

"Equitable" Distribution Isn't Always "Equal" - *New Jersey Law Journal*

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“Equitable distribution” is the process by which marital assets are allocated to the parties upon divorce. To effectuate the process, the court is required to make specific findings of fact identifying the assets subject to distribution and the value of each asset. *Rothman v. Rothman*, 65 N.J. 219, 232-33 (1974). The court then analyzes the factors set forth in N.J.S.A. 2A:34-23.1 to establish a plan for dividing the assets between the parties. The goal is to achieve a “fair and just” division of marital property. *Steneken v. Steneken*, 183 N.J. 290, 299 (2005).

While N.J.S.A. 2A:34-23.1 establishes a rebuttable presumption that each party made substantial contributions to acquire assets and income during the marriage, the statute does not provide for an automatic equal division of assets on that premise. See *Rothman*, 65 N.J. at 232-33 n. 6 (rejecting a presumption of equal distribution of marital assets); *Clementi v. Clementi*, 434 N.J. Super. 529 (Ch. Div. 2013) (holding that neither party is automatically entitled to 50 percent of any asset, including the marital residence). Rather, the statute compels the court to consider the statutory factors on a case-by-case basis and consider the complete factual circumstances surrounding each relationship. *McGee v. McGee*, 277 N.J. Super. 1 (App. Div. 1994).

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