

\$1.3 Billion McCaw Split: State's Biggest Divorce Case -- Lawyers Could Make Millions As Dividing The Couple's Estate Becomes An Industry In Itself

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Craig and Wendy McCaw separated after 21 years of marriage because of personal differences.

Their divorce, on the other hand, is all business.

Twenty months after divorce papers were filed, teams of attorneys and accountants are still battling over the McCaw fortune, estimated at roughly \$1.3 billion. Experts say it is the most money ever at stake in a divorce in this state.

Each of the McCaws has hired business attorneys, divorce experts, accountants and courtroom tacticians. Local lawyers and accountants will likely make millions in fees before the divorce is final.

The case pits Perkins Coie, one of Seattle's largest law firms, against Bogle & Gates, one of the city's oldest.

An attorney from Bogle & Gates told a judge that within the first year the McCaw divorce had become the second or third largest case, of any kind, that the firm has ever handled. One larger case he cited: the fallout from the Exxon Valdez oil spill in Alaska.

Splitting the fortune, one local attorney says, has become a "veritable industry" of its own.

On one level, the case involves the trappings of everyday billionaire life: keeping the Hunts Point house, flying in the choicest of the couple's jets, taking Mediterranean vacations aboard Calixe, the family yacht.

On another, it resurrects one of the richest chapters in Northwest entrepreneurial history: How was the McCaw Cellular fortune built? Where did the money come from? And, after 21 years of marriage, who gets to keep what?

Drawing the line on community property

Craig McCaw and Wendy Petrak met in the early 1970s while undergraduates at Stanford University.

Craig McCaw's father, Elroy, had been a pioneer in the cable and radio business in rural Washington. Soon after Elroy McCaw died in 1969, Craig McCaw began taking control of ventures his father had left behind.

Though well-off financially, Elroy's widow, Marion McCaw, and her four sons, Bruce, Craig, John and Keith, kept a low profile compared to some of Seattle's other business clans.

Wendy McCaw's attorneys say when she and Craig McCaw married in 1974, the couple had roughly \$300,000, most of it his. Craig McCaw's mother testified in an affidavit that he had more than \$750,000 by then.

Either way, it was a big jump from that beginning to a fortune of more than \$1 billion when the couple separated in early 1995.

The basic argument in the divorce is how that fortune grew.

Washington state divorce law is governed by a principle called community property: Any property earned after a couple is married is presumed to be owned by both people. Property owned before the marriage is considered separate and is sometimes identified in prenuptial agreements to avoid later disputes. If there is no prenuptial agreement, then the person claiming separate property can be required to prove in court that it's separate.

Craig McCaw, 47, who initiated the divorce, has indicated in legal documents that much of the \$1.3 billion fortune should be considered his own.

He says much of it came from a series of investments he made, along with his brothers and mother, with money passed down after his father's death.

Separate bank accounts and investments fueled the growth of the family enterprise during the 1970s and '80s, he claims, first to a grouping of companies called McCaw Communications later to McCaw Cellular.

During the 1980s, McCaw Cellular became the nation's largest wireless phone carrier. In 1994, Craig McCaw, the company's chairman, sold McCaw Cellular to AT&T for \$11.5 billion. As part of the deal, he took ownership of roughly 13 million shares of AT&T stock, today worth about \$435.5 million.

That money, at least, should be considered his separate property, he contends.

Wendy McCaw, 45, claims financial lines have blurred during 21 years of marriage, making much of the fortune community property. She has filed a counterclaim of her own: Craig McCaw, her attorney said in court, is "going out of his way" to deprive her by claiming as separate property the money invested in the companies.

Documents by the thousands

The task of establishing the facts is, indeed, daunting. For the past 20 months, the attorneys and accountants have focused not on the couple's personal differences but on detailed records stored in thousands of boxes and bank files from Redmond to Manhattan to Honolulu.

One document lists 89 banks involved in the case.

Attorneys have subpoenaed records from a raft of Wall Street institutions that make up a Who's Who of the industry: Goldman Sachs, Morgan Stanley and J.P. Morgan, among others.

Wendy McCaw's attorneys have said that the couple had as many as 30 personal - not business - bank accounts.

Attorneys have sifted through more than 5,000 boxes of documents detailing the rise of the McCaw cellular-phone empire; 200, at least, hold the McCaw family financial history.

Craig McCaw's financial records alone are exhausting. One document lists 90 tax returns and financial documents for entities associated with him or McCaw Enterprises.

Evan Schwab, Wendy McCaw's lead attorney, has testified that at times Bogle & Gates has had as many as five or six attorneys and up to eight accountants working on the case.

One accountant on Schwab's team summed up the task: "The job . . . requires tracing and analyzing literally over a billion dollars' worth of assets over twenty-two years through hundreds of business transactions and bank loans, dozens of bank accounts, and hundreds of corporate entities."

Business deals continue

Wendy McCaw's side has sought more time to review the records; Craig McCaw's side has tried to speed things up.

His attorneys have argued that because of his business dealings, he loses if the case drags out.

"The nature of the business realm in which he operates is such that . . . uncertainty is the enemy of opportunity," one of his attorneys told a judge last fall. "It is what (Craig McCaw) does for a living. He is entitled to get on with it. . . . Every month this case is delayed is a month that he is foreclosed from opportunities."

Early on in the case, King County Superior Court Judge George Finkle signed an order restricting the types of investments the couple can make.

The crux of the agreement allowed Craig McCaw to pursue existing and future business investments outlined in a sealed court filing.

In the three years since the AT&T deal, McCaw has again positioned himself as one of the most active players in telecommunications.

He and Microsoft Chairman Bill Gates are majority investors in Teledesic, the privately held Kirkland company proposing to launch roughly 300 communications satellites by 2002. Craig McCaw is the company's chairman.

Craig McCaw, his mother and brothers have invested roughly \$365 million in Nextel, a wireless-phone and mobile-radio company effectively controlled by him. The family has options to invest a total of \$1.6 billion more for 26 percent ownership of the company.

Lately, to be sure, the divorce has not seemed to slow his business dealings.

In April, he, his mother and brothers committed to another round of Nextel options worth \$265 million, increasing the family's investment.

Weeks earlier, the Federal Communications Commission issued a critical license to Teledesic. Within days, McCaw joined Teledesic staff at the Museum of History & Industry for a victory celebration. Last week, Teledesic announced a \$9 billion contract with Boeing.

And Craig McCaw has continued investments in smaller telecommunications companies and other ventures. Last fall, he paid an estimated \$10 million for a 4,500-acre ranch in Carmel, Calif.

As the divorce battle rolls on, some business associates are trying to stay far from the fray, preferring to focus their attention on Craig McCaw's business dealings.

If a judge did rule to split things down the middle, one associate mused, Craig McCaw could still run his businesses.

After all, he said, we could all "do pretty well with half a billion dollars."

An agreement - or a trial?

Many divorce and litigation experts expect that Craig and Wendy McCaw will come to an agreement before trial, now scheduled for November.

Indeed, roughly 95 percent of divorces end that way.

But, judging from filings in eight thick volumes stored in the King County Courthouse, neither side has budged much so far.

At one point, it was speculated that a trial could take five months. At its conclusion, a judge would decide what financial split would be "just and equitable," according to state law.

"There's a lot of leeway," says Mary Wechsler, a Seattle attorney who has handled several multimillion-dollar divorce cases.

Adds Michele Jones-Garling, a lecturer at the University of Washington School of Law: "It really is going to come down to what is fair. What were (their) expectations? How were you treating this when everybody was just fine? Was (the money) all off to one side, or were you sharing?"

In any event, it is highly unlikely the estate would be evenly split.

"Half is always overrated. The court does not have to divide anything in half," Wechsler says.

House is his; jet is hers

In the meantime, life goes on.

Craig McCaw signed legal documents from Sun Valley and postponed a deposition for a cruise through the Mediterranean.

Wendy McCaw sends faxes from Santa Barbara.

The McCaws, who have no children, have always been an intensely private couple, he preferring his private island in British Columbia, she her home in Santa Barbara, to the public spotlight.

They have been particularly guarded about the divorce. Each declined requests for interviews. Their attorneys, too, declined comment.

He recently bought a second Hunts Point home to use while remodeling the first. Their Carillon Point condo recently sold for \$2,750,000.

In a court-brokered agreement, he won the right to continue living in the couple's longtime Hunts Point home; she won access to their Gulfstream IV, a top-of-the-line corporate jet.

Five days a month, though, she gets the house, he gets the jet.

"I was planning to use G-IV Thursday," she told his assistant via fax last October. "But if you could make other arrangements for me, COM (Craig Oliver McCaw) can have it for the dates requested. In a pinch the Citation (a jet valued at \$5 million) would be OK. Just let me know."
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