

No Take-backs!

By Reg P. Wydeven
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In the spring of 1999, I asked my wife's dad for her hand in marriage. I had picked out the perfect ring for her with the help of my sister and sister-in-law. I proposed to her on the beach at sunset in Naples, Florida. Despite my profuse sweating from nerves and the 90 degree heat and dew point, she made me the happiest man in the world by saying 'yes.'

Not all guys are as lucky, however. Some get shot down. Others get their proposals accepted, but then things don't work out during the engagement and the wedding gets called off. While this must be devastating, at least the guy gets the ring back so he can give it to his true Ms. Right.

While Wisconsin courts are reluctant to decide these types of cases between jilted lovers, our case law has established that the giver of the engagement ring is entitled to get it back if the marriage doesn't happen. While an engagement ring is a gift, Wisconsin courts have determined it is a "conditional gift," meaning it was given on the condition of getting married. Accordingly, if the marriage never occurs, the condition wasn't fulfilled and the ring must be returned.

Many states have adopted similar rules, including New York. However, Debbie Lopez may have found a loophole to the longstanding ring-returning policy.

Lopez was given a \$10,200 rock by her boyfriend, Joseph Robert Torres, in April of 2010 at famed Rockefeller Center. To make the moment even more special, Torres had the couple's six-year-old son actually hand her the ring. Lopez placed the diamond on the ring finger of her left hand and wore it there until she and Torres broke up in 2012.

After the breakup, Torres asked Lopez for the ring back. Lopez, however, refused to give up the bling. Having no other choice, Torres sued Lopez to get the ring returned, citing the law that the ring bearer gets it back if the engagement is ended.

Lopez responded, however, by saying that Torres never actually proposed. According to court records, after Torres gave her the ring, friends would ask if they were engaged and she would respond by saying, "Maybe, I don't know yet." She was even quoted as saying, "When he gave it to me, he said it was a gift for being a great woman, a good mother of his child."

Nassau County Judge Scott Fairgrieve agreed. In his ruling last month, Fairgrieve held that the customary rule of returning the ring to the 'proposer' did not apply to Torres because the ring he presented to Lopez was "given as a gift and not in contemplation of marriage."

Jasmine Hernandez, Torres' attorney, claimed in court papers that, "He asked [Lopez] to marry him, and the defendant said absolutely." According to Hernandez, Torres thought he was engaged, so he was understandably "stunned and disappointed" when Fairgrieve ruled that Lopez could keep the ring.

The final installment of 'The Hobbit' saga, 'The Battle of the Five Armies,' will be released on December 17. Director Peter Jackson should now have time to shoot a movie about Lopez, the new Lord of the Ring.