

# ALBUQUERQUE DIVORCE LAWYER BLOG

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## The Marriage is Over - Now What to do About the Rings?

By Collins & Collins

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Every marriage presumably begins with a lifelong commitment. This commitment is symbolized by the wedding rings. Unfortunately, many marriages do not go the duration and the symbolism is quickly lost on the parties.

Instead, the wedding ring goes in the communal pot for division like all other property. And the question quickly arises as to who keeps the rings. In fact, one of the most contentious issues in the [property division](#) portion of a divorce can be what happens to the parties' wedding and engagement rings, not only because such jewelry often has a high monetary value but also because the rings may have great sentimental value.

The rings may symbolize the hope the parties felt at the beginning of a relationship and, even though the relationship is over, parties may not want to let go of that symbol. Quite frequently, the wedding and engagement rings are family heirlooms that the giving party wants to stay in their family after the relationship is over. Perhaps, most frequent and most cynical, the rings simply represent property value that needs to be divided according the community property laws of New Mexico.

Generally, the New Mexico Courts hold that wedding and engagement rings exchanged pursuant to a valid marriage become the separate property of the parties to whom they are given. In other words, the rings are gifts between the parties and do not have to be returned upon divorce. As such, the value of those rings will not be included in a property division. However, this is not always true. In particular, if the parties still owe a debt associated with the rings at issue, the party assuming that debt may get to keep the ring. Or, the court may order that the rings be sold to satisfy any associated debt.

The discussion above applies only to the return of rings upon divorce. The Courts may rule differently about the return of rings when parties are engaged but break up before they are married. The New Mexico Supreme Court addressed this issue in the 1994 case of *Vigil v. Haber*, which was a case in which an engaged couple went through a

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nasty break up prior to their wedding. Originally, Ms. Vigil returned her engagement ring to Mr. Haber, but then objected to that return and wanted the ring back.

As part of an associated domestic violence action, the court ordered that the Santa Fe police should hold the ring until the court determined who should keep it. The district court initially held that Ms. Vigil could keep the ring because, although she had cancelled the parties' wedding, she did so in response to misconduct by Mr. Haber. However, the reviewing court overturned that decision and adopted a new rule in New Mexico with respect to the return of engagement rings. That rule provides that fault (or who did what to whom to cause a break up) will not be considered in an engagement setting. Rather, engagement rings are gifts given on the condition and in contemplation of a marriage and, if that marriage does not happen, the condition of the gift is not satisfied and it must be returned.

Of course, these general rules about the return of wedding and engagement rings may not apply in the case when parties have a valid prenuptial or other agreement as to how gifts will be divided. In any event, parties should think carefully before exchanging expensive rings or family heirlooms. Consulting an experienced [family law attorney](#) can help both parties understand their rights and responsibilities the exchange, and possible return, of rings.

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