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COMMENTARY

## Un(conditional) Love: Who Gets the Engagement Ring After the Break-Up?

Under Pennsylvania and New Jersey law, engagement rings are conditional gifts. The condition of these gifts is the marriage, not the engagement. When the marriage does not occur, the condition is said to be unfulfilled.

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4 minute read

Family Law

By David Steerman and Veronica McCarty | December 22, 2023 at 10:00 AM

In 2020, the average cost of an engagement ring in the United States was \$6,000, with Americans spending an average of \$16.4 billion dollars on engagement jewelry each year. So it is no surprise that such valuable gifts generate litigation, especially when the wedding does not go through as planned. And often ex-couples have the same question: When the engagement ends, who gets the ring?

Under Pennsylvania and New Jersey law, engagement rings are conditional gifts. The condition of these gifts is the marriage, not the engagement. When the marriage does not occur, the condition is said to be unfulfilled. As such, the gift is considered to be not final, and the ring should be returned to the donor if he or she requests it back. Who broke off the engagement or who was at fault for the engagement ending (even through infidelity) is immaterial and irrelevant to the court, as Pennsylvania and New Jersey courts apply a “no fault” approach to the end of an engagement.

Of course, there are exceptions to the rule. For instance, an engagement ring obtained by fraud is not considered a conditional gift and need not be returned. Fraud occurs when a false promise is made that is calculated to deceive the donee to marry in exchange for money, a vehicle, jewelry, etc. The donee must show that reliance on the false promise or representation to establish that fraud occurred. In instances involving fraud, the donee would not be required to return the ring, as the conditional gift was given in the context of fraud and for illegitimate purposes. Another exception is when the donor lacks the ability to contract at the time of the proposal. This occurs when the donor proposes when he or she is already married, as the engagement ring is not seen as a “conditional gift” as the donor is unable to meet the condition, or enter into the contract of marriage.

But what about gifts given during the engagement process that aren't engagement rings, such as a watch or even real estate? While some may view these gifts as similar to an engagement ring, here the burden falls upon the gift-giver to prove that the gift was conditional, and the condition was marriage. If the gift can be shown to be contingent upon the marriage occurring, it should be returned to the donor upon request. However, if the donor cannot convince the court that the condition of marriage was attached to the gift, it will be considered a token of love and affection that is not required to be returned.

A good example of this is Christmas gifts. Those considering getting engaged or giving an engagement ring over the holiday season (the most popular time of year to become engaged) should be careful to make it clear that the ring is in fact an “engagement ring.” By ensuring that the recipient understands that the ring is an “engagement ring,” this creates the presumption that the gift of the engagement ring is conditional, with the condition being marriage. If this distinction is not clearly made, the recipient could then argue that the “engagement ring” was actually a Christmas gift, which are completed gifts at the time of the giving and need not be returned.

**David J. Steerman** is chair of the family law group at Klehr Harrison Harvey Branzburg. For over 34 years, David has dedicated his legal career to helping individuals and families resolve all forms of legal issues including, but not limited to divorce, custody, all forms of support, prenuptial and post nuptial agreements.

**Veronica McCarty** is an associate at Devlin Law Firm. Her practice is focused on patent litigation across the country, but she is also involved in pro bono family law work.

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