

# DIVORCE FINANCIAL ADVISING UPDATE

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## Division of Stock Options and Restricted Stock Units...Vesting Schedules Matter!

I have been involved in several cases in which I was asked to review another expert's allocation between community and separate interests in employee stock options. In all three cases, the allocation was correct as to the application of the agreed upon formula (either Nelson or Hug), but was applied to an incorrect schedule of vested and unvested options. The dollar differences were significant.

The **vest date** is the earliest date that an employee is able to exercise an option or that RSUs are released. The most common types of vesting schedules are:

- **Straight Vesting (Percentage vesting).** A certain percentage of an option grant vests each year on the anniversary of the grant date or other fixed date. For each year, the options may vest at the end of the year, quarterly, monthly, weekly or even daily. Example: 20% per year for five years, vesting quarterly.
- **Cliff Vesting.** Vesting occurs all at once at a particular time. Example: three year cliff means none are vested until the end of year three and then 100% vests.
- **Step Vesting.** Options vest at a different specified percentage for each year. Example – 5% year one, 10% year two, 25% year three, 30% years four and five. Within the year, they can vest quarterly, monthly, weekly, daily.
- **Combination Vesting.** Any combination of above. Frequently seen is a cliff, for the first period, then straight vesting.
- **Performance Vesting.** Options vest when a specified corporate goal is reached. There may be a final date on which options vest even if performance goals were not achieved. Or more shares than granted may be released for goals exceeding target. Many choices with performances.

**How to verify that the Nelson or Hug formula is being applied to the correct schedule of vested and unvested shares?** Have the employee obtain a personnel statement of stock options/RSUs for several dates. That will show how many are vested, unvested, and exercised for each grant. If your expert's analysis ties with the statement, it's correct.

**Have questions? Need Help? Call or e-mail me!**

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