CASE STUDY · MONTGOMERY COUNTY, PENNSYLVANIA

He kept one statement. Everything else is gone.

An eighteen-year marriage in Montgomery County. A public school teacher with a PSERS pension, and a spouse holding the 401(k). You advise the household. This time it is the spouse with the 401(k) who is exposed, and the money he brought into the marriage rests on a single statement from 2008.

What that one statement has to carry

He brought **$96,500** into the marriage. The account holds $712,000 today, and he assumed that money and everything it earned were his.

Under **23 Pa.C.S. § 3501**, Pennsylvania measures the marital share from the balance at the wedding to the balance at separation, growth on the pre-marital money included. Proving the wedding-date balance is what the 2008 statement is for. If it does not hold, the $96,500 does not stay separate. **It joins the marital estate and goes on the table with everything else.**

$96,500
Separate only if one 2008 statement holds

$171,900
Growth that is marital even when it does

$712,000
In the estate if the tracing fails outright

Marital is not the same as divided.

Pennsylvania has **no equal-division presumption.** § 3502 directs the court to divide marital property in the percentages it deems just after weighing the statutory factors, asset by asset if it chooses. What lands in the estate is a classification question. What happens to it after that is an argument.

Where you come in

You hold eighteen years of statements for that account. That is the evidence the classification rests on, and nobody in the divorce will ask you for it.

⚠ Which authority controls is counsel's call. *Oaks v. Cooper*, 638 A.2d 208 (Pa. 1994), treats a pre-marital contribution and the interest on it as separate, which cuts against the difference method and has never been squared with it. **My role is the divorce, not the relationship.** You keep the client.

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Bob Mitton, CDFA®
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