

## Don't Forget About Stock Options During A Divorce

Article By:

J. Patrick McConnell

---

In Virginia, any asset or potential asset acquired during the marriage is a marital asset. In today's business world, stock options are often granted to key employees and officers of companies. Normally, stock options vest over a period of years, anywhere from one to five years. The stock options give the employee a right to purchase the stock at a certain strike price.

Whenever stock options are involved in any divorce proceeding, pay very close attention. Even if the stock options are "under water" and have no current value, they may have value in the future. Virginia courts have the authority to do an "if, as and when" division of stock options so that when the options vest in the future, and if they do have value at that time, the divorced spouse would still have rights to any value in those future options.

For example, if options are granted with a \$10 strike price and at the time of the divorce, the stock is only trading at \$9, they are under water. However, three years later, when the stock is trading for \$20 a share, they do have value. In the Final Order of Divorce, the Court has the authority to retain jurisdiction so that the divorced spouse can receive his or her respective share in the future should those options increase or have value in the future.

There are many ways to value stock options including the "Black-Scholes" method and other methods. Sometimes experts are necessary to establish these values. When you see stock options, take a careful look. Even though they may have no current value, make sure you include them in your evaluation of the marital estate. Make sure you are not missing a potential asset.

© 2025 Odin, Feldman & Pittleman, P.C.

---

National Law Review, Volume III, Number 252

Source URL: <https://natlawreview.com/article/don-t-forget-about-stock-options-during-divorce>