

THURSDAY, NOVEMBER 19, 2009  
9:00 A.M.

NO. 1

#25219

JOSEPH G. HENRY,  
Plaintiff and Appellant,

Vs.

LINDA JO HENRY,  
Defendant and Appellee.

Mr. Eric J. Pickar  
Mr. Steven R. Nolan  
Bangs, McCullen, Butler, Foye  
& Simmons, LLP  
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(FOR APPELLANT)

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(FOR APPELLEE)

The Honorable Warren G. Johnson  
Fourth Judicial Circuit  
Lawrence County

(DIV 07-570)

(20-20-10)

STATEMENT OF LEGAL ISSUES

**I. WHETHER THE TRIAL COURT'S DIVISION AND DISTRIBUTION OF MARITAL ASSETS CONSTITUTES AN ABUSE OF DISCRETION IN THAT IT PRODUCED UNFAIR AND INEQUITABLE RESULTS.**

The trial court allocated to Joe the present value lump sum of his military retirement, did not divide the appreciation of certain real estate, declined to award any income producing property to Joe, provided Jodie with a credit for certain post-separation debt, and awarded Jodie the marital residence.

Most Relevant Cases:

*Feldhaus v. Schreiner*, 2002 SD 65, 646 NW2d 753.

*Hautala v. Hautala*, 417 NW2d 879 (SD 1988).

*Bennett v. Bennett*, 516 NW2d 672 (SD 1994).

*Muenster v. Muenster*, 2009 SD 23, 764 NW2d 712.

SDCL 25-4-44

**II. WHETHER IT WAS AN ABUSE OF DISCRETION TO AWARD APPELLEE HER ATTORNEY'S FEES AND COSTS.**

The trial court held that Jodie was entitled to recover her attorneys' fees and costs from Joe.

Most Relevant Case:

*Grode v. Grode*, 1996 SD 15, 543 NW2d 795.