

Abstract

A dispute-resolution procedure called Adjusted Winner (AW), which is applicable to two-party negotiations over the division of multiple items, is described and applied to divorce cases, one hypothetical and the other real (from New York state). AW involves the parties' allocating 100 points over the items to be divided, with a referee or mediator assigning them to each party after an "equitability adjustment," which may involve the splitting or sharing of one item.

AW satisfies several desirable properties. Among others, it awards to each party the same number of points over 50 in such a way that both cannot do better by swapping items. Because it is difficult to manipulate, it will induce each party to make honest assessments of the worth of each item to itself.

AW would probably have prevented posturing in the hypothetical divorce case. In the real case, it would have led to a more satisfying outcome, especially for the wife. AW would still leave lawyers and mediators with important roles to play in advising their clients on how best to use it, especially with respect to expressing effectively their interests and having them reflected in the settlement.

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