut as part of an action for dissolution, legal separation or annulment of marriage.

## **DEFINITION:**

- **Classification of marital property:** "whether the resource is property within § 46b-81 to be equitably distributed..." [Krafick v. Krafick](#), 234 Conn. 783, 792-793, 663 A.2d 365 (1995).
- **Marital property:** "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, the Superior Court may assign to either spouse all or any part of the estate of the other spouse. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either spouse, when in the judgment of the court it is the proper mode to carry the decree into effect." Conn. Gen. Stat. [§ 46b-81](#) (2019).
- **Types of property interests and expectancy:** "Our Supreme Court in *Mickey v. Mickey*, 292 Conn. 597, 618-19, 974 A.2d (2009), further explained: 'The legislature has not seen fit to define [the] critical term [property within the meaning of § 46b-81], leaving it to the courts to determine its meaning through application on a case-by-case basis...As we noted previously, this court has generally taken a rather broad and comprehensive view of the meaning of the term property for purposes of equitable distribution...We have not erased altogether, however, the limitations inherent in the term. We continue to recognize that the marital estate divisible pursuant to § 46b-81 refers to interests already acquired, not to expected or unvested interests, or to interests that the court has not quantified...'" [Rousseau v. Perricone](#), 148 Conn. App. 837, 849, 88 A.3d 559 (2014).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2019) [§ 46b-81\(a\)](#). "At the time of entering a decree annulling or dissolving a marriage or for legal separation pursuant to a complaint under section 46b-45, **the Superior Court may assign to either spouse all or any part of the estate of the other spouse**. The court may pass title to real property to either party or to a third person or may order the sale of such real property, without any act by either spouse, when in the judgment of the court it is the proper mode to carry the decree into effect." [Emphasis added.]

## **CHECKLISTS:**

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property

Part IV. Assessing *pendent lite* property considerations

§ 6.20. Checklist

Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview

§ 6.24. Checklist

Part VI. Defining, valuing, and allocating specific assets

§ 6.30. Checklist

### **CASES:**

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- [Powers v. Hiranandani](#), 197 Conn. App. 384, 399-400, 232 A.3d 116, (2020). **“Although he testified at trial that he inherited Monesh's 1 percent interest in Lantern Circle, on appeal the defendant in this court argues that because Monesh's estate had not been settled at the time of dissolution, his inheritance had not yet been valued[...]**The question we must answer is whether, at the time it dissolved the parties' marriage, the court properly ordered the defendant to transfer his rights, title and interest in Lantern Circle to the plaintiff. We conclude that the court's order was proper.”

- [Dinunzio v. Dinunzio](#), 180 Conn. App. 64, 75, 189 A.3d 706, (2018). **“The court did not mention the plaintiff's pension in its property distribution orders, omitting it completely from the category entitled: ‘Pension, IRA and Retirement Assets.’ It thus did not assign the pension a value, or order that it be distributed to either party.** Nowhere in its decision, moreover, did the court state that it was considering the pension as an offset or a balance against any of its other financial orders. It is therefore clear that the trial court improperly classified the plaintiff's pension only as a source of income, not as property subject to equitable distribution.

‘[T]he issues involving financial orders are entirely interwoven, [and] [t]he rendering of a judgment in a complicated dissolution case is a carefully crafted mosaic, each element of which **may be dependent on the other.**’ (Internal quotation marks omitted.) *Grant v. Grant*, 171 Conn. App. 851, 869, 158 A.3d 419 (2017). Because the trial court's failure to classify the plaintiff's pension as property for equitable distribution is not severable from its other financial orders, this case must be remanded for a **new trial on all financial orders.**”

- [Thomasi v. Thomasi](#), 181 Conn. App. 822, 836-837, 188 A.3d 743, (2018). **“On the basis of our review of the dissolution agreement, we conclude that the trial court incorrectly determined that the language in paragraph 9B is clear and unambiguous. The term ‘marital portion’ of the defendant's pension contains a latent ambiguity because the determination of that amount is not self-defining and can be deduced by using more than one methodology, each of which yields a significantly different outcome. Also, the**

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term 'marital portion' is not elsewhere defined in the dissolution agreement. As noted, although Attorney McMahon expressed a preference for utilizing the coverage method for determining the marital portion of a pension, she, with equal clarity, also acknowledged the legitimacy of the use of the subtraction option for making such a determination. Because the term 'marital portion' can be reasonably susceptible to more than one method of calculation not specified in the parties' agreement, a latent ambiguity exists in the parties' agreement.

**"In its decision to rely on extrinsic evidence to resolve the parties' disagreement as to the import of the term 'marital portion,' the court's focus on Attorney McMahon's usual practice was misplaced. Rather, the task of the court in resolving the ambiguity was to discern the intent of the parties in employing the language at issue."**

- [Hornung v. Hornung](#), 323 Conn. 144, 152, 146 A.3d 912 (2016) **"We conclude that the trial court properly awarded lump sum alimony, and not a property distribution in violation of the agreement, for two reasons: (1) the trial court unambiguously characterized the lump sum award as alimony and, as such, its incidental consideration of two factors in § 46b-81, the property distribution statute, does not demonstrate that the award is a functional property distribution; and (2) the fact that the combined alimony and child support awards apparently exceed the plaintiff's claimed expenses does not demonstrate that the award is actually a property distribution, in light of the standard of living of the marriage and the equitable and statutory factors considered by the trial court."**
- [May v. May](#), Superior Court, Judicial District of Middlesex at Middletown, No. FA05-4003715-S (Dec. 29, 2016) (63 Conn. L. Rptr. 610) (2016 LEXIS 3446). **"...[T]he parties entered into an Agreement for an entirely new judgment dissolving a new marriage occurring after the First Dissolution. In making that Agreement, they each had the right and power to dispose of the assets they owned at the time, including assets acquired under the First Dissolution. If the defendant's claim to the payment of \$90,000 by the plaintiff survived their remarriage and the other equitable defenses raised by the plaintiff, then the claim constituted an asset or property of the defendant at the time of the Second Dissolution. If it was not an issue that was actually raised during the course of the negotiation of the Agreement, it was an issue which could have been raised. This court concludes that any remedial orders it might enter at this time requiring the plaintiff to pay said sum to the defendant would conflict with the release and integration language in the Second Dissolution. If the defendant believes that the Second Dissolution does not properly address the issue of the \$90,000 payment in accordance with the intent of the parties, or that there was a mistake**

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in the Second Dissolution as to the debt, then her recourse is to seek the correction **of that judgment.**”

- [Curtis Wood v. Deborah Wood](#), 160 Conn. 708, 717, 125 A.3d 1040 (2015). **“The plaintiff’s interest in the LLC was previously acquired during the term of the marriage and was presently existing at the time of the trial. He possessed a contractual, enforceable right to the funds owed to him by the LLC under the terms of the agreement..We recognize that his receipt of the funds was contingent upon future events, i.e., the sale of the Dearfield Lane property at such a price that there would be enough proceeds from the sale for the LLC to pay off the liens, mortgages, and costs *and then* to pay the plaintiff the funds owed to him. It is well settled, however, that ‘[t]he fact that a contractual right is contingent on future events does not degrade that right to an expectancy.”** (Internal quotation marks omitted.) *Krafick v. Krafick*, 234 Conn. 783, 797, 663 A.2d 365 (1995). We conclude, therefore, that the court properly characterized the plaintiff’s interest in the LLC as distributable property for the purposes of § 46b-81.”
- [Barcelo v. Barcelo](#), 158 Conn. App. 201, 226, 118 A. 3d 657 (2015). **“Individual financial orders in a dissolution action are part of the carefully crafted mosaic the comprises the entire asset relocation plan ... Under the mosaic doctrine, financial orders should not be viewed as a collection of single disconnected occurrences, but rather as a seamless collection of interdependent elements. Consistent with that approach, our courts have utilized the mosaic doctrine as a remedial device that allows reviewing courts to remand cases for reconsideration of all financial orders even though the review process might reveal a flaw only in the alimony, property distribution or child support awards.”**
- [Reville v. Reville](#), 312 Conn. 428, 470-71, 93 A.3d 1076 (2014). **“To summarize, the trial court improperly concluded that the defendant’s unvested pension, in May, 2001, definitively was not distributable marital property pursuant to § 46b-81. Because the court employed an incorrect legal analysis to conclude that the pension was not property, it improperly refused to admit and/or consider evidence of the pension’s value, evidence which was relevant to the issues of whether it had been disclosed and whether it would have affected the outcome of the dissolution action. Consequently, the trial court’s denial of the plaintiff’s motion to open was an abuse of discretion. The trial court applied the correct burden of proof to the plaintiff’s claim, and accordingly, did not commit plain error in that regard. The judgment is reversed and the case is remanded for further proceedings consistent with this opinion.”**

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- [Rousseau v. Perricone](#), 148 Conn. App. 837, 88 A.3d 559 (2014). “The cause of action in *Perricone v. Rousseau*, supra, Superior Court, Docket No. CV-11-6027402-S, is ‘property’ for the purpose of § 46b-81. ‘There is no doubt that a right in action, [when] it comes into existence under common-law principles, and is not given by statute as a mere penalty or without equitable basis, is as much property as any tangible possession...’ (Internal quotation marks omitted.) *Siller v. Siller*, 112 Conn. 145, 150, 151 A.524 (1930)” p.849.

“The value of the chose in action, on the other hand, determined at least in part by the party’s chances of prevailing may be unknown, and, indeed, the action may turn out to be worthless. Nevertheless, that fact is irrelevant to its classification as a property interest.” P.850.

- [Mickey v. Mickey](#), 292 Conn. 597, 631, 974 A.2d 641 (2009). “...it is clear that, whatever interest the defendant had in potential disability payments under § 5-192p, that interest was not, at the time of dissolution, a presently existing enforceable right to a future benefit.” p.628.

“...analyzing an interest that does not become a ‘right,’ much less actual, possessory property, prior to the occurrence of some future event or events involves a second step. We must look at the nature of the contingency to determine whether it is so speculative as to be deemed a mere expectancy or, conversely, whether it is ‘sufficiently concrete, reasonable and justifiable as to constitute a presently existing property interest for equitable distribution purposes.’ *Bender v. Bender*, supra, 258 Conn. 749...” p.629.

“Furthermore, such an interest, even if it was sufficiently concrete to constitute distributable property, could not be classified as distributable under the facts of this case. A benefit derived from an injury occurring years after a dissolution, meant solely to compensate for the loss of future wages, simply does not represent the ‘fruits’ of the marital partnership that §46b-81 is designed to equitably parse.” p.629.

- [Ranfone v. Ranfone](#), 103 Conn. App. 243, 928 A.2d 575 (2007). “In *Bender v. Bender*, 258 Conn. 733, 745-46, 785 A.2d 197, the Supreme Court explained that ‘the theme running through’ our case law interpreting what property may be considered marital property pursuant to § 46b-81 ‘pays mindful consideration to the equitable purpose of our statutory distribution scheme, rather than to mechanically applied rules of property law. In order to achieve justice, equity looks to substance, and not to mere form.’ The court further explained that ‘retirement benefits, whether vested or unvested, are significant marital assets, and may be...the only significant marital asset. To consider...pension benefits

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a nondivisible marital asset would be to blink [the court's] eyes at reality.” p.251.

“...The Supreme Court explained: ‘The fact that a portion of the pension benefits, once vested, will represent the **defendant’s service to the fire** department after the dissolution does not preclude us from classifying the entire unvested pension as marital property.’” p.252.

- [Kiniry v. Kiniry](#), 71 Conn. App. 614, 624, 803 A.2d 352 (2002). **“On the one hand, stock options that are awarded prior to the date of dissolution and awarded solely for past services are considered to be earned during the marriage and are, therefore, considered marital property subject to equitable distribution under § 46b-81 . . . . On the other hand, stock options that are earned prior to the date of dissolution, but that constitute compensation for future services, are not considered to be earned during the marriage and, therefore, are not subject to distribution as marital property under § 46b-81.”**
- [Bender v. Bender](#), 258 Conn. 733, 748, 785 A.2d 197 (2001). **“[I]n determining whether a certain interest is property subject to equitable distribution under § 46b-81, we look to whether a party's expectation of a benefit attached to that interest was too speculative to constitute divisible marital property . . . . In cases in which an interest was so speculative as to constitute a mere expectancy, we concluded that it was not property subject to equitable distribution . . . whereas, in cases in which an interest was not so speculative as to constitute a mere expectancy, but rather a presently existing interest in property, we treated it as property subject to equitable distribution.”**
- [Borneman v. Borneman](#), 245 Conn. 508, 517-518, 752 A.2d 978 (1998). **“Despite the fact that the stock options at issue in this case had not yet “matured” or “vested” at the time of dissolution, the options created an enforceable right in the defendant.”**
- [Simmons v. Simmons](#), 244 Conn. 158, 168, 708 A.2d 949 (1998). **“Consequently, we conclude that an advanced degree is properly classified as an expectancy rather than a presently existing property interest. It is not, therefore, subject to equitable distribution upon dissolution pursuant to § 46b-81.”**
- [Cooley v. Cooley](#), 32 Conn. App. 152, 162-163, 628 A.2d 608, cert. denied 228 Conn. 901, 634 A.2d 295 (1993). **“The plaintiff had no vested right at any time to the trust corpus that would permit its inclusion in the marital estate.”**
- [Rubin v. Rubin](#), 204 Conn. 224, 232, 527 A.2d 1184 (1987). **“We have concluded that the award to the**

defendant of a share of the plaintiff's expectancy cannot be sustained as a permissible transfer of property under 46b-81."

**WEST KEY NUMBERS:**

- *Divorce*  
Allocation of property and liabilities; Equitable distribution  
# 671-718 Property subject to distribution or division

**ENCYCLOPEDIAS:**

- 24 *Am Jur 2d* Divorce and Separation (2018).  
§§ 475-489. Property subject to division  
§§ 490-512. Specific types of property  
§§ 490-493. In general  
§§ 494-496. Marital residence  
§§ 497-500. Professional degrees, license, and practice  
§§ 501-503. Pension rights; other benefit payments and awards  
§§ 504-506. Government pensions  
§§ 507-512. Other benefit payments and awards
- 27B *C.J.S.* Divorce (2016).  
Disposition of Property  
§§ 908-924. Divisibility of assets owned by the spouses
- 27C *C.J.S.* Divorce (2016).  
§§ 957-983. Specific kinds of property or interests  
§§ 957-962. Homestead or marital residence  
§§ 963-970. Retirement, pension, and other employment-related benefits  
§§ 971-983. Other kinds of property or interests
- See [Table 1](#) for ALR annotations

**TEXTS & TREATISES:**

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References to online databases refer to in-library use of these databases. Remote access is not available.

- Arnold H. Rutkin et al., 7 *Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).  
Chapter 26. Assets subject to distribution  
§ 26.1. In general  
§ 26.2. Definition of property  
§ 26.3. Identification of particular assets for distribution  
§ 26.4. Real Estate  
§ 26.5. Marital home  
§ 26.6. Entirety property or joint tenancy holdings  
§ 26.7. Personal property and rights  
§ 26.8. Financial interests  
§ 26.9. Insurance annuities and other policy benefits  
§ 26.10. Receivables  
§ 26.11. Pension and retirement benefits and interests  
§ 26.12. Military retirement benefits and interests  
§ 26.13. Social security benefits  
§ 26.14. Other employment related benefits and assets



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- § 26.15. Professional licenses and degrees
- § 26.16. Business interests and professional practices
- § 26.17. Gifts
- § 26.18. Inheritances, trusts and other estate interests
- § 26.19. Property acquired before the marriage
- § 26.20. Property acquired after dissolution action commenced
- § 26.21. Fraudulent transfers and property transferred while action is pending
- § 26.22. Debts and liabilities
- § 26.23. Tort and worker's compensation claims and other pending actions

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.
  - Chapter 6. Division of Property
    - Part IV. Assessing *pendente lite* property considerations
    - Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview
    - Part VI. Defining, valuing, and allocating specific assets
- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.
  - Chapter 10 Equitable Distribution of Property
    - §10.09. Professional goodwill
      - [A] Goodwill: definition and basic concepts
      - [B] Classification of goodwill
        - [2] Classification of goodwill for equitable distribution
          - [a] Professional goodwill as divisible property
          - [b] Professional goodwill not divisible
    - §10.10. Pensions and retirement benefits
      - [A] Overview
      - [B] Basis terms and concepts
      - [C] Characterization of pension benefits
      - [H] Military retirement benefits
- Barry Armata and Campbell Barrett, eds., *A Practical Guide to Divorce in Connecticut*, 2013, with 2018 supplement, MCLE.
  - Chapter 5. The definition of property
- Marvin Snyder, *Value of Pensions in Divorce*, 4<sup>th</sup> ed. 2010, with 2013 supplement, Wolters Kluwer.
  - Chapter 1. Pension assets in divorce
  - Chapter 2. Defined benefit pension plans
  - Chapter 3. Defined contribution plans
  - Chapter 5. Federal retirement systems
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).

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## Chapter 5. Classification

- § 5.1. General principles
- § 5.2. The classification process
- § 5.3. Identification
- § 5.4. Classification
- §§ 5.8—5.12. Property
- § 5.13-- 5.19. Acquired by the parties
- § 5.20-- 5.64. Property acquired: unitary vs. mixed property

## Chapter 6. Specific Property

- § 6.1. Introduction
- § 6.2. Retirement plans: background and terminology
- § 6.4. Military retirement pay: federal law
- §§ 6.5—6.12. Other military service benefits: federal law
- §§ 6.13—6.17. Other federal government benefits: federal law
- §§ 6.18—6.20. Private retirement plans: federal law--qualified domestic relations orders
- §§ 6.21—6.25. Private retirement benefits: state law in general
- §§ 6.47—6.51. Stock options and other restricted employment benefits
- § 6.59. Workers' compensation proceeds
- §§ 6.60—6.63. Degrees and licenses
- §§ 6.71—6.75. Professional practices and other businesses
- §§ 6.76—6.81. Intellectual property
- § 6.82. Prizes and awards
- §§ 6.83—6.86. Marital home
- §§ 6.87—6.90. Insurance proceeds and policies
- § 6.91. Future inheritances and gifts
- §§ 6.92—6.94. Interests in trusts
- §§ 6.95—6.101. Debts

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).

### Chapter 36. Valuation of marital property

- § 36.03. Defining property
- [1]. Professional degrees and licenses
- [2]. Professional goodwill
- [3]. Retirement benefits

### Chapter 37. Principles of property distribution

- § 37.04. Classification of property
- § 37.07. The marital home
- § 37.08. Business interests
- § 37.09. Professional goodwill
- § 37.10. Increased earning capacity resulting from a professional license, graduate degree, or education
- § 37.11. Retirement benefits
- § 37.12. Federal government benefits
- [1] Social security
- [2] Military retirement

§ 37.13. Personal injury, workers' compensation,  
and other awards and claims  
§ 37.14. Debts  
Chapter 38. Guide to equitable distribution  
§ 38.02. Step Number One: Property Subject to  
Distribution

- John Tingley and Nicholas B. Svalina, *Marital Property Law*,  
rev. 2d ed. 2020, Thomson West (also available on  
Westlaw).

Chapter 3. Ownership of personality by husband and wife

Chapter 9. Pensions and reserve or retired pay

§ 9:1. Generally

§ 9:2. Spousal rights in retirement and  
pension benefits—Generally

§9:6. —Military retirement pay

Chapter 37. **Service by wife in husband's business**

Chapter 47. **Spouse's professional degree license as  
marital property**

Chapter 48. Pension retirement benefits as subject to  
award or division

Chapter 49. Accrued vacation, holiday time, and sick  
leave as marital or separate property

Chapter 50. **Workers' compensation benefits as marital  
property**

Chapter 53. Appreciation in value of separate property  
during marriage without contribution by either spouse  
as separate or marital property

Chapter 54. Treatment of stock options for purposes of  
dividing marital property

Table 1: ALR Annotations on Classification of Marital Property

<b>Accounting Practice</b>	Michael J. McMahon, Annotation, <i>Divorce And Separation: Goodwill In Accounting Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 77 ALR4th 645 (1990).
<b>Attorney's Unliquidated Contingent Fee Contracts</b>	Charles W. Davis, Annotation, <i>Divorce And Separation: Attorney's Contingent Fee Contracts As Marital Property Subject To Distribution</i> , 44 ALR5th 671 (1996).
<b>Degree or License</b>	William M. Howard, Annotation, <i>Spouse's Professional Degree Or License As Marital Property For Purposes Of Alimony, Support, Or Property Settlement</i> , 3 ALR6th 447 (2005).
<b>Dental Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Medical Or Dental Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 76 ALR4th 1025 (1990).
<b>Inherited Property</b>	George L. Blum, Annotation, <i>Inherited Property as Marital or Separate Property in Divorce Action</i> , 38 ALR6th 313 (2008).
<b>Intellectual Property</b>	Frank J. Wozniak, Annotation, <i>Copyright, Patent, Of Other Intellectual Property As Marital Property For Purposes Of Alimony, Support, Or Divorce Settlement</i> , 80 ALR5th 487 (2000).
<b>Law Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Goodwill In Law Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 79 ALR4th 171 (1990).
<b>Lottery Winnings</b>	Amy P. Bunk, Annotation, <i>Division of Lottery Proceeds in Divorce Proceedings</i> , 124 ALR5th 537 (2004).
<b>Medical Practice</b>	Martin J. McMahon, Annotation, <i>Divorce And Separation: Medical Or Dental Practice As Property Subject To Distribution On Dissolution Of Marriage</i> , 76 ALR4th 1025 (1990).
<b>Military Services</b>	Ann K. Wooster, Annotation, <i>Construction and Application of Federal Uniformed Services Former Spouse Protection Act in State Court Divorce Proceedings</i> , 59 ALR6th 433 (2010).

Table 1: ALR Annotations on Classification of Marital Property (cont'd)

<b>Pension</b>	Charles C. Marvel, Annotation, <i>Pension Or Retirement Benefits As Subject To Award Or Division By Court In Settlement Of Property Rights Between Spouses</i> , 94 ALR3d 176 (1979).
<b>Personal Injury Settlement or Recovery</b>	Kurtis A. Kemper, Annotation, Divorce and Separation: Determination of Whether Proceeds from Personal Injury Settlement or Recovery Constitute Marital Property, 109 ALR5th 1 (2003). [Continued]
<b>Personal Injury Action</b>	Dale Joseph Gilsinger, Annotation, <i>Spouse's Cause Of Action For Negligent Personal Injury, Or Proceeds Therefrom, As Separate Or Community Property</i> , 80 ALR5th 533 (2000).
<b>Retirement benefits</b>	Charles C. Marvel, Annotation, <i>Pension Or Retirement Benefits As Subject To Award Or Division By Court In Settlement Of Property Rights Between Spouses</i> , 94 ALR3d 176 (1979).
<b>Separate Property, Appreciation in value</b>	George L. Blum, Annotation, <i>Divorce and Separation: Appreciation in Value of Separate Property During Marriage with Contribution by Either Spouse as Separate or Community Property (Doctrine of "Active Appreciation")</i> , 39 ALR6th 205 (2008).  Michael A. Rosenhouse, Annotation, <i>Divorce And Separation: Appreciation In Value Of Separate Property During Marriage Without Contribution By Either Spouse As Separate Or Community Property</i> , 24 ALR4th 453 (1983).
<b>Sick leave</b>	Gavin L. Phillips, Annotation, <i>Accrued Vacation, Holiday Time, And Sick Leave As Marital Or Separate Property</i> , 78 ALR4th 1107 (1990).
<b>Stock options</b>	Eric Hollowell, Annotation, <i>Divorce And Separation: Treatment Of Stock Options For Purposes Of Dividing Marital Property</i> , 46 ALR4th 640 (1986).
<b>Vacation (accrued)</b>	Gavin L. Phillips, Annotation, <i>Accrued Vacation, Holiday Time, And Sick Leave As Marital Or Separate Property</i> , 78 ALR4th 1107 (1990).
<b>Workmen's compensation</b>	Annotation, <i>Divorce And Separation: Workmen's Compensation Benefits As Marital Property Subject To Distribution</i> , 30 ALR5th 139 (1995).

## Section 3: Valuation of Assets

A Guide to Resources in the Law Library

### **SCOPE:**

Bibliographic resources relating to valuation of property determined to be property assets relating to marriage.

### **SEE ALSO:**

[Section 4. Specific issues in property valuation](#)

### **DEFINITIONS:**

- **Fair market value:** "the price that would probably result from fair negotiations between a willing seller and a willing buyer, taking into account all of the factors..." [Brooks v. Brooks](#), 121 Conn. App. 659, 668, 997 A.2d 504 (2010).
- **Determination of Value:** "We begin our analysis by noting that a trial court has broad discretion in determining the value of property. In assessing the value of ...property...the trier arrives at his own conclusions by weighing the opinions of the appraisers, the claims of the parties, and his own general knowledge of the elements going to establish value, and then employs the most appropriate method of determining valuation...The trial court has the right to accept so much of the testimony of the experts and the recognized appraisal methods which they employed as he finds applicable; his determination is reviewable only if he misapplies, overlooks, or gives a wrong or improper effect to any test or consideration which it was his duty to regard. (Internal quotation marks omitted.) *Porter v. Porter*, 61 Conn. App. 791, 799-800, 769 A.2d 725 (2001)." [Wood v. Wood](#), 160 Conn. App. 708, 718, 125 A.3d 1040 (2015).
- **Date of valuation:** "The plaintiff contends that determining loss by looking to the stock value at the time of the trial on remand entails the use of an arbitrary date in time to fix the value because that value fluctuates daily. We disagree that assessing the value of the stocks and options at the time of the remand trial was arbitrary or irrational. At the time of that trial, the court could determine with certainty the precise value of the loss to the marital estate caused by the plaintiff's transactions. The defendant rightfully expected that the plaintiff would obey the automatic orders and that the stocks and options would remain in the marital estate until distributed to the parties by the court following a trial on remand. If the plaintiff had not sold the stock or exercised the options, and the trial court divided the marital assets between the parties, including the stocks and options, the defendant would have enjoyed the benefit of any increase in their value. The plaintiff, however, unilaterally removed the stocks and options from the marital estate, preventing the court from distributing them in the form of stocks and options, and thus depriving the defendant of the opportunity to benefit from the increase in their value. Lacking the stocks and options to distribute, the court essentially awarded the defendant the value that her putative share of the stocks and options would have had at

the time of the remand trial, putting the plaintiff in precisely the position she would have occupied at that time if the plaintiff had **not violated the automatic orders.**" [O'Brien v. O'Brien](#), 326 Conn. 81, 101-111, 161 A.3d 1236 (2017).

### **CHECKLISTS:**

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).
  - Chapter 36. Valuation of Marital Property
    - § 36.16. Valuation checklist
      - [1]. Marital assets
      - [2]. Liabilities
        - [a]. Debts
        - [b]. Liability for debts of third person
      - [3]. Documents
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.
  - Chapter 6. Division of Property
    - Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview
      - § 6.24. Checklist
    - Part VI. Defining, valuing, and allocating specific assets
      - § 6.30. Checklist
- John Tingley and Nicholas Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).
  - Chapter 42. Equitable distribution doctrine
    - § 42.82. Checklist: older client

### **CASES:**

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- [Merk-Gould v. Gould](#), 184 Conn. App. 512, 523, 195 A.3d 458 (2018). "...[W]e conclude that the court abused its discretion in valuing the defendant's interests in private equity companies on the basis of the cost of the assets at the time of their purchase, rather than the value of the **assets as of the date of the dissolution.**"
- [Cimino v. Cimino](#), 174 Conn. App. 1, 12, 164 A.3d (2017) **"Aside from speculation and conjecture, there is no evidence** that the defendant had knowledge of either the total value of the pension or the details in the pension booklet that would allow for a calculation of said value. Additionally, the plaintiff failed to demonstrate that the defendant should have known that the information contained in the pension booklet was something that he should have disclosed. Furthermore, we disagree with the plaintiff's supposition that the defendant **engaged in 'gamesmanship' to deceive both the trial court and the plaintiff with respect to this financial information.** On the basis of its subordinate factual findings regarding the conduct of the defendant, the court properly determined that there was no probable cause to justify opening the judgment for the limited purpose of discovery. See, e.g., *Sousa v. Sousa*, 173 Conn. App. 755, A.3d (2017). We cannot conclude that the court abused its discretion in denying the

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plaintiff's motion to open with respect to the issue of the defendant's pension.”

- [Anderson v. Anderson](#), 160 Conn. App. 341, 352, 125 A.3d 606 (2015). “At the outset, we note that, as a general proposition, ‘the trial court need not necessarily specify a valuation method used. Nor is the court required to set forth specific factors that were considered in arriving at that determination.’ (Internal quotation marks omitted.) *Brooks v. Brooks*, 121 Conn. App. 659, 667, 997 A.2d 504 (2010). In this case, neither party provided that court with expert testimony regarding the value of the property in Jamaica. As a result, the court was left to rely on the testimony of the parties and its general knowledge to establish the value of the property.”
- [Martin v. Martin](#), 101 Conn. App. 106, 121, 920 A.2d 340 (2007). “[t]he principle that requires the court to value assets as of the date of dissolution does not absolutely preclude the court from considering the significance of the date of separation... [T]he date of separation may be of significance in determining what is equitable at the time of distribution. In distributing property... the court is instructed to consider the contribution of each spouse in the acquisition, preservation and appreciation of the marital estate.”
- [Sowinski v. Sowinski](#), 72 Conn. App. 25, 27, 804 A.2d 872 (2002). “On appeal, the defendant specifically challenges the court's finding with regard to the fair market value of the Copake property and requests that we reverse the court's financial orders. He points out that the parties disputed the value of the Copake property at trial despite the fact that they had stipulated to the value of the Salisbury property. The defendant argues that the court improperly admitted hearsay as to that issue and that the court relied on such hearsay, in the absence of any other competent evidence in support of its finding, when arriving at its valuation of the Copake property. We agree.”
- [Porter v. Porter](#), 61 Conn. App. 791, 800, 769 A.2d 725 (2001). “Here, neither party provided the court with expert testimony as to the value of the home. As a result, the court was left with the claims of the parties and its general knowledge to establish the value of the home. According to the defendant, the value of the home was \$285,000. The court, however, determined the value to be \$270,000, a figure slightly less than the value proposed by the plaintiff, \$271,750, which she derived from the mid range of a market analysis. Given the circumstances the court faced in determining the value of the marital home, we cannot conclude that its valuation of \$270,000 was clearly erroneous.”



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- [Bender v. Bender](#), 258 Conn. 733, 760, 785 A.2d 197 (2001). **"We conclude that it is within the trial court's discretion, as it is in the context of vested pension benefits . . . to choose, on a case-by-case basis, among the present value method, the present division method of deferred distribution, and any other valuation method that it deems appropriate in accordance with Connecticut law . . . ."**
- [Bornemann v. Bornemann](#), 245 Conn. 508, 531, 752 A.2d 978 (1998). **"The court need not, however, assign specific values to the parties' assets."**
- [Carlos v. Carlos](#), 19 Conn. App. 416, 419, 562 A.2d 580 (1989). **"More important than any speculation about how the trial court might have arrived at the amount of the encumbrances is the fact that the parties had never agreed on these figures. We read the memorandum of decision as stating that the parties stipulated to facts including the total amount of the encumbrances. For that reason, we are constrained to find that the underpinning of the decision is not sound even though the award may be fair."**
- [Cuneo v. Cuneo](#), 12 Conn. App. 702, 709, 533 A.2d 1226 (1987). **"That requirement is simply part of the broader principle that the financial awards in a marital dissolution case should be based on the parties' current financial circumstances to the extent reasonably possible."**
- [Turgeon v. Turgeon](#), 190 Conn. 269, 274-275, 460 A.2d 1260 (1983). **"We have approved the capitalization of actual income as an appropriate method of valuation . . . . In the present case the defendant's company was, at the time of its valuation in 1980, a going concern. There was no evidence that it was in the process of liquidation. Although the trier was not obliged to accept the income approach he was not precluded from doing so merely because the company is a closely held, 'one-man' business."**
- [Valante v. Valante](#), 180 Conn. 528, 529-530, 429 A.2d 964 (1980). **"The defendant first contends that the court could not properly decide the questions of periodic alimony and the assignment of property because it lacked sufficient information respecting the value of the plaintiff's interest in a closely held corporation, in his life insurance policies and in his pension rights. This position is curious. In addition to having access to the plaintiff's financial affidavit, the defendant was given a full opportunity to cross-examine the plaintiff at length regarding his financial circumstances. Further, the defendant had the opportunity to explore the plaintiff's financial circumstances through a variety of discovery procedures. Optimal use of the resources might well have generated additional pertinent facts for the court's consideration. From the defendant's failure to elicit such information, however, it in no way follows that the court acted on insufficient evidence. Reviewing the record in this**

regard, we find that there was sufficient financial information before the court for it to fashion the appropriate orders on the financial aspects of the case.”

**WEST KEY NUMBERS:**

- *Divorce*  
Allocation of property and liabilities; Equitable distribution  
# 760-774 Valuation of property or interest in general  
# 850-864 Marital residence or homestead

**ENCYCLOPEDIAS:**

- 24 *Am Jur 2d* Divorce and Separation (2018).  
§§ 537-549 Valuation  
§§ 537-542. In general  
§ 538. Time of valuation  
§ 539. Change in value after time of valuation  
§ 540. Effect of dissipation of marital assets  
§ 541. Power to prevent dissipation of marital assets  
§ 542. Expert evidence with respect to valuation  
§§ 543-549. Specific types of property
- 27B *C.J.S.* Divorce (2016).  
Disposition of Property—Valuation of assets  
§ 925. Generally  
§ 926. Measures of value  
§ 927. Time of valuation  
§ 928. Evidence pertaining to valuation of assets; experts
- Sonja A. Soehnel, Annotation, *Necessity That Divorce Court Value Property Before Distributing It*, 51 *ALR4th* 11 (1987).
- Arnold H. Rutkin et al., 7 *Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).  
Chapter 27. Valuation of assets  
§ 27.1. In general  
§ 27.2. Date of valuation  
§ 27.3. Valuation methods and criteria  
§ 27.4. Book value  
§ 27.5. Assessed value  
§ 27.6. Sale price or purchase offer  
§ 27.7. Appraisal  
§ 27.8. Business type and history  
§ 27.9. General economic conditions  
§ 27.10. Earning capacity  
§ 27.11. Size of holding  
§ 27.12. Goodwill and intangible values  
§ 27.13. Buy-sell agreements  
§ 27.14. Other factors  
§ 27.15. Valuation of particular assets  
§ 27.16. Real estate  
§ 27.18. Professional practices and other closely held businesses  
§ 27.19. Marketable securities
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.

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## Chapter 6. Division of Property

Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview

Part VI. Defining, valuing, and allocating specific assets

- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.
  - Chapter 10 Equitable Distribution of Property
    - §10.09. Professional goodwill
      - [C] Valuation
      - [1] Book value
      - [2] Capitalization of excess earnings
      - [3] Buy-sell agreements
    - §10.11. Valuation of assets: general principles
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).
  - Chapter 6. Specific Types of Property
    - § 6.58. Valuation and division of personal injury awards
    - § 6.59. Workers compensation proceeds
    - § 6.50. Valuation and distribution of stock options
    - § 6.81. Valuation and distribution of intellectual property
    - § 6.82. Prizes and awards
    - § 6.83. Division of the marital home
    - §§ 6.87—6.90. Insurance proceeds and policies
    - §§ 6.92—6.94. Interests in trusts
    - § 6.98. Valuation of marital debts
  - Chapter 7. Valuation of Assets
    - § 7.1. Need to value
    - §§ 7.2—7.6. Date of valuation
    - §§ 7.7—7.11. Defining value
    - § 7.12. Determining value: rules for the court
    - §§ 7.13—7.18. Determining value: advice for the parties
    - § 7.19. Valuation of businesses: general rules
    - §§ 7.20—7.24 Valuation of businesses: total value approach
    - §§ 7.25—7.28. Valuation of businesses: going concern approach
    - § 7.29 Valuation of businesses: choosing a method
- Robert D. Feder et al., *Valuing Specific Assets in Divorce*, 2000, with 2015 supplement, Wolters Kluwer.
  - Part I. Closely held businesses
  - Part II. Professional practices
  - Part III. Real estate
  - Part IV. Personal property
  - Part VI. Machinery and equipment
- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).

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References to online databases refer to in-library use of these databases. Remote access is not available.

## Chapter 36. Valuation of Marital Property

§ 36.02. The valuation process—an overview

§ 36.06. The date of valuation

§ 36.07. Discovery

§ 36.09. Valuation experts

§ 36.10. The closely held corporation- background

§ 36.11. Valuation methods and the closely held corporation

§ 36.12. A special look at the professional practice

- John Tingley and Nicholas B. Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).
  - Chapter 43. Necessity that divorce value property before distributing it
  - Chapter 44. Proper date for valuation
  - Chapter 51. Method of valuation of life insurance policies in connection with trial courts division of property
  - Chapter 55. Valuation of stock options for purposes of **divorce court's property distribution**
- Barth H. Goldberg, *Valuation of Divorce Assets*, 2005, with 2020 supplement, Thomson West (also available on Westlaw).
  - Chapter 1. Valuation process—Generally
  - Chapter 2. Experts and the use of them
  - Chapter 6. Valuation of closely held corporations
  - Chapter 8. Valuation of professional entities
  - Chapter 7. Dealing with corporate stock issues
  - Chapter 10. Valuation of wife's services**
  - Chapter 12. Particular valuations
  - Chapter 14. Valuation of collectibles
- Ronald L. Brown, ed. *Valuing Professional Practices and Licenses, A Guide for the Matrimonial Practitioner*, 3rd ed. 1998, with 2012 supplement, Wolters Kluwer.
  - Part A: Basic concepts in valuing professional practices
  - Part B: Valuing law practices
  - Part C: Valuing medical and dental practices
  - Part D: Valuing accounting practices
  - Part E: Valuing architectural and engineering practices
  - Part G: Merger and double counting
  - Part H: Handling celebrity cases
  - Part I: Miscellaneous topics

# Section 4: Specific Issues in Property Valuation

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to the valuation of specific types of assets including pensions, professional licenses, degrees, and Qualified Domestic Relations Orders (QDROs).

## **DEFINITIONS:**

- **Goodwill:** "It can hardly be doubted that the increment of value, loosely termed goodwill, that arises from the established reputation of a business for the quality of its goods or services may often be found to enhance the value of professional as well as other enterprises by increasing their ability to attract patrons." [Eslami v. Eslami](#), 218 Conn. 801, 813, 591 A.2d 411 (1991).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. (2019)  
[§ 46b-81](#). Assignment of property and transfer of title
- 42 USC § [407](#) (1998)  
Chapter 7. Social Security  
(a). Assignment of benefits; amendment of section.

## **CHECKLISTS:**

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview  
§ 6.24. Checklist  
Part VI. Defining, valuing, and allocating specific assets  
§ 6.30. Checklist

## **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Ferri v. Powell-Ferri](#), 200 Conn. App. 63, 79-80, (2020). "The cross complaint did not allege that Ferri failed to act prior to the decanting. The cross complaint alleged that Ferri failed to act after becoming aware of the trustees' decanting of the 1983 trust. The court, therefore, properly rejected Ferri's contention that the Parrino defendants lacked probable cause because they knew that Ferri only learned about the decanting after the fact."
- [Bilbao v. Goodwin](#), 333 Conn. 599, 616, 217 A.3d 997, (2019). "Therefore, we conclude that, in the absence of formal legislative guidance on the question, the contractual approach is the appropriate first step in determining the disposition of pre-embryos upon divorce. As set forth in part IV of this opinion, we do not decide how a court should determine the disposition of pre-embryos in the absence of an enforceable agreement."

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

[Grant v. Grant](#), 171 Conn. App. 851, 863, 158 A.3d 419, 427 (2017). "As is often stated, we do not reverse the factual findings of the trial court unless they are clearly erroneous and find no support in the evidence." (Emphasis in original; internal quotation marks omitted.) *Szynkowicz v. Szynkowicz*, supra, 140 Conn. App. 542. Under the circumstances of this case, the court's finding the defendant in contempt for violating the automatic orders was clearly erroneous because the evidence at trial suggested that the defendant spent money from his retirement account for customary and usual household expenses. The court failed to identify any expenditures that violated the automatic orders in its articulation. See Practice Book § 25-5 (b). The court, therefore, abused its discretion with respect to this claim."

- [Powell-Ferri v. Ferri](#), 326 Conn. 457, 472, 165 A.3d 1124, 1133 (2017). Furthermore, imposing an obligation on parties in divorce proceedings to bring separate actions against third parties, particularly when that party feels that filing such an action is against their best interest, is **poor public policy and could lead to untenable results.** ... The automatic orders do not require Ferri to take all conceivable actions to recover assets not under his control."

"Because Ferri was unaware of the decanting, he could not have taken any affirmative acts or in any way assisted in the dissipation of marital assets. Ferri did not affirmatively engage in the type of intentional waste or selfish impropriety necessary to constitute dissipation. See *Gershman v. Gershman*, supra, 286 Conn. 350-51; see also *Ferri v. Powell-Ferri*, 317 Conn. 223, 225, 116 A.3d 297 (2015)."

- [Anderson v. Anderson](#), 160 Conn. App. 341, 343, 125 A.3d 606 (2015). "The court ordered that the defendant would retain her pension, with no claim to it by the plaintiff. The court lastly ordered the plaintiff to transfer to the defendant, by way of a qualified domestic relations order, \$43,158.65, 'due to an outstanding loan of \$20,000 in order to equalize the parties' retirement accounts.'"
- [Cifaldi v. Cifaldi](#), 118 Conn. App. 325, 332-333, 983 A.2d 293 (2009). "A QDRO is merely an administrative tool used to effectuate the transfer of marital property, in this case pension benefits, from an employee to a nonemployee spouse....We do not read the parties' agreement in the case before us to make the vesting of the plaintiff's property interest in a portion of the defendant's pension benefits to be in some way contingent on the successful processing of the QDROs. To put it simply, we conclude that the plaintiff's property interest in

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portions of the defendant's pension benefits was not predicated on the processing of paperwork; the plaintiff cannot be deprived of this important asset on the basis of a mere **administrative error.**"

- [Hannon v. Redler](#), 117 Conn. App. 403, 408-409, 979 A.2d 558 (2009). "... the lack of evidence from the defendant did not preclude the court from determining the value of his interest in the medical practice and providing an equitable distribution of this asset. It was not improper for the court to value the asset, by way of the testimony before it, on the basis of the buyout agreement's value of the defendant's interest in the medical practice...  
...Our Supreme Court, in *Bornemann v. Bornemann*, supra, 245 Conn. 508, noted that "when neither party in a dissolution proceeding chooses to introduce detailed information as to the value of a given asset, neither party may later complain that it is not satisfied with the court's valuation of that asset."
- [Kiniry v. Kiniry](#), 71 Conn. App. 614, 624, 803 A.2d 352 (2002). "On the one hand, stock options that are awarded prior to the date of dissolution and awarded solely for past services are considered to be earned during the marriage and are, therefore, considered marital property subject to equitable distribution under § 46b-81 . . . . On the other hand, stock options that are earned prior to the date of dissolution, but that constitute compensation for future services, are not considered to be earned during the marriage and, therefore, are not subject to distribution as marital property under § 46b-81."
- [Eslami v. Eslami](#), 218 Conn. 801, 814, 591 A.2d 411 (1991). "We reject the notion that professional goodwill may be evaluated without consideration of the salability of the practice and the existence of a market for its purchase."
- [Krafick v. Krafick](#), 234 Conn. 783, 799, 663 A.2d 365 (1995). "We next must determine how vested pension benefits should be valued and distributed. The task of properly valuing pension benefits is complex because such benefits may be defeasible by the death of the employee spouse before retirement and the amount of benefits ultimately received depends upon a number of factors that remain uncertain until actual retirement. Therefore, a trial court, in valuing the parties' assets upon dissolution, has considerable discretion in selecting and applying an appropriate valuation method."

**DIGESTS:**

- *ALR Digest*: Divorce & Separation § 110

**ENCYCLOPEDIAS:**

- 24 *Am Jur 2d* Divorce and Separation (2018).  
§§ 537-549 Valuation  
§§ 543-549. Specific types of property

- § 543. Generally; professional education and license
  - § 544. Professional practice
  - § 545. —Goodwill
  - § 546. Stock or interest in close corporation
  - § 547. Pension rights
  - § 548. —Time of valuation
  - § 549. —Alternative methods of valuing and distributing pension rights
- 27C **C.J.S.** Divorce (2016).
    - §§ 957-983. Specific kinds of property or interests
    - §§ 957-962. Homestead or marital residence
      - § 960. - Valuation
      - § 963, 964. Retirement and other employment-related benefits
      - § 965. - Valuation
      - § 966. Pensions
      - § 967. Military retirement pay or pensions
      - § 969. —Valuation and allocation
      - § 972. Professional practice
      - § 973. — Valuation
      - § 974. Gifts
      - § 975. Inheritances
      - § 976. Insurance
      - § 977. Interests in, and assets of, corporation, partnership, or business
      - § 978. —Valuation
      - § 979. Real property
      - § 980. Securities
      - § 981. — Valuation
      - § 982. Tort claims and settlements
      - § 983. Miscellaneous property or interests

**WEST KEY NUMBERS:**

- **Divorce**  
Allocation of property and liabilities; Equitable distribution  
# 760-774 Valuation of property or interest in general  
# 780-810 Valuation, division, or distribution of particular property or interests

**TEXTS & TREATISES:**

- Arnold H. Rutkin et al., *7 Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).  
Chapter 27. Valuation of assets
  - § 27.17. Advanced education or professional license
  - § 27.20. Pension, retirement and profit sharing plans
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview  
Part VI. Defining, valuing, and allocating specific assets  
§ 6.34. Pension and retirement benefits



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References to online databases refer to in-library use of these databases. Remote access is not available.

§ 6.44. Excluding professional degrees

- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.
  - Chapter 10 Equitable Distribution of Property
    - §10.10. Pensions and retirement benefits
      - [D] Valuation and distribution of pensions
      - [F] Federal pensions
      - [G] Qualified domestic relations orders
- John P. McCahey, ed. *Valuation and Distribution of Marital Property*, 1984, with 2020 supplement, Lexis (also available on Lexis Advance).
  - Chapter 27. Valuation of real property
  - Chapter 47. Qualified domestic relations orders
- Marvin Snyder, *Value of Pensions in Divorce*, 4<sup>th</sup> ed. 2010, with 2013 supplement, Wolters Kluwer.
  - Chapter 12. Time value of money
  - Chapter 13. Valuation of a defined benefit plan
  - Chapter 14. Valuation of a defined contribution plan
  - Chapter 17. Pension court orders (QDROs)
  - Chapter 23. Military pensions in divorce
  - Chapter 24. Railroad retirement benefits
- John Tingley and Nicholas Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).
  - Chapter 9. Pensions and reserve or retired pay
    - § 9.9. Evaluating a retirement or pension plan- generally
    - § 9.10. Evaluating a retirement or pension benefit- recent developments- present value
    - § 9.11. Evaluating a retirement or pension benefit- recent developments- proportionate share
    - § 9.12. Evaluating a retirement or pension benefit- recent developments- immediate or deferred award
  - Chapter 43. Necessity that divorce court value property before distributing it
    - § 43.7. Goodwill
    - § 43.8. Pension benefits and interests in business
    - § 43.10. Professional or advanced degree
    - § 43.13 Illustrations of valuation
  - Chapter 48. Pension or retirement benefits as subject to award or division
    - § 48.9. Military retirement benefits
    - § 48.13. Valuation
    - § 48.14. Valuation illustrations
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).

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References to online databases refer to in-library use of these databases. Remote access is not available.

## Chapter 6. Specific property

§§ 6.18—6.20. Private retirement plans—Qualified domestic relations orders

§§ 6.38—6.41. Valuation of retirement benefits

§ 6.42. Military service benefits under state law

§§ 6.43—6.46. Survivor benefits

§ 6.52. Disability benefits

§§ 6.60—6.63. Degrees and licenses

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).
  - Chapter 36. Valuation of Marital Property
    - § 36.13. Valuation of retirement benefits
    - § 36.14. Degrees and licenses
    - § 36.15. Valuation of non-economic contributions
    - § 36.16. Valuation checklist
- Robert D. Feder et al., *Valuing Specific Assets in Divorce*, 2000, with 2015 supplement, Wolters Kluwer.
  - Part IV. Pensions
- Barth H. Goldberg, *Valuation of Divorce Assets*, 2005, with 2020 supplement, Thomson West (also available on Westlaw).
  - Chapter 8. Valuation of professional entities, goodwill, and license interests
    - §8.5. Property Rights in Licenses and Degrees – generally
  - Chapter 9. Valuing retirement plans
  - Chapter 15. A compendium of valuation cases covering specific assets
- Ronald L. Brown, ed. *Valuing Professional Practices and Licenses, A Guide for the Matrimonial Practitioner*, 3rd ed. 1998, with 2012 supplement, Wolters Kluwer.
  - Part F: Valuing professional degrees and licenses
- Marshal S. Willick, *Military Retirement Benefits in Divorce: A Lawyer's Guide to Valuation and Distribution*, 1998, American Bar Association.

## Law Reviews:

Public access to law review databases is available on-site at each of our [law libraries](#).

- Edward Bryan, [Cryptocurrency Considerations in Divorce](#), [FamilyLawyerMagazine.com](#) (March 22, 2018).
- John E. Kirchner, *Division of Military Retired Pay*, 43 Family Law Quarterly 367 (Fall 2009).
- *Difficult Valuation Issues Symposium*, 35 Family Law Quarterly, No. 2 (Summer 2001).
  - Challenges in valuing pension plans
  - The challenges of stock option
  - Exploring the use of the time rule in the distribution of stock options on divorce
  - Valuation basics and beyond: tackling areas of controversy
  - The effect of goodwill in determining the value of a business in a divorce

Table 2: Valuing and Distributing Pensions and Retirement Benefits

<b>Valuing and Distributing Pension and Retirement Benefits</b>
"There are three widely approved methods of valuing and distributing pension benefits." <a href="#">Krafick v. Krafick</a> , 234 Conn. 783, 800, 663 A.2d 365 (1995).
<b>1. Present value (or offset) method</b>
"The first method involves placing a present value on the retirement plan, as of the date of dissolution, by using actuarial tables to determine the life expectancy of the employee-spouse, by considering all the circumstances of the case, and by evaluating the probability that the employee-spouse will eventually exercise his or her rights under the retirement plan." <a href="#">In re Marriage of Grubb</a> , 745 P.2d 661 (Colo. 1987).
"Calculating a pension's present value depends on several factors, including the employee spouse's life expectancy, the proper interest rate for discount and the date of retirement." <a href="#">Krafick v. Krafick</a> , 234 Conn. 783, 800, 663 A.2d 365 (1995).
"Once the court has determined the present value of the benefits at issue, it may, in light of relevant equitable considerations, award those benefits to the employee spouse and/or may offset the nonemployee's equitable share in the pension benefits with an award of other assets." <a href="#">Krafick v. Krafick</a> , 234 Conn. 783, 801, 663 A.2d 365 (1995).
<b>Advantage:</b> The offset method has the advantage of effecting a 'clean break' between the parties." <a href="#">Krafick v. Krafick</a> , 234 Conn. 783, 802, 663 A.2d 365 (1995).
<b>Disadvantage:</b> "The drawback to the offset method is that it places the entire risk of forfeiture before maturity on the employee spouse. Further, this method is not feasible when there are insufficient other assets by which to offset the value of the pension . . . ." <a href="#">Krafick v. Krafick</a> , 234 Conn. 783, 802, 663 A.2d 365 (1995).
Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can <a href="#">contact your local law librarian</a> to learn about the tools available to you to update cases.

## 2. Present Division Method

" . . . involve[s] delaying distribution until the pension matures." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).p. 803.

"Under the 'present division' method, the trial court determines at the time of trial, the percentage share of the pension benefits to which the nonemployee spouse is entitled. The court may then, through a QDRO for pensions covered by ERISA or some equivalent if the non-ERISA plan permits, presently divide or assign the pension benefits between the spouses." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995)..

**Advantage and disadvantage:** "the advantage of imposing on the parties equally the risk of forfeiture, but have the cost of prolonging the parties' entanglement with each other." [Krafick v. Krafick](#), 234 Conn. 783, 803-804, 663 A.2d 365 (1995). pp.

" . . . favored when there are insufficient assets to offset the award of the pension to the employee spouse alone or when the evidence is inadequate to establish present value." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

## 3. Reserved Jurisdiction Method

" . . . involve[s] delaying distribution until the pension matures." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).

"Alternatively, under the 'reserved jurisdiction' method, the trial court reserves jurisdiction to distribute the pension until benefits have matured. Once matured, the trial court will determine the proper share to which each party is entitled and divide the benefits accordingly." [Krafick v. Krafick](#), 234 Conn. 783, 803, 663 A.2d 365 (1995).

**Advantage and disadvantage:** "the advantage of imposing on the parties equally the risk of forfeiture, but have the cost of prolonging the parties' entanglement with each other." [Krafick v. Krafick](#), 234 Conn. 783, 803-804, 663 A.2d 365 (1995). pp. 803-804.

" . . . favored when there are insufficient assets to offset the award of the pension to the employee spouse alone or when the evidence is inadequate to establish present value." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

"These methods are not exclusive.

A trial court retains discretion to select any other method to take account of the value of a pension asset 'that might better address the needs and interests of the parties.' [In re Marriage of Grubb](#), supra, 745 P.2d 666. The touchstone of valuation, as well as the ultimate distribution of pension benefits, is the court's 'power to act equitably.' [Pasquariello v. Pasquariello](#), 168 Conn. 579, 585, 362 A.2d 835 (1975)." [Krafick v. Krafick](#), 234 Conn. 783, 804, 663 A.2d 365 (1995).

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

Table 3: QDROs - Sample & Model Forms

<b>Qualified Domestic Relations Orders: Samples and Model Forms</b>
<ul style="list-style-type: none"> <li>• Arnold H. Rutkin et al., 8A <i>Connecticut Practice Series. Family Law and Practice with Forms</i> Thomson West, 2010, with 2019 supplement, (also available on Westlaw). <ul style="list-style-type: none"> <li>§ 50.58. Sample Qualified Domestic Relations Order (QDRO)</li> </ul> </li>   <li>• Amy Cavalo MacNamara et al., eds., <i>Library of Connecticut Family Law Forms</i>, (2<sup>nd</sup> ed., 2014). <ul style="list-style-type: none"> <li>Chapter 14. Judgment <ul style="list-style-type: none"> <li>§ 14-003. Qualified Domestic Relations Order (QDRO)</li> </ul> </li> </ul> </li>   <li>• John P. McCahey, ed. <i>Valuation and Distribution of Marital Property</i>, 1984, with 2020 supplement, Lexis (also available on Lexis Advance). <ul style="list-style-type: none"> <li>§ 47A.01. Sample QDRO - division of defined benefit plan</li> <li>§ 47A.02. Sample QDRO – division of defined contribution plan</li> <li>§ 47A.03. IRS Sample language for qualified domestic relations order</li> <li>§ 47A.04. IRS Model IRC §402(f) notice</li> </ul> </li>   <li>• Gary A. Shulman, <i>Dividing Pensions in Divorce: Negotiating and Drafting Safe Settlements with QDROS and Present Values</i>, 3rd ed. 2010, with 2019 supplement, Wolters Kluwer. <ul style="list-style-type: none"> <li>Chapter 17. Drafting a “proper” QDRO for pensions and 401(k)s <ul style="list-style-type: none"> <li>§ 17.05. Model QDROs for a “defined benefit” pension plan</li> <li>§ 17.10. Model QDROs for a “defined contribution” plans</li> <li>§ 17.11. Model QDRO for employee stock ownership plans</li> </ul> </li> </ul> </li>   <li>• Arnold H. Rutkin et al., 4 <i>Family Law and Practice</i>, Lexis, 1985, with 2020 supplement, (also available on Lexis Advance). <ul style="list-style-type: none"> <li>§ 46.08. Forms <ul style="list-style-type: none"> <li>[1]. MODEL FORMS: Order for assignment of interest in retirement plan</li> <li>[2]. MODEL FORM: Qualified Domestic Relations Order</li> <li>[3]. FORM: Determination as to qualification of domestic relations order, notice of participant and alternate payee, agreement to comply with order and other relief</li> <li>[4]. FORM: Letter to plan administrator</li> </ul> </li> </ul> </li>   <li>• 7 <i>West's Legal Forms</i>, 5th ed. 2009, with 2020 supplement, Thomson West, (also available on Westlaw). <ul style="list-style-type: none"> <li>Chapter 18. Property Distribution <ul style="list-style-type: none"> <li>§ 18: 105. Percentage distribution of pension—use of qualified domestic relations order</li> <li>§ 18: 106. Disposition of pension plan—qualified domestic relations order</li> <li>§ 18: 107. Disposition of profit-sharing plan—qualified domestic relations order</li> </ul> </li> </ul> </li> </ul>
<p>Each of our law libraries own the Connecticut treatises cited. You can <a href="#">contact</a> us or visit our <a href="#">catalog</a> to determine which of our law libraries own the other treatises cited or to search for more treatises.</p> <p>References to online databases refer to in-library use of these databases. Remote access is not available.</p>

Table 4: ALR Annotations on Property Valuation

<b>Accounting Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Accounting Practice For Purposes Of Divorce Court's Property Distribution</i> , 77 ALR4th 609 (1990).
<b>Dental Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Medical Or Dental Practice For Purposes Of Divorce Court's Property Division</i> , 78 ALR4th 853 (1990).
<b>Law Firm</b>	Dag E. Ytreberg, Annotation, <i>Evaluation Of Interest In Law Firm Or Medical Partnership For Purposes Of Division Of Property In Divorce Proceedings</i> ," 74 ALR3d 621 (1976).
<b>Law Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Good Will In Law Practice For Purpose Of Divorce Court's Property Settlement</i> ," 77 ALR4th 683 (1990).
<b>Medical Partnership</b>	Dag E. Ytreberg, Annotation, <i>Evaluation Of Interest In Law Firm Or Medical Partnership For Purposes Of Division Of Property In Divorce Proceedings</i> ," 74 ALR3d 621 (1976).
<b>Medical Practice</b>	Michael J. McMahon, Annotation, <i>Valuation Of Goodwill In Medical Or Dental Practice For Purposes Of Divorce Court's Property Division</i> , 78 ALR4th 853 (1990).

# Section 5: Distribution of Property

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic materials resources relating to methods and formulas for division of assets relating to marriage.

## **DEFINITIONS:**

- **Coverture:** "is defined as '[t]he status and rights of the wife arising from the marriage relationship'; *Ballentine's Law Dictionary* (3d Ed. 1989); and has a long history of use regarding marital assets." [Wendt v. Wendt](#), 59 Conn. App. 656, 666, 757 A.2d 1225 (2000).
- **Coverture fraction:** "established by the court for the unvested stock options consisted of a fraction, 'the denominator of which shall be the number of months from the date of grant to the date of vesting [when the options no longer will be] subject to divestment, and the numerator [of which shall] be the number of months from the date of grant to December 1, 1995 [the date of the parties' separation].' Specifically, the plaintiff challenges the coverture numerator, contending that the court should have used the date that the defendant's employment commenced instead of the date that the unvested assets were granted and the date of dissolution instead of the date of separation. We disagree." [Wendt v. Wendt](#), 59 Conn. App. 656, 666, 757 A.2d 1225 (2000).

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. [§ 46b-81](#) (2019).  
(c). "In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates."

## **CHECKLISTS:**

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).  
Chapter 38. A practical guide to equitable distribution  
§ 38.04[2]. The Check: an asset-by-asset guide
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview  
§ 6.24. Checklist

Part VI. Defining, valuing, and allocating specific assets

§ 6.30. Checklist

**CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

- [Lavy v. Lavy](#), 190 Conn. App. 186, 197-198, 210 A.3d 98, (2019). **"We begin with the plaintiff's claim that the court improperly found that he made material omissions on his financial affidavit in violation of the separation agreement by failing to disclose the Niagara account and Jerusalem property. The plaintiff essentially raises three arguments in support of this claim. First, he argues that, because the defendant knew about the Niagara account and the Jerusalem property at the time of the dissolution judgment, their nondisclosure on his financial affidavit would not have affected her decision-making process and, therefore, his failure to disclose those assets could not have constituted material omissions. Second, he argues that his nondisclosure of the Niagara account and the Jerusalem property had no 'real importance or cause[d] great consequences to the overall separation agreement of the parties' and that the court overvalued those assets in determining whether their nondisclosure constituted material omissions. Third, the plaintiff argues that the court should not have found that his failure to disclose the Niagara account was a material omission because there was no evidence that the plaintiff knew the Niagara account existed at the time of the divorce. We are not persuaded by these arguments and conclude that the court properly determined on the basis of the record presented that the plaintiff's failure to disclose the assets in question constituted material omissions."**
- [Zaniewski v. Zaniewski](#), 190 Conn. App. 386, 397-398, 210 A.3d 620 (2019). **"In this case, the defendant took all reasonable actions necessary to remedy the lack of adequate factual findings necessary for our review. He filed a motion for articulation. When that motion was denied on faulty jurisdictional grounds, he timely filed a motion for review of that decision with this court. Furthermore, the plaintiff never filed any opposition at any stage of the proceedings contending that the requests for articulation were not necessary for a proper review of the claims on appeal[...]. Having considered all the competing interests involved, which includes the plaintiff's interest in not having to relitigate issues that she would contend properly were decided in her favor, we conclude that the appropriate action in this case is to remand the matter for a new trial on all financial orders."**
- [Oudheusden v. Oudheusden](#), 190 Conn. App. 169, 178, 209 A.3d 1282 (2019). **"...the defendant argues that the court improperly awarded the plaintiff alimony from income that was generated by the defendant's two businesses and awarded her 50 percent of the value of those businesses. The plaintiff counters that 'an impermissible double dip**



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would have occurred here only if the trial court had given 100 [percent] ownership of the businesses to [the] [p]laintiff and then ordered [the] [d]efendant to pay alimony based on income from an asset he no longer had as a result **of the transfer, making compliance infeasible.**' (Emphasis omitted.) We agree with the defendant that, under the circumstances of this case, the court effectively deprived the defendant of his ability to pay the \$18,000 monthly alimony award to the plaintiff by also distributing to the plaintiff 50 percent of the value of his businesses from which he derives **his income."**

- [Forgione v. Forgione](#), 186 Conn. App. 525, 533-534, 200 A.3d 190 (2018). "In the November 6, 2013 memorandum of decision, the court recognized that the plaintiff previously had paid the \$60,000 advance to the defendant and, thus, ordered the defendant to transfer his title to the marital residence to the plaintiff. The defendant acknowledges this fact, yet, still claims on appeal that the court's division was unequal. In support of his claim, the defendant proffers several calculations that merge the court's division of the parties' remaining financial assets with the court's division of the marital home.

...the defendant's argument is based on pure conjecture as to the source of the advance payment to the defendant. Thus, the premise of the defendant's argument—that the plaintiff received a \$60,000 net gain as a result of the transfer of assets related to the marital home—finds no support in the record, and is, in fact, contradicted by it. **Therefore, we are unpersuaded by the defendant's claim."**

- [Reinke v. Sing](#), 186 Conn. App. 665, 422, 201 A.3d 404 (2018). "The plaintiff attempted to persuade the court that the defendant had concealed assets, misled the plaintiff, or knowingly provided false information to defraud the plaintiff. The court, however, did not find that such conduct had **occurred. Instead, the court found that the defendant "had originally failed to fully disclose some of his assets and [had] understated his income" and the court "made neither an express finding that his failure to do so amounted to fraud, nor, for that matter, that his behavior did not amount to fraud."** In part I of this opinion, we rejected the plaintiff's claim that the court's finding that fraud had not been proven was clearly erroneous."
- [Krahel v. Czoch](#), 186 Conn. App. 22, 43, 198 A.3d 103, (2018). "Unlike orders for the periodic payment of alimony, the court does not retain continuing jurisdiction over orders of property distribution nor can it expressly reserve jurisdiction with respect to matters involving lump sum alimony or the distribution of property. As our Supreme Court explained in *Smith v. Smith*, 249 Conn. 265, 273, 752 A.2d 1023 (1999), '[o]n its face, the statutory scheme regarding financial orders appurtenant to dissolution

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proceedings prohibits the retention of jurisdiction over orders regarding lump sum alimony or the division of the **marital estate...General Statutes § 46b-82...provides that the court may order alimony [a]t the time of entering the [divorce] decree...General Statutes § 46b-86, however, explicitly permits only modifications of any final order[s] for the periodic payment of permanent alimony...Consequently, the statute confers authority on the trial courts to retain continuing jurisdiction over orders of periodic alimony, but not over lump sum alimony or property distributions pursuant to § 46b-81.'** (Emphasis in original; internal quotation marks omitted.) Moreover, in *Bender v. Bender*, 258 Conn. 733, 761, 785 A.2d 197 (2001), our Supreme Court, albeit in dicta, expressly rejected the practice of reserving jurisdiction over personal property. Cf. *Cunningham v. Cunningham*, 140 Conn. App. 676, 686, 59 A.3d 874 (2013) (having determined formula for division of assets received by the defendant pursuant to nonqualified plan, court had discretion to retain jurisdiction to effectuate its judgment)."

- [Tarnowsky v. Iorfino](#), Superior Court, Judicial District of Stamford-Norwalk at Stamford, No. FA-175017411-S (Sep. 27, 2018) (2018 LEXIS 3183). "Therefore, the court orders that the Richmond Drive property shall be listed for sale within thirty days of the date of the dissolution judgment with a real estate agent having at least ten years of experience in the greater Darien area. The defendant shall select the real estate agent who shall be the listing broker for the Richmond Drive property. The Richmond Drive property shall be listed for sale at the listing price recommended by the listing broker. The defendant shall accept any offer containing no unusual contingencies within 5 percent of the listing price. Every sixty days, the defendant shall review the listing price with the listing broker, and the listing price will be reduced to the greater of the revised listing price recommended by the listing broker or 95 percent of the prior listing price. The plaintiff shall cooperate fully in the sale of the Richmond Drive property. The defendant shall have exclusive possession of the Richmond Drive property until it is sold. The plaintiff shall vacate the Richmond Drive property within twenty days of the date of entry of the dissolution judgment."
- [Varoglu v. Sciarrino](#), 185 Conn. App. 84, 90-91, 196 A.3d 856 (2018). "We do not agree with the plaintiff's assertions that the court made improper findings pertaining to the plaintiff using proceeds from a loan secured by the marital home to purchase property in Crested Butte. This finding was supported by the evidence because the defendant testified that the plaintiff did so and, upon review of the record, we are not left with a firm conviction that a mistake has been made. Furthermore, despite the plaintiff's use of a portion of the loan proceeds in a manner that the defendant claims he did not intend, the court awarded her the

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Colorado property free and clear of any claims by the **defendant.**"

- [O'Brien v. O'Brien](#), 326 Conn. 81, 84-86, 161 A.3d 1236 (2017). **"Did the Appellate Court correctly determine that the trial court abused its discretion when it considered the plaintiff's purported violations of the automatic orders in its decision dividing marital assets [even though the court did not hold the plaintiff in contempt of court for those violations]?" O'Brien v. O'Brien, 320 Conn. 916, 131 A.3d 751 (2016).** We agree with the defendant that the trial court properly exercised its discretion in considering the plaintiff's violations of the automatic orders in its division of the marital assets, and, therefore, we reverse the judgment of **the Appellate Court.**"
- [Richman v. Wallman](#), 172 Conn. App. 616, 621-622, 161 A.3d 666 (2017). **"The terms of the separation agreement contemplate the drafting of more than one QDRO because it specifically states that '[t]he parties agree that Attorney Elizabeth McMahon shall prepare the QDROs.'** (Emphasis added.) Had the agreement been drafted to refer to only one QDRO, the use of the plural "QDROs" would not have been included. In addition, Voya, the administrator of the IBM pension plan, specifically required a separate QDRO to split the pension, and the court found the contemplated divisions could not be done with a single QDRO. Moreover, **'courts have continuing jurisdiction to fashion a remedy appropriate to the vindication of a prior . . . judgment . . . pursuant to [their] inherent powers...'** (Internal quotation marks omitted). *Mickey v. Mickey*, 292 Conn. 597, 604, 974 A.2d 641 (2009). Accordingly, the court acted within the scope of its subject matter jurisdiction by ordering the **plaintiff to agree to the terms of the two QDROs...**"
- [Nadel v. Luttinger](#), 168 Conn. App. 689, 701, 147 A.3d 1075 (2016). **"We recognize, finally, the defendant's argument** that the court violated the rules of contract interpretation by examining extrinsic sources, such as footnotes on financial affidavits and a Fidelity report, to support its interpretation without first finding the separation agreement to be ambiguous. The court did reference such sources, but nothing prevents a court from considering evidence that tends to explain into what category a payment belongs. Although the agreement itself was properly determined to be clear and unambiguous, it was nonetheless incumbent on **the court to determine the nature of the award in issue.**"
- [Schneider v. Schneider](#), 161 Conn. App. 1, 127, A.3d 298 (2015). **"The plaintiff,...appeals from the judgment of the trial court denying his motion for an order that the defendant,...reimburse him for mortgage payments he made after she failed to make payment as required by the original judgment dissolving the parties' marriage...We agree and**

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conclude that the court's denial constituted an improper modification of the property distribution order." P.2-3.

**"In contrast, an order effectuating an existing judgment allows the court to protect the integrity of its original ruling by ensuring the parties' timely compliance therewith.**

(Internal quotation marks omitted.) *Perry v. Perry*, 156 Conn. App. 587, 595, 113 A.3d 132 (2015)" P.6.

- [McLoughlin v. McLoughlin](#), 157 Conn. App. 568, 581, 118 A.3d 64 (2015). "...pursuant to the parties' separation agreement, the division of the parties' personal property was left to the parties to accomplish, and, if they were unable to do so, they agreed to binding mediation. There was no language in the dissolution judgment retaining the court's authority to effectuate a distribution order or to aid the parties in the event a dispute later arose...the parties in the present case were unable to complete the division of their personal property, leaving the parties in legal limbo. Nevertheless, the trial court was without any statutory authority to issue an order resolving the parties' dispute over the distribution of their personal property, as that authority existed only at the time the marriage was dissolved. The division of personal property was clearly contemplated by the parties and the court at the time of dissolution, and was left to the parties, so no oversight or omission can be claimed."
- [Coleman v. Coleman](#), 151 Conn. App. 613, 618-619, 95 A.3d 569 (2014). "... As noted, the plaintiff urges this court to conclude that when one spouse inherits from his or her family, the amount of that inheritance should be separated from other assets acquired during the course of the marriage and the court, in treating an inherited asset, should place particular weight on the failure of the noninheriting spouse to contribute at all to the acquisition of the inheritance. It is noteworthy that in making this argument, the plaintiff would have this court ignore his own lack of participation in the acquisition of this inherited asset."
- [De Repentigny v. De Repentigny](#), 121 Conn. App. 451, 461-462, 995 A.2d 117 (2010). "In regard to its decision to grant ownership of de Assembly to the defendant, the court found that '[t]hroughout the marriage, although both parties made contributions to the acquisition, maintenance and reservation of this asset, the evidence clearly supports a finding that the defendant's contribution was significantly greater.' Given the court's findings regarding the level of the respective parties' involvement with and management of de Assembly, and the inherent difficulty one could expect were a divorced couple required to operate a business together, we will not second-guess the court's decision to grant ownership of de Assembly to the defendant."

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- [Sapper v. Sapper](#), 109 Conn.App. 99, 110-111, 951 A.2d 5 (2008). **"...The court properly considered the liquidation of the college funds in ordering their replenishment as part of the distribution of the marital property. The plaintiff also claims that the court improperly considered the issue of fault in awarding the defendant 80 percent of the remaining proceeds of the marital estate. He is mistaken."**
- [Wendt v. Wendt](#), 59 Conn. App. 656, 666, 757 A.2d 1225 (2000). **"In modern times, a coverture factor has reemerged as a mechanism for apportioning between spouses the benefit or value of unvested stock options, retirement plans or other benefits that were earned partially during and partially after the marriage."**
- [Damon v. Damon](#), 23 Conn. App. 111, 114, 579 A.2d 124 (1990). **"The plaintiff complains that the judgment, providing that the contents of the home "shall become the sole property of the defendant unless within one month of the date of the Judgment the parties agree on a division of said contents between themselves," is an improper delegation of the court's power to make the distribution. The essential meaning of these words is that the defendant would be the owner of the personalty unless she chose to give the plaintiff some of it. The court did not, therefore, delegate its authority to distribute assets."**
- [Vincent v. Vincent](#), 178 Conn. 212, 212, 423 A.2d 879 (1979). **"In this action, both parties alleged that the marriage was broken down irretrievably. The court dissolved the marriage and ordered that the real estate in the name of the plaintiff husband be transferred to the defendant wife and then be sold by the defendant without delay. Upon completion of the sale, deducting all necessary expenses, the net proceeds were to be divided equally between the parties. The plaintiff husband has appealed from this judgment."**
- [Murphy v. Murphy](#), 180 Conn. 376, 378, 429 A.2d 897 (1980). **"Rather than determine what each party had contributed to every category of property in dispute, that is, real property, personal property, bank accounts, and other assets, the court considered their property as a whole."**
- [Croke v. Croke](#), 4 Conn. App. 663, 663-664, 496 A.2d 235 (1985). **"The judgment of December 11, 1980, provides that the plaintiff has the right to occupy jointly owned real property located at 276 Park Street in New Canaan, with the parties' minor child until the minor child attains age eighteen, or residential custody of the minor child is transferred to the defendant, or the death or remarriage of the plaintiff or her cohabitation with another person under circumstances which would warrant the modification of periodic alimony pursuant to the provisions of General**

Statutes 46b-86, or the plaintiff elects to vacate the premises.”

- [Ivey v. Ivey](#), 183 Conn. 490, 493, 439 A.2d 425 (1981).  
“The decree rendered in the present case was of the second type, i.e., it ordered the plaintiff to transfer her interest in the Florida property to the defendant. The order did not purport to transfer title to out-of-state realty by its own terms. The plaintiff’s argument that the court below was bound to apply Florida law, when it made its order relating to the Florida land, lacks merit. Inasmuch as the decree did not directly affect title to the Florida lands, this dissolution action did not differ materially from any other dissolution.”

**WEST KEY NUMBER:**

- *Divorce*  
Allocation of property and liabilities; Equitable distribution  
# 780-810 Valuation, division, or distribution of particular property or interests  
#820-827 Methods of Distribution  
#850-864 Marital residence or homestead

**ENCYCLOPEDIAS:**

- 24 *Am Jur 2d* Divorce and Separation (2018).  
§§ 528-536. Manner of division  
§ 528. Generally  
§ 529. Presumption of equal division  
§ 530. Award of money or distribution in kind  
§ 531. Partition  
§ 532. Use of mathematical formulas; weighting of pertinent factors  
§ 533. Joint ownership after dissolution  
§ 534. Division of debts  
§ 535. Authority to divide nonmarital property  
§ 536. –Effect of statute
- 27B *C.J.S.* Divorce (2016).  
§§ 948-956. Methods of distribution

**TEXTS & TREATISES:**

- Arnold H. Rutkin et al., *7 Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).  
Chapter 29. Distribution of Assets  
§ 29.1. Methods of distribution  
§ 29.2. Sale or buy-out  
§ 29.3. Distribution in kind  
§ 29.4. Offsetting assets and credits  
§ 29.5. Deferred sale or distribution  
§ 29.6. Time rule for division  
§ 29.7. Distribution of particular types of assets  
§ 29.8. Marital home  
§ 29.9. Allocation of expenses and/or appreciation  
§ 29.10. Allocation of equity  
§ 29.11. Outright transfer and allocation of liabilities  
§ 29.12. Present or future buy-out  
§ 29.13. Family business

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- § 29.14. Pension, retirement and deferred compensation interests
- § 29.15. Insurance interests
- § 29.16. Effect of transfers prior to trial
- § 29.17. Distribution to children or other third parties
- § 29.18. Effect of distribution on rights of creditors
- § 29.19. Finality of distribution; effect of after discovered property

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.
  - Chapter 6. Division of Property
    - Part V. Defining, valuing, and allocating property for purposes of the asset division—Overview
    - Part VI. Defining, valuing, and allocating specific assets
- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.
  - Chapter 10 Equitable Distribution of Property
    - §10.12. Fair and equitable distribution
      - [A] Introduction
      - [C] Equal division and starting points
      - [E] Marital debts and liabilities
      - [F] The marital home
- Gary A. Shulman, *Dividing Pensions in Divorce: Negotiating and Drafting Safe Settlements with QDROS and Present Values*, 3rd ed. 2010, with 2019 supplement, Wolters Kluwer.
- Marvin Snyder, *Value of Pensions in Divorce*, 4<sup>th</sup> ed. 2010, with 2013 supplement, Wolters Kluwer.
  - Chapter 17. Pension court orders
- John Tingley and Nicholas Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).
  - Chapter 42. Equitable distribution doctrine
  - Chapter 48. Pension or retirement benefits as subject to award or division
  - Chapter 54. Treatment of stock options for purpose of dividing marital property
  - Chapter 56. Award of interest on deferred installment payments of marital asset distribution
  - Chapter 58. Proprietary of using contempt proceeding to enforce property settlement award or order
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).

Chapter 6. Specific Types of Property

§§ 6.28—6.37. Methods for distributing retirement Benefits

§ 6.46. Mechanics of dividing survivors benefits

§ 6.50. Valuation and distribution of stock options

§ 6.58. Valuation and division of personal injury awards

§ 6.81. Valuation and distribution of intellectual property

§ 6.85. Division of marital home

§ 6.99. Division of marital debts

Chapter 9. Mechanics of Division

§ 9.1. Introduction

§§ 9.2—9.7. Transfer of title

§§ 9.8—9.10. Monetary award

§§ 9.12—9.15. Sale

§§ 9.16—9.22. Enforcement

§§ 9.23—9.32. Modification and other post-judgment actions

- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).

Chapter 37. Principles of property distribution

§ 37.06. Division of property by the court

**[1]. Determining an “equitable” distribution**

[2]. Ordering distribution

§ 37.07. The marital home

§ 37.08. Business interests

§ 37.09. Professional goodwill

§ 37.10. Increased earning capacity resulting from a professional license, graduate degree, or education

§ 37.11. Retirement benefits

§ 37.12. Federal government benefits

**§ 37.13. Personal injury, worker’s compensation, and other awards and claims**

§ 37.14. Debts



# Section 6: Factors in Equitable Distribution of Property

A Guide to Resources in the Law Library

## **SCOPE:**

Bibliographic resources relating to non-financial factors to be considered in the equitable distribution of property.

## **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

- Conn. Gen. Stat. [§ 46b-81](#) (2019).  
(c). "In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.

## **CHECKLISTS:**

- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part III. Assessing the statutory criteria  
§ 6.07. Checklist: Assessing the statutory criteria

## **CASES:**

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- [Riccio v. Riccio](#), 183 Conn. App. 823, 827-828, 194 A.3d 337 (2018). "The court's distribution of the parties' assets, although not equal in monetary terms, is not inequitable solely on the basis of that disparity. See, e.g., *O'Brien v. O'Brien*, 326 Conn. 81, 122, 161 A.3d 1236 (2017) ('[A] distribution ratio of 78 percent to 22 percent is not, on its face, excessive, as the plaintiff contends. Indeed, we have upheld distributions awarding as much as 90 percent of the marital estate to one party.'). Our thorough review of the record leads us to conclude that the court properly considered the appropriate statutory factors, and that its orders were both supported by its findings and within its broad discretion."
- [Shirley P. V. Norman P.](#), 329 Conn. 648, 189 A.3d 89 (2018). In sum, we conclude that the reversal of the defendant's criminal conviction deprives that judgment of any preclusive effect that it may have had in the present dissolution action. The trial court's property division award, which was premised exclusively on the fact of the defendant's conviction, must therefore be reversed. The judgment is reversed with respect to the property division award and the case is remanded for a new trial with respect to that issue; the judgment is affirmed in all other respects.

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- [Varoglu v. Sciarrino](#), 185 Conn. App. 84, 90-91, 196 A.3d 856 (2018). **"Our review of the record leads us to conclude that the court properly considered the appropriate statutory factors and that the award made by the court concerning the distribution of the equity in the marital home was both supported by the evidence and within the parameters of the court's discretion. As previously stated, the court found that the plaintiff's majority ownership in 2 Ledgemoor Lane, LLC, prevented the defendant's creditors from levying on the marital home and stated that the plaintiff's 'contribution to the preservation of...the real estate, was substantial.'** There is no indication that the court failed to take into account her contribution to the preservation of the marital home when making its distribution of the equity in the marital home. Moreover, we note that, despite the plaintiff's protests, the court's property distribution can be considered favorable to her. Despite the plaintiff's having contributed 22 percent toward the purchase of the marital home and only being responsible for one third of the expenses to maintain the property when the parties lived together in the home, the court awarded the plaintiff 40 percent of the net proceeds from the sale of the home. For these reasons, we will not disturb the court's orders."
- [Kent v. DiPaola](#), 178 Conn. App. 424, 431-432, 175 A.3d 601, 606-607 (2017). **"In dividing up property, the court must take many factors into account...A trial court, however, need not give each factor equal...or recite the statutory criteria that it considered in making its decision or make express findings as to each statutory factor."** (Citation omitted; internal quotation marks omitted.) Wood v. Wood, 160 Conn. App. 708, 720-21, 125 A.3d 1040 (2015); see also O'Brien v. O'Brien, 326 Conn. 81, 121-22, 161 A.3d 1236 (2017); Emerick v. Emerick, 170 Conn. App. 368, 378, 154 A.3d 1069, cert. denied, 327 Conn. 922, 171 A.3d 60 (2017)."
- [Amelia Wood v. David Wood](#), 170 Conn. App. 724, 732, 155 A.3d 816, 821-822 (2017). **"...When deciding to whom to assign property to, the court 'shall consider the length of the marriage, the causes for the ... dissolution of the marriage ... the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.'** General Statutes § 46b-81 (c). Whether the parties made a contribution in the acquisition and preservation of property is a question of fact. . . . Accordingly, this court can reverse the trial court's finding that the parties contributed equally to the accumulation and growth of the assets held by the parties as of the date of the dissolution only if it is found to be without any

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reasonable basis in the evidence. (Internal quotation marks omitted.) *Kiniry v. Kiniry*, 71 Conn. App. 614, 628, 803 A.2d 352 (2002).”

- [Valentine v. Valentine](#), 164 Conn. App. 354, 367, 141 A.3d 884, 892-893 (2016). “The court’s orders with respect to the marital home do not offend the basic elements of fairness in light of the plaintiff’s age, education, talents, good health, sources of unsalaried income, and ability to seek gainful employment...In view of financial orders and a property division where she obtained a greater share of the marital assets, we conclude that the court’s division of the parties’ sole significant asset was not disproportionately unfavorable to the plaintiff.”
- [Anderson v. Anderson](#), 160 Conn. App. 341, 345, 125 A.3d 606 (2015). “General Statutes § 46b-81 (c) provides...‘The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.’ Furthermore, ‘[o]ur jurisprudence requires the trial court to consider all the statutory criteria set forth in ...§ 46b-81 in determining how to distribute parties’ assets in a dissolution...We do not, however, require that courts ritualistically recite the criteria they considered, nor are they bound to any specific formula respecting the weight to be accorded each factor.’ (Citation omitted; footnote omitted.) *Casey v. Casey*, 82 Conn. App. 378, 384, 844 A.2d 250 (2004).”
- [Brady-Kinsella v. Kinsella](#), 154 Conn. App. 413, 423-424, 106 A.3d 956 (2014). “As our prior cases have held, ‘[p]ension benefits are widely recognized as among the most valuable assets that parties have when a marriage ends...Nevertheless, there is no set formula that a court must follow when dividing the parties’ assets, including pension benefits.’ (Citations omitted; internal quotation marks omitted.) *Martin v. Martin*, 101 Conn. App. 106, 111, 920 A.2d 340 (2007). It is also clear that a court can exercise a wide range of discretion in dissolution matters....governed by General Statutes § 46b-81...a trial court ‘may assign to either spouse all or any part of the estate of the other spouse. In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party shall consider the length of the marriage, the causes for the...dissolution of the marriage...the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income.’ (Emphasis added.)
- [Desai v. Desai](#), 119 Conn. App. 224, 238, 987 A.2d. 362 (2010). “...The court found the plaintiff to be responsible for the breakdown of the marriage. It also stated that

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

**'[d]espite the brevity of the marriage, the court cannot disregard the physical violence.'**

The court clearly considered the statutory criteria set forth in § 46b-81....**There is no additional requirement** that the court specifically state how it weighed these factors or explain in detail the importance it assigned to these **factors."**

- [Fitzsimons v. Fitzsimons](#), 116 Conn. App. 449, 456, 459, 975 A2d 729 (2009). **"...In light of the court's finding, upon reconsideration, that the defendant's conduct in causing the irretrievable breakdown of the parties' marriage should be taken into consideration in the division of the equity of the marital home, we cannot say that awarding the plaintiff an additional 10 percent of that equity was an abuse of the court's discretion...."**

...There was no need for the plaintiff, having timely proposed an order giving her more than a simple 50 percent interest in the house, to set forth in her proposed orders every possible disparate division of the equity in the marital residence for the court to have discretion to grant a **postjudgment motion to reargue..."**

- [Gershman v. Gershman](#), 286 Conn. 341, 351, 943 A.2d 1091 (2008). **"...the trial court considered the defendant's 'dissipation of family assets' in ordering the overall asset division between the parties. The trial court specifically referred to two acts of dissipation. The first was the defendant's 'bad investment' in the various Alkon partnerships. The second was the \$200,000 loss on the sale of the excessively expensive marital home. The trial court, however, did not find either financial misconduct, e.g., intentional waste or a selfish financial transaction, or that the defendant had used marital assets for a nonmarital purpose with regard to either of these transactions. In the absence of such findings, we must reverse the judgment of the trial court and remand the case for a new trial."**
- [Finan v. Finan](#), 287 Conn. 491, 493, 949 A2d 498 (2008). **"We conclude...that a trial court should consider preseparation dissipation of marital assets, so long as the actions constituting dissipation occur either: (1) in contemplation of divorce or separation; or (2) while the marriage is in serious jeopardy or is undergoing an irretrievable breakdown."**
- [Picton v. Picton](#), 111 Conn App. 143, 152-153, 958 A.2d 763 (2008). **"The plaintiff focuses on §46b-81(c) and its requirement that the court consider the contribution of the parties to the acquisition, preservation or appreciation in value of the Cape Cod property and argued that the court abused its discretion by failing to take proper consideration**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

of these factors. These factors, however, are only a few of the many factors specifically mentioned in §46b-81(c)....  
**...Certainly the court would not be abusing its discretion in considering the defendant's substantial nonmonetary contributions that enabled the plaintiff to spend weekends away from his primary residence and his children so that he could upgrade the Cape Cod property."**

- [Loughlin v. Loughlin](#), 280 Conn. 632, 647, 910 A.2d 963 (2006). **"We note that, because the parties were first married in 1981, divorced in 1992, cohabited from 1993 until their second marriage in 1998, and were divorced for the second time in 2004, the difference between the length of their entire relationship, approximately twenty-two years, and the length of their second marriage, six years, is not insubstantial. We conclude that the trial court did consider the entirety of the relationship and thus based its financial awards in part on impermissible considerations."**
- [Greco v. Greco](#), 70 Conn. App. 735, 740, 799 A.2d 331 (2002). **"Despite the defendant's contentions to the contrary and his own review of the criteria set forth in § 46b-81, we cannot construe the court's award as an abuse of discretion in light of the court's finding that the defendant's infidelity was the cause of the breakdown of the marriage. That is a factor that the court was required to consider pursuant to § 46b-81."**
- [Farrell v. Farrell](#), 36 Conn. App. 305, 309-310, 650 A.2d 608 (1994). **"The defendants also argue that the trial court incorrectly found by clear and convincing evidence that the three properties had been fraudulently conveyed. 'A party who seeks to set aside a conveyance as fraudulent bears the burden of proving that the conveyance was made without substantial consideration and that, as a result, the transferor was unable to meet his obligations (constructive fraud) or that the conveyance was made with fraudulent intent in which the transferee participated (actual fraud).'** Tessitore v. Tessitore, 31 Conn. App. 40, 42, 623 A.2d 496 (1993). **'A fraudulent conveyance must be proven by clear and convincing evidence.'** *Id.*, 43. **Whether a conveyance is fraudulent is purely a question of fact.** Tyers v. Coma, 214 Conn. 8, 11, 570 A.2d 186 (1990). For the reasons stated above, we cannot conclude that the trial court's factual findings that the properties had been fraudulently conveyed were clearly erroneous."

**WEST KEY NUMBERS:**

- *Divorce*  
 Allocation of property and liabilities; Equitable distribution  
 # 725-750 Proportion or share given on division

**ENCYCLOPEDIAS:**

- 24 *Am Jur 2d* Divorce and Separation (2018).  
 §§ 513-527. Factors considered in division

- § 513. Generally
- § 514. Duration of Marriage
- § 515. Age and health of parties
- § 516. Earning capacity and employability
- § 517. Value of separate property
- § 518. Origin of property
- § 519. Loss of inheritance
- § 520. Custody and child support
- § 521. **Homemaker's services**
- § 522. Alimony and maintenance
- § 523. Tax consequences
- § 524. Dissipation of marital assets

- 27B *C.J.S.* Divorce (2016).  
§§ 936-947. Factors considered.
- Arnold H. Rutkin et al., 7 *Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).  
Chapter 28. Factors to be considered for Division of Property
  - § 28.1. In general
  - § 28.2. Length of the marriage
  - § 28.3. Causes for the dissolution
  - § 28.4. Age of the parties
  - § 28.5. Health of the parties
  - § 28.6. Station of the parties
  - § 28.7. Occupation
  - § 28.8. Amount and sources of income
  - § 28.9. Vocational skills and employability of the parties
  - § 28.10. Estates of the parties
  - § 28.11. Liabilities and needs of the parties
  - § 28.12. Opportunity for future acquisition of assets and income
  - § 28.13. The contributions of each party to the acquisition, preservation or appreciation of assets
  - § 28.14. Dissipation of assets
  - § 28.15. Tax implications
  - § 28.16. Other factors considered
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.  
Chapter 6. Division of Property  
Part III. Assessing the statutory criteria
- John DeWitt Gregory et al., *Understanding Family Law*, 4<sup>th</sup> ed. 2013, Lexis.  
Chapter 10 Equitable Distribution of Property
  - §10.12. Fair and equitable distribution
    - [B] Factors in equitable distribution
    - [D] Dissipation of assets and marital misconduct

**TEXTS & TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- John P. McCahey, ed. *Valuation and Distribution of Marital Property*, 1984, with 2020 supplement, Lexis (also available on Lexis Advance).  
Chapter 19. Determining factors in equitable distribution of marital property
- John Tingley and Nicholas Svalina, *Marital Property Law*, rev. 2d ed. 2020, Thomson West (also available on Westlaw).  
Chapter 41. Tax consequences arising directly from **court's property distribution order**  
Chapter 42. Equitable distribution doctrine  
§§ 42:19-42:29. Factors considered
- Arnold H. Rutkin et al., 3 *Family Law and Practice*, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).  
Chapter 37. Principles of property distribution  
§ 37.06. Division of property by the Court  
**[1]. Determining an "equitable" distribution**  
[a-j]. Requirement to consider specific factors  
Chapter 38. A practical guide to equitable distribution
- Brett R. Turner, *Equitable Distribution of Property*, 4th ed. 2019-2020, Thomson West (also available on Westlaw).  
Chapter 8. Division of Assets  
§ 8.1. General principles  
§ 8.2. Burden of proof: presumptions and starting points  
§ 8.3. Establishing the factors  
§ 8.4. Balancing the factors  
§§ 8.5—8.9. Contributions to specific assets  
§§ 8.10—8.13. General contributions to the marital partnership  
§ 8.14. Duration of the marriage  
§§ 8.15—8.22. Future financial needs  
§§ 8.23—8.26. Conduct of the parties  
§§ 8.27—8.31. Tax consequences  
§ 8.32. Other considerations: the catch-all factor
- Gary A. Shulman, *Dividing Pensions in Divorce: Negotiating and Drafting Safe Settlements with QDROS and Present Values*, 3rd ed. 2010, with 2019 supplement, Wolters Kluwer.
- Sanford L. Braver and Ira Mark Ellman, *Citizens' Views About Fault in Property Division*, 47 Family Law Quarterly 419 (Fall 2013).
- Brett R. Turner, *Theories and Methods of Valuing Marital Assets*, 25 Journal of American Academy of Matrimonial Lawyers 1 (2012).

### **LAW REVIEWS:**

Public access to law review databases is available on-site at each of our [law libraries](#).

Table 5: Treatment of various types of property in each stage of determination

* Resources are more fully described in Key at end of table	<b>Classification</b>	<b>Valuation</b>	<b>Distribution</b>
<b>Closely held businesses and corporations</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.16</li> <li>Rutkin § 37.08[1]</li> <li>24 Am Jur 2d Divorce and Separation § 491</li> <li>27C C.J.S. Divorce § 977</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.18</li> <li>Rutkin §§ 36.10-36.11 § 37.08[2]</li> <li>§ 38.04[2][d]</li> <li>24 Am Jur 2d Divorce and Separation § 546</li> <li>27C C.J.S. Divorce § 978</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 29.13 (family business) § 50.35</li> <li>Rutkin §37.08[3] §38.05[1][d]</li> </ul>
<b>Collectibles</b> such as baseball cards, books, furniture, etc.	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.7</li> <li>§ 27.7</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin §36.09</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 29.7</li> <li>§ 50.39</li> <li>Rutkin § 38.04[b]</li> <li>§ 38.05[1][b]</li> <li>24 Am Jur 2d Divorce and Separation § 493</li> </ul>
<b>Debts and liabilities</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.22</li> <li>24 Am Jur 2d Divorce and Separation § 464</li> <li>27B C.J.S. Divorce §§ 933-934</li> </ul>		<ul style="list-style-type: none"> <li>Rutkin et al. § 50.32</li> <li>Rutkin § 37.06[1][i]</li> <li>§ 37.14</li> <li>24 Am Jur 2d Divorce and Separation § 534</li> </ul>
<b>Gifts</b> (including engagement rings, wedding presents and interspousal gifts)	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.17</li> <li>Rutkin § 37.04 [3][b][iii]</li> <li>24 Am Jur 2d Divorce and Separation §§ 487-489</li> <li>27C C.J.S. Divorce § 974</li> </ul>		<ul style="list-style-type: none"> <li>Rutkin § 37.04 [3][b][iii]</li> </ul>
<b>Inheritances and trusts</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.18</li> <li>Rutkin § 37.04 [3][b][ii]</li> </ul>		



* Resources are more fully described in Key at end of table	<b>Classification</b>	<b>Valuation</b>	<b>Distribution</b>
	<ul style="list-style-type: none"> <li>• 27C C.J.S. Divorce § 975</li> </ul>		
<b>Insurance</b>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 26.9</li> <li>• 24 Am Jur 2d Divorce and Separation §§ 509-510</li> <li>• 27C C.J.S. Divorce § 976</li> </ul>		<ul style="list-style-type: none"> <li>• Rutkin et al. § 29.15</li> <li>§ 50.31</li> </ul>
<b>Marital home</b>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 26.5</li> <li>• Rutkin § 37.07[1]</li> <li>§ 38.04[2][a]</li> <li>• 24 Am Jur 2d Divorce and Separation §§ 494-496</li> <li>• 27C C.J.S. Divorce §§ 957-960</li> </ul>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 27.16</li> <li>• Rutkin § 37.07[2]</li> <li>• 27C C.J.S. Divorce §960</li> </ul>	<ul style="list-style-type: none"> <li>• Rutkin et al. §§ 29.8-29.12</li> <li>§§ 50.3-50.11</li> <li>• Rutkin § 37.07[3]</li> <li>§ 38.05[1][a]</li> <li>• 27C C.J.S. Divorce §§ 961-962</li> </ul>
<b>Pensions and retirement plans</b>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 26.11</li> <li>• Rutkin § 37.11[1]</li> <li>• 24 Am Jur 2d Divorce and Separation §§ 501-508</li> <li>• 27C C.J.S. Divorce § 963, 964</li> <li>§ 966-968</li> <li>§ 970</li> </ul>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 27.20</li> <li>• Rutkin § 36.13,</li> <li>§ 37.11[2]</li> <li>§ 38.04[2][f]</li> <li>• 24 Am Jur 2d Divorce and Separation §§ 547-549</li> <li>• 27C C.J.S. Divorce § 965</li> <li>§ 966, 969</li> </ul>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 29.14</li> <li>§ 50.37</li> <li>§ 50.58</li> <li>• Rutkin § 37.11[2]</li> <li>§ 38.05[f]</li> <li>• 27C C.J.S. Divorce § 965</li> <li>§ 966, 969</li> </ul>
<b>Personal injury, worker's compensation and other awards (Tort)</b>	<ul style="list-style-type: none"> <li>• Rutkin et al. § 26.23</li> <li>• Rutkin § 37.13</li> <li>• 24 Am Jur 2d Divorce and Separation §§ 511-512</li> <li>• 27C C.J.S. Divorce § 982</li> </ul>		<ul style="list-style-type: none"> <li>• Rutkin § 37.13</li> </ul>

* Resources are more fully described in Key at end of table	<b>Classification</b>	<b>Valuation</b>	<b>Distribution</b>
<b>Personal property</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.7</li> </ul>		<ul style="list-style-type: none"> <li>Rutkin et al. § 50.13</li> <li>Rutkin § 38.04[2][b]</li> <li>§ 38.05[1][b]</li> </ul>
<b>Prizes and awards</b>	<ul style="list-style-type: none"> <li>27C C.J.S. Divorce § 983</li> </ul>		<ul style="list-style-type: none"> <li>Rutkin § 37.13[5]</li> </ul>
<b>Professional degrees and licenses</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.15</li> <li>Rutkin § 36.14</li> <li>§ 38.04[2][e]</li> <li>24 Am Jur 2d Divorce and Separation § 497-499</li> <li>27C C.J.S. Divorce § 971</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.17</li> <li>Rutkin § 37.10</li> <li>24 Am Jur 2d Divorce and Separation § 543</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin § 37.10</li> <li>§ 38.05[1][e]</li> </ul>
<b>Professional practices</b> including goodwill	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.16</li> <li>Rutkin § 36.12</li> <li>§ 37.09</li> <li>§ 38.04[2][e]</li> <li>24 Am Jur 2d Divorce and Separation § 500</li> <li>27C C.J.S. Divorce §972</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.12</li> <li>§ 27.18</li> <li>Rutkin § 36.12</li> <li>24 Am Jur 2d Divorce and Separation §§ 544-545</li> <li>27C C.J.S. Divorce §973</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin § 38.05[1][e]</li> </ul>
<b>Real estate</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.4</li> <li>Rutkin § 38.04[2][a]</li> <li>27C C.J.S. Divorce §979</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.16</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 50.12</li> <li>Rutkin § 38.05[1][a]</li> </ul>
<b>Stocks and securities</b>	<ul style="list-style-type: none"> <li>Rutkin et al. § 26.8</li> <li>24 Am Jur 2d Divorce and Separation § 492</li> <li>27C C.J.S. Divorce §980</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.19</li> <li>Rutkin § 38.04[2][c]</li> <li>27C C.J.S. Divorce §981</li> </ul>	<ul style="list-style-type: none"> <li>Rutkin et al. § 27.19</li> <li>§ 50.36</li> <li>Rutkin § 38.05[1][c]</li> </ul>

Key to Resources Referenced:

24 Am Jur = 24 ***Am Jur 2d*** Divorce and Separation (2018).

27B CJS = 27B ***C.J.S.*** Divorce (2016).

27C CJS = 27C ***C.J.S.*** Divorce (2016).

Rutkin = Arnold H. Rutkin et al., 3 ***Family Law and Practice***, 1985, with 2020 supplement, Lexis, (also available on Lexis Advance).

Rutkin et al. = Arnold H. Rutkin et al., 7, 8 & 8A ***Connecticut Practice Series, Family Law and Practice with Forms***, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).

# Section 7: Wedding Presents Between Spouses

A Guide to Resources in the Law Library

## **SCOPE:**

- Bibliographic resources relating to the question of how wedding gifts are treated in a contested dissolution trial.

## **TREATED ELSEWHERE:**

- [Breach of promise to marry and return of engagement ring and courtship gifts](#)

## **DEFINITIONS:**

- "Despite the fact that there are thousands of dissolution opinions issued by Connecticut judges, this question has not been decided by any Connecticut trial court or appellate court. It is an issue of first impression." [Coppola v. Farina](#), 50 Conn. Supp. 11, 12, 910 A.2d 1011 (2006).
- "Connecticut is an **all property state**. [Krafick v. Krafick](#), 234 Conn. 783, 792, 663 A.2d 365 (1995)." [Coppola v. Farina](#), 50 Conn. Supp. 11, 13, 910 A.2d 1011 (2006). [Emphasis added.]
- "The distribution of assets in a dissolution action is governed by [General Statutes] § 46b-81. . . . This approach to property division is commonly referred to as an "all-property" equitable distribution scheme.' (Citations omitted.)" [Coppola v. Farina](#), 50 Conn. Supp. 11, 13, 910 A.2d 1011 (2006).
- "Connecticut has no statutory definition of **'marital property.'**" [Coppola v. Farina](#), 50 Conn. Supp. 11, 13, 910 A.2d 1011 (2006). [Emphasis added.]
- **Gift:** "A gift is the transfer of property without consideration. It requires two things: a delivery of the possession of the property to the donee, and an intent that the title thereto shall pass immediately to him." [Coppola v. Farina](#), 50 Conn. Supp. 11, 13, 910 A.2d 1011 (2006).
- "Treatises have stated that if the donors' intent is not clear, there are two basic approaches for classifying wedding gifts. Annot., *Rights in Wedding Presents as Between Spouses*, 75 A.L.R.2d 1365, 1366 (1961). Those two approaches are referred to as the **New York rule** and the **English rule.**" [Coppola v. Farina](#), 50 Conn. Supp. 11, 17, 910 A.2d 1011 (2006). [Emphasis added.]
- "The New York rule presumes that a wedding gift is intended as a joint gift unless the gift is appropriate for the use of only one spouse or is peculiarly earmarked for one particular spouse. This rule assumes that there is inadequate or insufficient evidence of the donor's intent. See [Avnet v. Avnet](#), 204 Misc. 760, 768, 124 N.Y.S.2d

517 (1953).” [Coppola v. Farina](#), 50 Conn. Supp. 11, 17, 910 A.2d 1011 (2006).

### **STATUTES:**

You can visit your local law library or search the most recent [statutes](#) and [public acts](#) on the Connecticut General Assembly website to confirm that you are using the most up-to-date statutes.

### **CASES:**

Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can [contact your local law librarian](#) to learn about the tools available to you to update cases.

### **WEST KEY NUMBERS:**

### **AMERICAN LAW REPORTS:**

- Conn. Gen. Stat. (2019) § [46b-81\(c\)](#). **Assignment of property and transfer of title.** “In fixing the nature and value of the property, if any, to be assigned, the court, after considering all the evidence presented by each party, shall consider the length of the marriage, the causes for the annulment, dissolution of the marriage or legal separation, the age, health, station, occupation, amount and sources of income, earning capacity, vocational skills, education, employability, estate, liabilities and needs of each of the parties and the opportunity of each for future acquisition of capital assets and income. **The court shall also consider the contribution of each of the parties in the acquisition, preservation or appreciation in value of their respective estates.**” [Emphasis added].
- [Coppola v. Farina](#), 50 Conn. Supp. 11, 17, 910 A.2d 1011 (2006). “Treatises have stated that if the donors' intent is not clear, there are two basic approaches for classifying wedding gifts. Annot., *Rights in Wedding Presents as Between Spouses*, 75 A.L.R.2d 1365, 1366 (1961). Those two approaches are referred to as the New York rule and the English rule.”
- [Avenet v. Avenet](#), 204 Misc. 760, 768, 124 N.Y.S.2d 517 (1953). “In passing I might say that more so than in any other period in the long history of mankind, this is the age of ‘50-50’ marriages. The time has come to say clearly that all wedding gifts whether from the bride's ‘side’ or from the groom's, excepting such items which are peculiarly adaptable to the personal use of either spouse, and those gifts which are specifically and unequivocally ‘earmarked’ as intended exclusively for the one or the other of the spouses, commonly intended for general use in the household, are the joint property of both parties to the marriage. This reasoning should apply as well to the things of like use purchased with cash wedding gifts not otherwise ‘earmarked’.”
- Gifts, Inter vivos
  - # 43. Operation and effect as to parties
- Husband & Wife
  - # 6(1). Property of husband, in general
  - # 8. Property of wife. In general
  - # 14. Conveyances to husband and wife
- Annotation, *Rights in Wedding Presents as Between Spouses*, 75 *ALR 2d* 1365 (1961).
  - §1. Introduction, scope, and related matters, p. 1365.
  - § 2. General observations and conclusions; presumptions, p. 1366.

- § 3. Gifts to one of the spouses by relatives or friends, p. 1366.
- § 4. Gifts appropriate only for use by, or adornment of, one of the spouses, p. 1367.
- § 5. Bank accounts created from gifts to the spouses, p. 1368.
- § 6. Gifts from one spouse to the other, p. 1368.
- § 7. Household furniture and furnishings given in kind, or purchased with money given; generally, 1368.
- § 8. — As affected by statute

**ENCYCLOPEDIAS:**

- 38 *Am Jur 2d* Gifts (2019)
  - § 15. Intention of donor
  - § 16. — Evidence of donative intent
  - § 65. Ownership of wedding presents as between spouses
- 24 *Am Jur 2d* Divorce and Separation (2018)
  - § 489. Wedding Gifts
- 38A *C.J.S.* Gifts (2017)
  - § 1. Generally, definitions and nature
  - § 2. Classification
  - § 16. Intent
  - § 18. Delivery
  - § 20. Sufficiency
  - § 21. Surrender of control
  - § 23. Constructive or symbolic delivery
  - § 30. Redelivery to donor
  - § 65. Revocation, generally
  - § 71. Generally; presumptions-Burden of proof
  - § 91. Questions of law and fact
- 27C *C.J.S.* Divorce and Separation (2016)
  - § 974. Gifts
  - §1207. Effect of decree on vested or unvested Interest

**TEXTS & TREATISES:**

Each of our law libraries own the Connecticut treatises cited. You can [contact](#) us or visit our [catalog](#) to determine which of our law libraries own the other treatises cited or to search for more treatises.

References to online databases refer to in-library use of these databases. Remote access is not available.

- Arnold H. Rutkin et al., 7 *Connecticut Practice Series, Family Law and Practice with Forms*, 2010, with 2020 supplement, Thomson West, (also available on Westlaw).
  - § 26:17. Gifts
- Louise Truax, general ed., *Connecticut Family Law*, 2020 edition, Lexis.
  - Chapter 6. Division of Property
    - § 6.38. Including Gifts, Inheritances, and Trusts
- John P. McCahey, ed. *Valuation and Distribution of Marital Property*, 1984, with 2020 supplement, Lexis (also available on Lexis Advance).
  - Chapter 18. Property Subject to Equitable Distribution
    - § 18.05(3)(a). Wedding Gifts

Table 6: Should Connecticut Adopt the New York Rule or the English Rule?

<p><b>“Should Connecticut Adopt the New York Rule or the English Rule?”</b></p> <p><a href="#">Coppola v. Farina</a> 50 Conn. Supp. 11 (2006)</p>	
Page 21	<p><b>“Both the English rule and the New York rule indicate that the donor's intent controls. This is consistent with Connecticut law.”</b></p>
Page 21	<p><b>“In the underlying case, the parties stated that they would offer no evidence from the donors themselves as to the intent for the cash or checks given at the wedding reception. This court finds that the self-interested testimony of the parties themselves cannot be relied on to decide the issue of donor's intent. There was no other evidence of the donor's intent. Because cash is fungible, there was nothing specific in the nature of the cash that could be used by only one spouse.”</b></p>
Page 22	<p><b>“Connecticut is an all property state and, therefore, all real and personal property owned by parties regardless of when acquired or how acquired through employment, gifts, inheritance, before the marriage or jointly acquired or separately acquired during the marriage are all considered property for the purpose of marital distribution in Connecticut. The English rule has no foundation in Connecticut. This court chooses to adopt the New York rule.”</b></p>
Page 22	<p><b>“There is no evidence from the donors as to the donor's intent for the cash wedding gifts given at the wedding reception. The parties do not intend to call any of the donors as witnesses. No wedding gift cards will be offered. All of the disputed wedding gifts were cash or checks. Cash is fungible. There will be no evidence offered of a large cash gift or a cash gift allocated to a certain purpose, such as paying off of the wife's student loans or the improvement of real property owned by the husband for years prior to the marriage. Each of the gifts was made in cash or in a check, a cash equivalent. All gifts were made at the wedding reception. The wedding guests had attended the marriage ceremony in which the parties were declared husband and wife. Each of the wedding guests had attended the reception where the wedding singer introduced the parties as Mr. and Mrs. Gino Farina. Thereafter, the cash wedding gifts were given. The court therefore rules that it is irrelevant to how many of the 172 guests were from the 'bride's side,' how many of the 172 were her family and friends, how many of the 172 guests were from the 'groom's side' and how many of the 172 were his family and friends.</b></p>
Page 23	<p>The defendant's objection is sustained. The donor of the cash and check gifts made at the wedding reception is <b>irrelevant.”</b></p>
<p>Once you have identified useful cases, it is important to update the cases before you rely on them. Updating case law means checking to see if the cases are still good law. You can <a href="#">contact your local law librarian</a> to learn about the tools available to you to update cases.</p>	