

COMPLEX PROPERTY AGREEMENTS

We have a rich history of securing assets for our clients during difficult divorce proceedings including:

- Real estate: residential, commercial, farm and ranch
- Oil and gas royalties and other mineral interests
- Employer benefits and retirement plans
- Stock options
- Inheritances
- Separate property characterization and tracing
- Deferred compensation plans
- Economic contribution and reimbursement claims
- Insurance issues
- Intellectual property issues, copyrights and patents

RETIREMENT ASSETS

A Qualified Domestic Relations Order (QDRO) is one of the primary tools used to partition retirement benefits. It divides employee benefits earned by a participant and shows what percentage or amount is awarded to an alternate payee (spouse, former spouse, child, or other dependent).

Drafting a QDRO is a complex and technical process that must navigate a variety of complicated rules and regulations. The requirements differ greatly for corporations, teacher retirements, local, state and federal government plans, and military plans. In addition, Defined Contribution Plans, such as 401(k) Plans, and Defined Benefit Plans, such as pension plans, each have different and complex drafting requirements.

CHARACTERIZE SEPARATE AND COMMUNITY PROPERTY

Texas has two general categories of property; community property and separate property. Separate property is acquired prior to marriage, or during marriage by gift, inheritance, or from a personal injury recovery. Community property is all property acquired during the marriage, except for separate property. It is extremely important that property is properly characterized prior to a divorce proceeding, because the only property that a court can divide at the time of divorce is community property.

All property possessed by either spouse during, or on dissolution of marriage, is presumed to be community property, unless it is proven to be separate property. The burden of proof rests on the spouse who wishes to declare the property separate. That spouse must establish with clear and convincing evidence that a particular item is separate property, and not community property.

Under Texas law, a court shall order a division of the community assets and liabilities in a manner that the court deems just and right, having due regard for the rights of each party and any children of the marriage. Once property is established with the Court as separate property, it will not be subject to division in the divorce.

Our attorneys have many years of experience in characterization and tracing of separate property assets. We have successfully rebutted the community property presumption and established separate property characterizations for our clients on many occasions.