

Divorced Husband Demands Ex-Wife's Inheritance

What happens when a wife receives a large inheritance from her Mom and then files for divorce from her husband? In the case of *Smith v. Smith*, the husband sued and tried to take half of his ex-wife's inheritance.

Sharon and Keith Smith were married in 1979. During their marriage, Sharon often received money from her Mom who had extra income from the family farm which she chose to share with her children.

In 2006, Sharon and Keith established the Smith Family Trust. The Trust indicated that if there was any property owned by both, it would be shared equally, including joint bank accounts and any new accounts that might be opened in the future.

When Sharon's mother died in 2012, Sharon received a large inheritance check. Sharon took the inheritance funds, opened up two new bank accounts in her own name, and deposited the funds in the new accounts. In 2013, Sharon filed for a divorce.

During the divorce, Keith argued that half of the inheritance should be his because their trust indicated that money deposited into bank accounts, including new accounts, should be joint or shared property. Sharon argued that the trust specifically addressed her inheritance from her mother and declared it hers alone.

The Utah Court of Appeals ruled that under Utah law, a traditional inheritance, like the one Sharon received from her Mom, is considered separate property, meaning that Sharon did not have to share it with Keith just because they were married. Further, the Court carefully analyzed the language in the Smith Family Trust and found that specific provisions in the Trust regarding a spouse's potential inheritance prevailed over broad provisions in the Trust regarding new accounts.

The Court concluded that just because Sharon deposited her inheritance into a bank account did not make it any less her inheritance. Sharon's inheritance was her separate and exclusive property and the trust documents did not compel her to share the money simply because she deposited the money into a new financial account. See *Smith v. Smith*, 2017 UT App 40.

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[Click here to see *Smith v. Smith* \(2017\) UT App 40.](#)

[Click here to see our analysis of this case in the blog titled: "Divorce, Inheritances, and Estate Planning."](#)