Divorce: Dividing Asset Appreciation, Proving and Valuing Passive vs. Active Efforts

Daniel M. Serviss, a partner in the firm's Family Law Department, will be a panelist for the live webinar "Divorce: Dividing Asset Appreciation, Proving and Valuing Passive vs. Active Efforts," which will be hosted by Strafford on Tuesday, December 7, 2021 from 1:00pm - 2:30pm.

When attempting to divide assets in a divorce equitably, one issue that creates difficulties is the appreciation of property - any appreciation that may have accrued during the marriage or while the divorce is pending. The title to the asset does not control who is entitled to the appreciation. This determination depends on the asset's value at different times, when the increased value occurred, and why. Counsel must understand the difference between increases in value arising from passive and active efforts, direct and indirect efforts, and what some courts call tangential versus foundational contributions.

The party claiming appreciation usually bears the burden of proof to justify an award. Courts have developed various tests that the non-titled spouse must navigate to recover appreciated value, but the decisions are often unclear.

The panel for this program will review the recurring issues and best strategies for ascertaining, valuing, and equitably dividing property appreciation in a divorce, including the following significant issues:

Mr. Serviss concentrates his litigation practice on matrimonial and family law. He has extensive experience in all aspects of the practice of family law, including divorce, prenuptial agreements, business and other asset valuations, custody and visitation, child support, alimony and equitable distribution, and domestic violence matters. Mr. Serviss provides representation at trial and in mediations and arbitrations, including post-judgment enforcement and modification proceedings.

Additional program information and registration can be found on the Strafford website.

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