Equitable Distribution is the method used in North Carolina in dividing the marital estate pursuant to a divorce when spouses are unable to reach an agreement on their own. The process can become very complicated, very quickly, and is treated as a business transaction by most courts deciding the distribution scheme. Generally, the three step process described below is conducted by the court:

1. Identification

The first step in the process is "identification." The court must determine which property is "marital" and which is "separate." Separate property is property owned before marriage, inherited property or a gift to the claiming spouse. Property that is acquired during marriage by one or both spouses, and owned on the date of separation, may be defined as marital property subject to equitable distribution. The most common misconception regarding this process is whether one or both spouses paid for a certain asset or whether one or both spouses are named or registered owners. This does not determine whether an asset or liability is "marital" or "separate." Additionally, gifts from one spouse to the other spouse during the marriage are presumed to be gifts to the marital unit.

2. Valuation

The second step in the process is "valuation." Generally, the fair market value is assigned to each item of marital property. If a value cannot be easily determined or agreed upon, then appraisers or other experts may be required to determine the value of the item in question. The fair market value is often different than purchase value or replacement value. Sentimental value is generally not considered by the court in the process.

3. Distribution

The final step in the process is "distribution." This is where the court must distribute the marital property in an "equitable" manner. An equal division of the marital estate is the presumption under the Equitable Distribution Act. However, there are "factors" under the Act that a court may consider and determine in the exercise of discretion that an equal distribution would not be equitable.