

How Texas Divorce Fraud is like Powdered Milk

Today, the Texas Legislature passed House Bill 908, which provides a remedy for wronged spouses when fraud has been committed against the community estate in a divorce. The law, if signed by the Governor, would allow a Texas divorce attorney to request the judge to account for the fraudulently missing property as if it still existed in the marital estate in conducting a just and right division of property. The word used in the statute is to “reconstitute” the marital estate with the missing property. When I think of the word “reconstituted” I think of powdered milk. Did you ever have to drink reconstituted powdered milk?

So, if the missing funds result in the estate being deficient in sufficient assets to award a just division to the wronged spouse, then the judge can award a money judgment to the wronged spouse with future payments as compensation.

One example where this might come to play... think of a situation where Husband has a girlfriend during the marriage and buys the girlfriend a \$50,000 car in her name, as a gift, using cash from the marital estate. Wife finds out and files for divorce. Wife wants to account for the car in the division of property. So, the judge “reconstitutes” the marital estate with the missing \$50,000, then awards the Wife a judgment as part of the property division with a monthly payment plan.

Another example, Husband and Wife are married, and then Husband gets a large bonus from his employer. Instead of putting the bonus in the joint account, Husband deposits the bonus into his mother’s bank account. Wife sues for divorce and alleges a fraudulent transfer to the mother. The judge can agree and include the missing funds in the division of the marital estate.