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## Five Financial Lessons Women Can Learn from the Demi and Ashton Break-up Rumors

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Demi Moore and Ashton Kutcher haven't commented publicly about the rumors swirling around their marriage.

But, per usual with even the *whisper* of a high-profile break-up, conjecture is running rampant.

Rather than perpetuate gossip, I'd prefer to view a circumstance like this as a valuable learning opportunity. After all, even though Demi and Ashton are a famous celebrity couple, they have to abide by the divorce rules and laws of their state – just like the rest of us. The big difference, of course, is that they'll have to do so with paparazzi, entertainment reporters and divorce experts (like me!) analyzing their every step.

With that in mind, here's my list of the five things women can learn from a possible Demi-Ashton split:

### 1. *Where you live impacts how assets (and debts) will be divided in your divorce case.*

From what I've heard, experts think Demi and Ashton would file for divorce in California. Since California is one of nine Community Property states, filing there means both spouses would typically be considered equal owners of all marital property. In other words, if there's no prenup in place (see below), whatever Demi or Ashton earned or acquired during their marriage



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would be equally owned by both parties, regardless of who earned it or whose name is on the title –and it would all be split 50-50 if they were to divorce. (Just in case you were wondering . . . the couple’s worth is estimated at around a cool \$290 million.)

(For a more detailed discussion on how assets are divided, see my earlier post about the [differences between Community Property States and Equitable Distribution States.](#))

**2. The date of separation can figure prominently into the division of assets.**

The courts establish a formal date of separation (DOS) in order to determine various property interests and to establish valuation dates for certain assets. Simply put, the DOS represents a distinct delineation between what happened during the marriage and what happens after a couple has separated. In very general terms, all assets and income acquired from the date of marriage to the date of separation is marital property (and subject to division); anything acquired after the date of separation is separate property (and not subject to division).

So, what could potentially happen to the income from Ashton’s new gig with “Two and a Half Men?”

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According to Los Angeles Family Law Attorney Mark B. Baer, the answer to that question is anything but simple.

Let me walk you through a few different hypothetical scenarios.

Reportedly, Ashton now is raking in \$800,000 – \$900,000 per episode. As Mark sees it, if the couple were to divorce –and assuming there is no pre-marital or post-marital agreement, and that the case is handled in California –any money Ashton received when he signed the contract and before he did work on the project itself would be considered community property if he actually received it before the DOS. Likewise, any episode of “Two and a Half Men” filmed before the DOS would be considered marital property and would have to be split 50-50 per California’s Community Property regulations.

Episodes that weren’t filmed prior to the DOS generally would not be considered community property. However, Mark believes that to the extent that Ashton developed the character before the DOS, there could be an argument that some of the income from episodes he filmed or films after the DOS could be considered community property. (See the discussion of intellectual property rights below.)

In addition:

“Any of his income that is not deemed community income (50/50), would be his separate property income, which would be considered for purposes of calculating spousal support,” Mark explained. “Any future income he receives from episodes filmed before separation would be community property.”

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But, what if the contract was signed before the DOS, and it included a guaranteed payout? Could Demi argue that the entire contract value was acquired during the term of the marriage and should be considered community property?

Mark thinks she could.

“If that money were guaranteed, whether or not those episodes were ever shot, I agree that the guaranteed number of episodes would be community property,” he told me. “For example, if the contract were signed and guaranteed that he would be paid \$800,000 an episode for 20 episodes whether or not those episodes were ever shot, and even if he died before shooting any of those episodes (his estate would be entitled to \$16,000,000 even though he did not film a single episode), I would agree that it would be community property.”

Of course, there could be certain conditions on the contract restricting how the money is paid out, and these could limit how much of the contract is considered community property.

“If there is anything in the contract that might prevent him from receiving some of that money (such as his death), it would not be considered 100% community property because it requires him to do or not do something in the future in order to receive that money,” Mark explained. “Therefore, the answer to the question depends on the exact language of the contract.”

Clearly, as these hypothetical scenarios illustrate, the DOS can be critically important in deciding how thousands, if not millions, in assets are divided.

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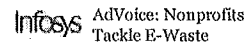
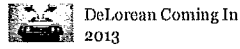
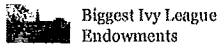
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### 3. Prenups often (but not always) alleviate financial wrangling.

Over the past 10-15 years, prenups have become increasingly common among the wealthy and famous. Did Demi and Ashton sign one? I don't know. Considering they've only been married six years, though, I would say there's a strong probability that they did.

What sort of protection would a prenup provide? That's hard to say without seeing the exact wording of the document and without having a full understanding of the assets and income that each spouse had at the time of their marriage. I *do* know this, however: Contrary to popular belief, a prenup is not necessarily an iron-clad guarantee. A prenup can be extremely complex, and sometimes, it can backfire —particularly if it is not well-worded.

### 4. Circumstances that caused the divorce don't necessarily affect the division of property.

Ashton allegedly had an affair. But, now that all states allow "no fault" divorces, no one is typically required to prove that their spouse did something "wrong" in order to get a divorce. What's more, in many cases, "no fault" also means that marital infidelity is irrelevant to the division of property.

Does that mean infidelity simply never matters? No. In North Carolina, for example, an affair can affect alimony. According to N.C.G.S. 50-16.3A, if the court finds the dependent spouse had an affair, it will not award alimony. But, if the supporting spouse had the affair, alimony will be awarded to the dependent spouse. If each spouses had an affair, alimony is left to the court's

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discretion.

As you can see, the specifics of “no fault” laws vary from state to state, so be sure to seek guidance from a [qualified divorce team](#) regarding the particular circumstances of your individual case. (For example, in some states, you have to live apart from your spouse for months –or even years –before you can obtain a no fault divorce. An overview of each state’s laws is available [here](#).)

### 5. Intellectual property rights may fuel the most contentious battles of all.

As I have discussed before, when celebrities divorce, the big thing they fight about is [intellectual property rights](#). These rights cover property such as patents, trademarks, copyrights and royalties and other contractual rights, and depending on the individual circumstances, they can be worth thousands, if not millions, of dollars.

In general terms, value that’s created during the marriage must be divided. So, any residual copyrights and/or royalties Demi owns from the movies she acted in or directed since 2005 may have to be split. The same applies to Ashton’s professional endeavors. (Again, it’s clear that the DOS and date of the signing of the “Two and a Half Men” contract are likely to figure prominently if Demi and Ashton decide to divorce.)

The division of assets during divorce can be tremendously complicated –even if you’re *not* part of a high-profile celebrity couple. Having a qualified divorce financial planner on your team will help you navigate this complex landscape and plan for a stable and secure financial future.

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