

3 STEPS TO EQUITABLE DISTRIBUTION

1. SET APART TO EACH SPOUSE THAT SPOUSE'S NONMARITAL ASSETS AND LIABILITIES.

- a. this requires written findings of fact.
- b. remember that nonmarital property can have a marital component
 - i. enhancement in value and appreciation of nonmarital assets resulting from the efforts of either party during the marriage or from the contribution to or expenditure thereon of marital funds or other forms of marital assets, or both.
 - ii. Passive appreciation on an asset that accrued during the marriage
 - iii. Marital funds to pay down a mortgage

2. DETERMINE THE VALUE OF THE MARITAL ASSETS AND LIABILITIES.

- a. must use value testified to or evidence of (no making up your own amount)
- b. Must have valuation dates – must use same valuation dates for similar assets. If you want to use different, must give explanation or record evidence to justify.
- c. Valuation dates must match the court's specific findings of value.

3. DISTRIBUTE MARITAL ASSETS AND LIABILITIES.

- a. start with equal – if unequal distribution, it must be pled for and you must justify with findings.

When ED is reversed, the Court must consider on remand the other financial aspects of the judgment (alimony and attorney's fees as both depend on the distribution of the marital assets and liabilities).

See *McGowan v. McGowan*, 344 So. 3d 607 (Fla. 1st DCA, 2022).n

