

## Recent COA Ruling Highlights Actions That May Result in Inadvertent Commingling of Separate Assets in a Divorce

Article By:

Family Law Practice at Varnum

---

Whether property is separate or marital in nature is often a hotly disputed issue, especially because Michigan law recognizes that separate property can be converted into marital property by the parties' actions, typically referred to as commingling. A recent decision by the Michigan Court of Appeals demonstrates how careful a party must be in order to protect the separate nature of property.

In *Wolcott v Wolcott*, unpublished decision, COA Number 351918, the wife was gifted 10 percent ownership in a family-owned corporation shortly before the parties' marriage. She was also an employee of the company. During the marriage, the parties maintained separate bank accounts, and distributions from the corporation to the wife related to her stock ownership were deposited into a bank account held only in her name. When the parties divorced 16 years later, the trial court determined that both the stock and the bank account were the wife's separate assets.

However, the Court of Appeals ruled on March 11, 2021, that the stock and bank account had been commingled and were marital assets based on two circumstances: (1) the wife's income from her employment, which generally is a marital asset, was deposited into the same account as her stock distributions, and (2) the wife used distributions from the corporate stock, in addition to her other income, to pay marital expenses and household bills during the marriage.

While the *Wolcott* decision is unpublished, and therefore not binding precedent, it illustrates that an asset must be kept absolutely separate to substantiate a party's claim of separate ownership of an asset. In this case, had the wife held a second, separate account into which her paychecks were deposited and from which she had paid the marital expenses and household bills, the Court of Appeals likely would have ruled that both the stock and the bank account into which stock distributions were deposited to be the wife's separate assets.

© 2025 Varnum LLP

---

National Law Review, Volume XI, Number 167

Source URL: <https://natlawreview.com/article/recent-coa-ruling-highlights-actions-may-result-inadvertent-commingling-separate>

