The Fine Points of Property Cases:
Inventories: Local Rules' Requirements and Traps
Inventories as Evidence and Admissions
Summary Judgment in Property Cases
MSA and Divorce Decree Language Traps

"A House Divided" Property Division Seminar - April 29, 2014

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1. Local Rules and Inventories

Some family court judges in Harris County will prevent a party from presenting evidence on property characterization and values if that party has not timely filed a sworn inventory ten days before trial as required by the Harris County Local Rules, which state in part:

> ***RULES OF THE JUDICIAL DISTRICT COURTS OF HARRIS COUNTY, TEXAS FAMILY TRIAL DIVISION*** *(Amended effective October 31,2003)*
>
> *RULE 4. DISCLOSURE OF PROPERTY AND FINANCIAL INFORMATION*
>
> ***4.2 Final Information. A party's final Inventory,*** *Financial Information Statement and financial information required under the Tex. Fam. Code including, but not limited to, the party's income tax returns for the past two years and the party's two most recent payroll stubs, as well as suggested findings regarding child support* ***and a proposed division of property shall be exchanged no later than ten (10) days before trial, and shall be filed before the commencement of trial.*** *If children are involved in the proceeding, the inventory shall contain sufficient information so the court may render a qualified medical child support order regarding health insurance for the children.* ***This rule providing for the exchange of information shall constitute a discovery request under the T.R.C.P., and failure to comply with this rule may be grounds for sanctions.***
>
> *4.3 Inventory. Each inventory shall list each item of property and its value, and shall also list each liability, together with the amount of the liability, the number of periodic payments in arrears, if any, the property securing its payment, and the name of the creditor. Any property or liability claimed to be separate property shall be so characterized. All beneficial interests in insurance and all benefits arising from a party's employment (such as pensions, profit sharing plans, savings or thrift plans, whether vested or non-vested) shall be identified. Each party shall incorporate as an exhibit to the inventory the last information furnished about to the employee's rights and monetary interest in the retirement and savings plans. Each party shall also furnish sufficient information so the court may render a qualified domestic relations order, if applicable.* ***A summary attached to the inventory shall list and total, in columnar format, the property values and liabilities. Each inventory shall***

show the net worth of the community estate and the net worth of any claimed separate estate.

4.4.3 Failure to Comply. This rule providing for the duty of disclosure shall constitute a discovery request under T.R.C.P., and failure to comply with this rule (or any of its subparts) may be grounds for sanctions, as prescribed by Rule 215 of T.R.C.P.

First, it should be noted that the Local Rules do not implicitly state that the sanction for failing to file a sworn inventory or failing to timely file an inventory is the exclusion of evidence or the inability to contest the opposing party's values or characterization. That simply is not in the local rules.

Second, Harris County's aging local rules refer to Rule 215, which now only addresses discovery sanctions, rather than to 193.6, which now specifically addresses the failure to timely respond to discovery or to supplement. Due Process imposes two basic requirements before a court may impose sanctions: (1) a motion for sanctions must be filed if a party is requesting sanctions or notice must be given that sanctions are being considered if a judge on her own motion imposes sanctions, and (2) a hearing must be held to consider sanctions. *Aldine ISD v. Baty*, 946 S.W.2d 851, 852 (Tex. App. - Houston [14th Dist.] 1997, no writ).

The Houston First Court of Appeals has observed that notice that sanctions are being requested or considered and a hearing are required before sanctions can be imposed under Rule 215 (the rule cited in the Local Rules concerning sanctions):

> *The Due Process Clause of the United States Constitution limits a trial court's power to sanction. Likewise, the due course of law provision in Article I, Section 19 of the Texas Constitution limits the power to sanction. Tex. Const. art. I § 19. "For this reason, the imposition of sanctions requires . . . 'notice reasonably calculated, under the circumstances, to apprise interested parties of the pendency of the action and [to] afford them the opportunity to present their objections.'" Rule 215 expressly requires notice and a hearing before sanctions may be imposed on a party. Likewise, "[t]he traditional due process protections of notice and hearing are also required before a trial court can impose sanctions on a party pursuant to its inherent power to sanction."*

Tullos v. Jones, 01-11-00425-CV (Tex. App. - Houston [1st Dist.] 1/24/2013)(mem. op.).

Thus, a party who fails to file a sworn inventory or who files the inventory late (less than ten days before trial), is entitled to notice and a hearing before sanctions can be imposed. The notice required must make it clear that the sanction of excluding evidence is being sought and why it is being asked for. An actual hearing is required, although that could be the presentation of evidence and argument to the judge when trial starts. If a party to a divorce has filed an inventory but the opposing party has not (or the opponent has filed her inventory less than ten days before trial), then a motion asking for sanctions under the local rule and TRCP 215 should be filed and served on opposing counsel prior to trial and set for hearing at or before the start of trial. Notice must be given of the hearing, although it will be often necessary to request in the motion that the trial court allow less than three days notice of the sanctions hearing as permitted by TRCP 21.

The Local Rules do state in part, "4.4.3 Failure to Comply. This rule providing for the duty of disclosure shall constitute a discovery request..." Failure to respond to a discovery request is now addressed by Tex. R. Civ. Proc. 193.6, which states in part:

> ***193.6 Failing to Timely Respond - Effect on Trial***
> *(a)* ***Exclusion of evidence and exceptions.*** *A party who fails to make, amend, or supplement a discovery response in a timely manner may not introduce in evidence the material or information that was not timely disclosed, or offer the testimony of a witness (other than a named party) who was not timely identified, unless the court finds that:*
>
> *(1) there was good cause for the failure to timely make, amend, or supplement the discovery response; or*
>
> *(2) the failure to timely make, amend, or supplement the discovery response will not unfairly surprise or unfairly prejudice the other parties.*
>
> *(b)* ***Burden of establishing exception.*** *The burden of establishing good cause or the lack of unfair surprise or unfair prejudice is on the party seeking to introduce the evidence or call the witness. A finding of good cause or of the lack of unfair surprise or unfair prejudice must be supported by the record.*

So, if a wife failed to file an inventory and the husband did, the trial court should analyze the situation under Rule 193.6 when the wife wants to testify that her piano is her separate property or how much her airplane is worth. The wife would need to show either good cause why she did not file an inventory or show that the husband would not be unfairly surprised or prejudiced by her testimony. The same analysis should be used if an inventory is filed but is filed less than ten days before trial.

2. Inventories as Evidence

Attorneys at trial should mark their clients' sworn inventories and appraisals as exhibits and admit them into evidence. Two cases have held that an inventory filed with the court but not admitted into evidence cannot be considered as evidence of a property's value or character. *Barnard v. Barnard*, 133 S.W.3d 782, 789 (Tex. App. - Fort Worth 2004, pet. denied) and *Tschirhart v. Tschirhart*, 876 S.W.2d 507, 509 (Tex. App. - Austin 1994, no writ). However, one case has held that the court can take judicial notice of a sworn inventory that is filed but not admitted into evidence. *Vannerson v. Vannerson*, 857 S.W.2d 659, 670-1(Tex. App. - Houston [1st Dist.] 1993, writ denied).

An inventory that is admitted into evidence can be relied on by the court as evidence of a property's value. *McKamie v. McKamie,* No. 01-05-00941-CV 9 Tex. App. - Houston [1st Dist.] 10/5/2006, no pet.)(mem. op.).

Few attorneys object when opposing counsel offer a sworn inventory as evidence. It would be a rare judge who would exclude an inventory required by local rules and case law to value and divide property because of a hearsay objection, even if an inventory is technically an out of court statement offered to prove the truth of the matter asserted. Two exceptions to the hearsay rule and a general principle of evidence should allow sworn inventories to be admitted into evidence:

1. Statement affecting interest in property. Tex. R. Evid. 803(15)

2. Summary of voluminous documents. Tex. R. Evid. 1006.

3. Summary of client's testimony as a pedagogical summary (often referred to as "short hand summaries" or "shorthand rendition" of the witness's testimony). *Champlin Oil & Refining Co. v. Chastain*, 403 S.W.2d 376, 389 (Tex.1965)("charts and diagrams designed to summarize or perhaps emphasize" the testimony of witnesses are, within the discretion of the trial court, admissible into evidence); *Speir v. Webster College*, 616 S.W.2d 617, (Tex. 1981) (chart summarizing 66 damage issues was admissible in evidence to aid the jury in recalling the testimony); *Uniroyal Goodrich Tire Co. v. Martinez*, 928 S.W.2d 64, 74 (Tex. App.-San Antonio 1995), aff'd, 977 S.W.2d 328) (Tex. 1998) (trial court did not abuse its discretion in admitting time line prepared by witness to illustrate the sequence of events to which he had already testified); *Mayfield v. State*, 848 S.W.2d 816, 819 (Tex. App.-Corpus Christi 1993, pet. ref'd) (diagram of a school prepared by the prosecutor and authenticated by the witness was admissible in evidence); *Barnes v. State*, 797 S.W.2d 353, 357 (Tex. App.-Tyler 1990, no pet.) (containing dicta that if the evidence summarized by charts is admissible, admission of summary charts into evidence, and their use before the jury, is within the discretion of the trial court).

3. Inventories as Admissions

A sworn inventory and appraisal filed in court by the other side can be a very offensive weapon at trial if it used as a judicial admission that cannot be contradicted. In *Roosevelt v. Roosevelt*, 699 S.W.2d 372, 374 (Tex. App. - El Paso 1985, writ dism'd), the wife, prior to trial, filed a sworn inventory which listed twenty-nine items of jewelry with a value of $15,174.00 as her separate property and eighteen items of jewelry with a value of $32,875.00 as community property. The trial court found that all of the jewelry was the wife's separate property. The court of appeals reversed that finding as to the jewelry the wife had listed as community and held, "It would appear that as to those items which were listed as community property in the sworn inventory and appraisement was a judicial admission as to the characterization of that property which would be accepted as true by the court and binding upon the party making it." *Roosevelt*, 699 S.W.2d at 374.

A judicially admitted fact is established as a matter of law and the admitting party may not dispute it or introduce evidence contrary to it. *Peck v. Peck*, 172 S.W.3d 26, 31 (Tex. App. - Dallas 2005, pet. denied). This means that if a sworn inventory is a judicial admission under *Roosevelt*, then the party who filed the sworn inventory at trial cannot offer any evidence to contradict the inventory. In *Peck*, the husband's attorney did not realize that disability insurance benefits can be separate property even if the policy was purchased during the marriage.[1] Among other things, the husband introduced his sworn inventory and proposed property division, which both listed the disability

[1] Workers compensation insurance benefits which replace earnings that will be lost after the marriage have been held to be separate property. *Lewis v. Lewis,* 944 S.W.2d 630 (Tex. 1997). However, see *Andrle v. Andrle*, 751 S.W.2d 955, 956 (Tex. App. - Eastland 1988, writ denied)(community estate paid for insurance premiums so all disability insurance payments would be community property).

policy benefits as community property. It was only after the divorce decree equally dividing the disability benefits was entered that the husband realized his mistake and filed a motion for new trial and then an appeal. The court of appeals said," Because Husband had judicially admitted the policies were community property during trial in his testimony, exhibits, opening statement, and closing argument, as well as in his post-trial brief on the issue of the disability policies, this issue was conclusively proven, and Husband was barred from asserting otherwise." *Peck*, 172 S.W.3d at 32.

In *Dutton v. Dutton*, 18 S.W.3d 849 (Tex. App. - Eastland 2000, pet. denied, the Court of Appeals deemed the husband's inventory a deemed admission even though the trial court never considered that point. The husband in *Taylor v. Taylor*, No. 2-05-435-CV (Tex. App. - Fort Worth, 8/31/2007, pet. denied), admitted that some real estate was his wife's separate property in his sworn inventory, in interrogatory answers and at a pre-trial hearing. The trial court would not let the husband contradict those admission by introducing a deed and other evidence that would have showed the realty was not the wife's separate property.

On the other hand, an earlier inventory was not considered a judicial admission because the husband had filed an amended inventory in *Myers v. Myers*, No. 05-93-00906-CV (Tex. App. - Dallas, 4/15/1994, no writ).

The argument that an inventory was a judicial admission was waived because it was not made to the trial court in *Magness v. Magness*, 241 S.W.3d 910, 913 (Tex. App. - Dallas 2007, pet. denied). The husband in *Graves v. Tomlinson*, 329 S.W.3d 128 (Tex. App. - Houston [14th Dist.] 2010, pet. denied), testified that some equipment was his separate property but his inventory, which was admitted into evidence, said the equipment was community property. The jury found that 40% of the equipment was the husband's separate property. The Court of Appeals reversed the jury finding and held that a spouse's testimony alone that is contradicted by his own inventory is not enough to overcome the community property presumption.

Justice Ann McClure, the darling of the Texas family law intelligentsia, summarized all of these cases in a recent decision from the El Paso Court of Appeals:

> *Reality in the Trenches*
>
> *Family law practitioners know all too well that a divorce proceeding may remain pending for a considerable period of time. Assets may be bought or sold, stock values may go up or down, bank balances may expand and constrict. During discovery, a spouse may come to find that the monthly statements for a brokerage account statements are missing for periods of the marriage. That is not an insignificant issue. One may plead that the account is separate property, but income earned and dividends paid -- if not clearly traced -- will result in characterization of the account as community property due to commingling.[2] Such a discovery requires that an inventory be amended. Similarly, the value of a defined contribution retirement plan may be worth more on the day the divorce petition is filed than on the date of trial. In light of recent economic disruptions, homes are underwater, meaning that the fair market value is less than the mortgage balance. Pre-trial and trial amendments*

to inventories may -- and usually are --required.

Factored into the conundrum is the reality that characterization is a complicated legal tenet. This case demonstrates how complicated it can be, particularly since the divorce was filed during the mayhem years of legislatively imposed economic contribution, a statute that has since been repealed. Litigants have knowledge of the facts. Lawyers have knowledge of the law. As attorneys conduct discovery, they learn whether evidence supports claims pled. "Fair notice" has always been the underpinning of Texas rules and procedures. Judicial admissions are utilized to prevent trial by ambush.

Analysis

So what conclusion do we draw from the case law? Roosevelt holds that an objection is required to exclude the introduction of contradictory evidence. Myers tells us that the Roosevelt issue is avoided when the inventory is amended. Tschirhart advises that an inventory may not be judicially noticed.

Dutton informs that not only may an inventory be judicially noticed, an appellate court may take judicial knowledge even if the trial court was not asked to do so. Russell is simple in the sense that the inventory and trial testimony were consistent; the trial court just got it wrong. Taylor is the poster child for lack of fair notice. Mr. Taylor admitted that realty was his wife's separate property not only in his inventory but in a pre-trial hearing and in his response to interrogatories. Discovery was aimed at reimbursement and economic contribution. This consistency led to exclusion of a deed when Mrs. Taylor's wife objected to its introduction. In Magness, the appellate court determined that the wife had waived the argument of a judicial admission when she failed to object in the trial court. Finally, Graves is less about the discrepancy between an inventory and trial testimony and more about the lack of clear and convincing evidence when there is no documentation or corroboration of a witness's self-serving testimony of when or how property was acquired.

Taking all of these factors into consideration, we hold that there is no cognizable judicial admission when (1) a litigant pleads separate property; (2) a litigant tenders requests for admission related to a claim for separate property; (3) a litigant discloses during discovery the documentary evidence to support the claim of separate property; (4) the party opposite files responsive pleadings concerning economic contribution and equitable reimbursement demonstrating a recognition of a separate property claim; (5) the litigant seeks leave of court to amend an inventory to correct an error; (6) the trial court grants leave to amend an inventory; and (7) there is no objection to the admission of contradictory evidence.

Rivera v. Hernandez, __S.W.3d___, No. 08-11-00287-CV (Tex. App. - El Paso, 1/15/2014, pet. ___).

In *Rivera*, the husband mistakenly listed the family house as community property on his inventory

even though he had purchased the land the house was built on months before the marriage. The husband did list the house as his separate property on a proposed property division filed right before trial. The husband's attorney realized the mistake in the inventory during the trial and got permission from the judge to "amend" the inventory in mid-trial. The husband had prior to trial sent requests for admission asking if the house was his separate property and produced the documents on the purchased of the house. The wife, for her part, had plead economic contribution and reimbursement based on the fact that the house was built during the marriage using community funds on the land. The husband introduced without objection the real estate lien note showing he bought the land before marriage. Under these circumstances, the Court of Appeals ruled that the husband's inventory was not a judicial admission. The trial court's ruling that the house was community property was then reversed because the husband's testimony plus the real estate documents he admitted rebutted the community property presumption.

Sworn inventories were addressed in another very recent case from the El Paso Court of Appeals, *Richardson v. Richardson*, __ S.W.3d___, No. 08-12-00076-CV (Tex. App. - El Paso, 2/5/2014, pet. __). The husband filed four successive inventories and in each inventory he listed a mobile home as community property. At trial, he was allowed to testify he bought the mobile home just prior to marriage and he introduced into evidence a check and receipt showing he made a down payment on the mobile home just days before the marriage. Both parties agreed that the mobile home was delivered after the marriage and the actual application for new home title was admitted and it said the home was being purchased by "Husband and Wife." There were two typed dates on the application, one just before the marriage and one just after. The wife testified that the mobile home was community property, which is what the trial court found. The Court of Appeals found that the husband had not rebutted the community property presumption. In this opinion, the El Paso Court of Appeals, rather than holding that an inventory is a binding judicial admission, stated, "A party's sworn inventory is simply another form of testimony."

A lawyer who wants to use the opponent's inventory as a judicial admission must object to any argument, testimony or evidence that contradicts the admission. A party relying upon an opponent's judicial admissions of fact must protect the record by objecting to the introduction of controverting evidence and to the submission of any issue bearing on the facts admitted. *Marshall v. Vise*, 767 S.W.2d 699, 700 (Tex.1989).

4. Inventories Required in Default Divorce Cases?

It is clear that the best practice in proving up a default divorce involving property division is to prove up and admit into evidence an inventory and/or proposed property division spreadsheet.

Numerous default divorce judgments have been reversed because the spouse who did appear for trial failed to provide evidence of the community property and the values of the community assets and debts. See e.g. *Wilson v. Wilson*, 132 S.W.3d 533, 538 (Tex. App.-Houston [1st Dist.] 2004, no pet.); *O'Neal v. O'Neal*, 69 S.W.3d 347, 350 (Tex. App. - Eastland 2002, no pet.).

The best way to provide evidence of community assets and debts and values at a default hearing would be a sworn inventory or a proposed property division spreadsheet that listed properties and

values. An unpublished decision from 2008 says that a default divorce dividing community property must be reversed because the inventory was not admitted into evidence. *Wichman v. Wichman*, No. 2-06-369-CV (Tex. App. - Fort Worth 2/14/2008, pet. __), involved a "balance sheet," which the wife testified listed the community assets and debts and a fair division of the property. The wife and her attorney referred to the document during the default hearing but the balance sheet was not admitted into evidence.

In contrast, *Vannerson v. Vannerson*, 857 S.W.2d 659 (Tex. App.—Houston [1st Dist.] 1993, writ denied), is an example of how to use an inventory to prove a default divorce. There, the wife offered and admitted into evidence a list of her separate property (Exhibit 1), a list of the husband's separate property (Exhibit 2), and a list of community property with values and a proposed division (Exhibit 3). In addition to these exhibits:

> *Mrs. Vannerson's inventory was filed on August 29, 1990, the day of trial. Attached to the inventory were exhibits A, B, and C. These exhibits correspond to trial exhibits one, two, and three. In addition to listing a proposed division of the marital property, however, the inventory also referred to (1) property that was allegedly disposed of by appellant after the divorce suit was filed, (2) community property real estate, (3) motor vehicles, boats, and ski equipment, (4) accounts with various financial institutions, and (5) debts and liabilities of the parties, both joint and several. A review of the findings of fact and conclusions of law filed by the trial court, makes it apparent the court considered and relied on Mrs. Vannerson's inventory when dividing the property and debt.*

Id. at 670.

5. Summary Judgment Motions in Property Cases

Texas allows two types of motions for summary judgment. A traditional summary judgment under TRCP 166a(c) requires a motion and summary judgment evidence, which are usually affidavits and admissible business records. The party filing a traditional motion for summary judgment has the burden to show it is entitled to judgment as a matter of law and that there is no genuine issue of material fact. *Lear Siegler, Inc. v. Perez*, 819 S.W.2d 470, 471 (Tex. 1991).

The other type of summary judgment is the "no evidence" summary judgment under TRCP 166a(I), which does not rely on summary judgment evidence presented by the movant. A no evidence summary judgment motion simply says there is no evidence to support a claim or defense alleged by the opposing party and then the opposing party has the burden to present summary judgment evidence showing there is a genuine issue of material fact about the claim or defense under attach. *Praytor v. Ford Motor Co.*, 97 S.W.3d 237, 241 (Tex. App. - Houston [14th Dist.] 2002, no pet.). A no evidence summary judgment motion is not supposed to be filed until the nonmovant has had an "adequate time for discovery." TRCP 166a(I). A no evidence motion for summary judgment is presumed to be timely if it is filed after the discover period ends. See comments to TRCP 166a(I).

If the motion is filed before the discovery period ends, the trial court has broad discretion to find that the nonmovant has had adequate time to conduct discovery. For example, the loser of a no evidence summary judgment motion was found to have had adequate time for discovery in a case

that had been on file for seven months where the nonmovant had never sent discovery requests. *Restaurant Teams Int'l v. MG Secs. Corp.*, 95 S.W.3d 336, 339-41 (Tex. App. - Dallas 2002, no pet.).

Summary judgment motions are uncommon in divorce cases, but there quite a few situations involving property where such motions might be helpful to either win a case or at least force a party to focus on the case and get more realistic about settlement.

Examples of when a summary judgment motion could be used in a divorce property division case include:

- Husband claims his ranch is separate property but the wife will not stipulate to that. The husband files a traditional summary judgment motion and attaches his affidavit, the affidavit of the executor of his mother's estate and a certified copy of the deed to the ranch.

- Wife asserts a reimbursement claim based on community payments on the mortgage secured by the husband's separate property house. The husband files a no evidence motion for summary judgment after the case has been pending for eight months and forces the wife to gather and file admissible summary judgment evidence proving how much was paid on the mortgage and how much the principle was reduced.

- Husband files a traditional motion for summary judgment on his separate property claim based on tracing by his accountant. The husband attaches the accountant's affidavit and tracing report and bank records accompanied by business record affidavits.

- Wife alleges that husband has wasted community assets on his girlfriends. Husband files a traditional motion for summary judgment and attaches his affidavit and the affidavits of his two girlfriends that he never gave them gifts or spent money on them other than dinners and movies. The husband also files for a no evidence summary judgment on the same issue.

6. Mediation Agreement and Decree Language Traps

A. What does the Mediated Settlement Agreement Mean?

Many mediated settlement agreements regarding property division simply say, "As set forth in Exhibit A," where the exhibit is an attached spreadsheet.

What if the attached spreadsheet contains this line?

Asset	Value	Husband	Wife
Acme Toys 401k	$122,310.00	$22,310.00	$100,000.00

After mediation, the stock market tanks and by the time the divorce decree is entered, the 401k is

worth only $97,500. How much will each spouse get from the 401k? The wife will argue that she agreed to get $100,000 and she will take no less. The husband will probably argue that she should get 81.76% of the new balance since she was given 81.76% of the $122,310 balance as of mediation. The mediated settlement agreement needs to address this issue for all financial accounts and should say either:

> *The amounts in an account awarded may change by the time the account is actually divided and if the balance does change, then each spouse is awarded the percentage of the total account balance shown on Exhibit A calculated by dividing the amount awarded that spouse on Exhibit A by the total value of the account shown on Exhibit A.*
>
> or
>
> *Wife is awarded the amount of $100,000 from the Acme Toys 401k, no more or no less, regardless of whether the account balance changes.*

B. Debts To Be Sure To Award...

Each party should be responsible for specific listed debts [list each loan and credit card with the last digits of the account number], all debts solely in the party's name not listed above, all debts secured by property awarded to the party and all debts incurred by the party since the separation.

C. Awarding "Any and All" or Just Certain Listed Items...

Consider the differences in the wording of these property division portions of two drafts of the same divorce decree:

> **Version #1** Wife is awarded: ....
>
> W-4. All sums of cash in the possession of the wife or subject to her sole control, including funds on deposit, together with accrued but unpaid interest, in banks, savings institutions, or other financial institutions, which accounts stand in the wife's sole name or from which the wife has the sole right to withdraw funds or which are subject to the wife's sole control, including, but not limited to the following:
>
> a. Johnson Space Center, FCU, Account number ending in 647;
> b. Johnson Space Center, Savings, Account number ending in 390;
>
> W-5. All policies of life insurance (including cash values) insuring the wife's life.

Version #2 Wife is awarded: ....

W-4. All funds on deposit, together with accrued but unpaid interest, in the following accounts:
  a. Johnson Space Center, FCU, Account number ending in 647;
  b. Johnson Space Center, Savings, Account number ending in 390;

W-5. The following policies of life insurance (including cash values) insuring the wife's life:
  a. El Paso Life and Annuity Insurance, Policy number ending in 916.

Version #1 awards the wife all accounts and life insurance policies, so if it turns out there is a big account or policy she never disclosed, the husband cannot say it was undivided property because all accounts and policies were awarded to her. Version #2 is the language the husband should insist on.