

ENGAGEMENT RINGS

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In New York, An engagement ring is considered a conditional gift, where the condition is that the marriage actually takes place. This means that if you the potential bride that you most likely will have to return the engagement ring to the bachelor.

It does not matter why the marriage did not occur. The courts do not consider "fault" in determining that an engagement ring is to be returned.

There are two possible exceptions to this rule. Some courts have found that if the engagement ring was given while the "bachelor" was still married, then the ring was not made in "contemplation of the marriage". This is because, an agreement to marry when one is still already married is void. Therefore, the ring was given as a true gift and not as a conditional gift.

The second exception is if the conditions surrounding the giving of the ring indicate that it was a true gift versus giving an engagement ring. For example, if you give the ring to the potential bride at Christmas or on her birthday, she may be able to argue that the ring was not an engagement ring, but a Christmas present or birthday present.

Once the marriage occurs, the engagement ring is now the complete property of the wife. Therefore, in a divorce action, the wife gets to keep the engagement ring and it is considered as separate property and not a marital asset. This means that you can't recover the cost or value of the ring.

The Badanes Law Office has assisted numerous individuals in matrimonial and family law. Call the Badanes Law Office today at: 631-239-1702, email us at: dbattorney@optonline.net or visit our web site: www.dbnylaw.com.