

Media Mention: Family Law Attorneys Bill Durr and Melody King Featured in Business North Carolina

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September 30, 2024



Family law attorneys Bill Durr and Melody King have been featured in the September 2024 issue of Business North Carolina.

Their article, "Protecting Family Businesses in Divorce: Essential Steps for Equitable Distribution," provides invaluable guidance for business owners facing the complexities of equitable distribution in divorce proceedings. It details classifying, valuing, and dividing business assets during divorce, highlighting the importance of discerning marital versus separate property and the impact of each spouse's contributions. Excerpt from the article:

Business interests are often acquired before the marriage or acquired during the marriage by gift or inheritance, most often from a parent. One might conclude that this business will be classified as separate property, and the spouse will not be entitled to any share of the business's value. Well, not so fast...

How might a non-owning spouse acquire a marital interest in a business that is by definition the separate property of the recipient/owning spouse? The most common answer is through the contribution of "funds, talent, or labor" of the marriage. *One or both spouses* may contribute marital funds to the business or work in the business during that marriage. To the extent the value of the business increases due to marital contributions or efforts, the increase in the business's value due to these contributions or efforts likely will be considered marital property.

Another way to analyze whether some component of a family business may be a marital asset is to consider an active/passive analysis. If the value increased passively (for example, through market factors or the labor of third parties), then the business will likely remain separate. If the value increased actively (for example, through the management or labor of *one or both spouses*), then there will likely be a marital component to the business.

For a more comprehensive understanding of how to safeguard your family business during a divorce, read the full article by visiting Business North Carolina's website.