

Spending Marital Funds Is Not Marital Waste If It Is Used For A Proper Purpose

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In many divorce cases, one spouse or the other asserts that his or her spouse has wasted marital assets or in legal parlance, committed "marital waste" during the marriage; often shortly after the separation. For example, where one spouse uses marital funds at separation to pay his or her personal expenses, is that marital waste? How about when one spouse uses marital funds to pay the other spouse alimony? The argument is frequently made that the spouse paying support should (and must) pay the support from his or her post-separation earnings or from other separate property sources. Well, the Court has not agreed. If the payor spouse can show that the funds were used for living expenses or some other proper purpose including alimony, then the court has allowed the use of such funds for either purpose. (See *Clements v. Clements*, 10 Va. App. 580, 397 (1990)). In 2013 the Virginia Court of Appeals upheld these types of expenditures as proper and further added that the use of marital funds to pay attorney's fees for the divorce proceedings, household expenses and child's tuition expense are proper use of marital funds and are not deliberate waste. (See *Wright v. Wright*, Va. App, 2013.) You should always speak to your attorney about what may constitute as proper use of marital funds in a pending divorce.

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National Law Review, Volume III, Number 254

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