TRAVELING TIPS FOR THE JOURNEY THROUGH FAMILY COURT

ARIZONA

FAMILY LAW RANCH

TAKE THE REINS BACK FROM THE COURT

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However, if they help in time of CRISIS and stress, then they are useful and are worthy of your attention.

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THROUGH FAMILY COURT

INFORMATION YOU SHOULD KNOW ABOUT YOUR TEAM:

- Office Hours:
  - Monday through Friday from 9 am to 5 pm. We can make appointments outside of business hours as needed.
- Attorneys:
  - Steven: SC@AZFLR.com
  - Colleen: CC@AZFLR.com
- Paralegals:
  - Sharon: Paralegal@AZFLR.com
- Scheduling Secretary:
  - Vicky: Info@AZFLR.com
- Contacting Us:
  - You can call us at 602-517-0999.
  - You can also schedule online by clicking here
  - You may message us via your client portal.
  - An attorney will receive your telephone call during business hours. If your attorney is in conference or court, our staff will help you. If the circumstances warrant, another attorney can help you immediately.
- Children:
  - It is advisable not to involve children in the case since children are often under severe stress. Even very young children should not attend conferences with you.
- Fee Agreements:
  - Under the Rules of Professional Conduct for Attorneys, we are required to obtain a signed Fee Agreement, and, in addition, we require an initial deposit to provide legal services to you. We explain these during the initial interview. We cannot begin work until you sign the Fee Agreement and pay your initial retainer.
  - You will receive monthly statements that detail the legal services and the charges for those services. The statement also reflects the credit balance of your initial trust deposit. If you have questions about your statement, please call our bookkeeper.

- You are responsible for your attorney fees even though you may be seeking reimbursement from your spouse by court order. Any court order requiring your spouse to reimburse you is incidental to your responsibility to your attorney.

TIPS FOR COMMUNICATING WITH OUR TEAM:

- To keep you informed of the progress of your case, we will provide you with copies of all pleadings and correspondence that are either prepared or received by our office. You should read all correspondence received and should keep the copies in this binder in the appropriate section for your future use and reference. Tell us all we need to know. Keep a diary. Use your best judgment. We cannot help without all the facts. If you are nervous or afraid to tell us, we understand. If it helps to write things out, then do so. You are our "eyes and ears" for information. Please keep us informed so we can help you.
- Answer all direct questions as accurately as possible. If you do not know, do not be afraid to say so. For example, many women know little about mortgages, taxes, etc., and many men know little about birth dates, school problems, health questions about the children, etc.
- As problems or questions arise, call the office and state the problem or question to one of the members of our staff. Hopefully, they will have an immediate solution or arrange to get back to you. Do not call and leave a message such as "urgent," "very important" or "must talk to you." This is futile, time-consuming, and nonproductive. If you find yourself calling frequently, you may want to list your questions and save several for one call.

FREQUENTLY ASKED QUESTIONS:

Most clients have the same fears and questions. Clients also hold beliefs about the legal process in a divorce or about the behavior of the people involved that are not accurate . . . we call these myths. Here are the most common questions that clients ask, followed by other favorites and their answers.

Am I Going to Win?

Win what? It has often been said that no one wins in a divorce case. We will attempt to raise all issues structured to your case to your advantage, and make sure you "lose" as little as possible. However, if your intent is to punish your spouse or to win by way of an all-out, no-holds-barred victory, your goal is probably unattainable. We recommend that you retain another law firm if this is the case.

How Long Will It Take?

It is difficult at the outset of a lawsuit to foresee how long it will take to complete. We are better able to give you an estimated time range later when we understand more clearly what is at issue. The time involved is primarily based on four factors:

- The number and complexity of the contested issues;
- The intensity of feelings between the parties and whether there is an inclination to settle;
- The attitude and tenacity of your spouse; and
- The tenacity and desire for litigation of the lawyer of your spouse.

By far, the factor that makes lawsuits last longer is the intensity of the feelings between the parties and how much they want to fight.

How Much Will It Cost?

It is difficult to make a realistic estimate of the total fee even when we know what issues are contested, the intensity of the parties' feelings, and the complexity of the issues. If the parties want to settle, make compromises, and end the matter quickly, they can do so. If the parties do not trust each other, want complete discovery of all assets and liabilities, and argue many issues to the bitter end, no matter what the issue is, the process becomes very long, drawn out, and expensive. Going to trial is almost always more expensive than settling the lawsuit. When we discuss "expensive," you should be aware that you will pay three ways—with your time, the hole in your stomach, and the hole in your pocketbook.

TIME. You will have to spend your time to prepare your lawsuit. Your spouse does not prepare your lawsuit; your spouse's attorney does not prepare your lawsuit. Your attorney prepares your lawsuit. We do that with your help. You must make a commitment to put time into your case. It takes hard work. If you are not prepared to spend the time and do the work, then your case will not be as satisfactorily or inexpensively prepared as it will if you make the expenditure of time. You should weigh the price that you pay with your time, the hole in your stomach, and the hole in your pocketbook to determine whether certain issues are worth litigation.

THE HOLE IN YOUR STOMACH. Many health professionals will tell you that going through a divorce is one of the most painful experiences you can have. So all parties going through a divorce should be in counseling to help with the emotional issues. Your emotions will probably roller-coaster. It is unusual for both parties to want to end the relationship simultaneously. Therefore, one party is very often emotionally hurt along the way. If that is you, then divorce can be an extremely painful process. Often one party raises issues as a way of dragging the matter out to punish the other spouse. The more issues raised, the more painful the process can become. You should be aware of this, and we will call it to your attention when we see this happening.

THE HOLE IN YOUR POCKETBOOK. Because preparing and trying a lawsuit is very expensive, we want you to scrutinize the issues at an early stage and deter- mine what issues can be settled. We do not recommend making unreasonable or unnecessary concessions, but we recommend you look carefully at the issues that separate you and your spouse. You do exercise some control over the issues in your case. Therefore, if there are concessions you can make that would bring your case to a speedy conclusion and thus reduce your fees, please consider making them. Litigation often begets further litigation. The attorney sells his time. If you can save the attorney time by doing some spadework, then your money can be more efficiently used.

I Need a Really Tough Attorney; Are You Tough Enough?

Some persons feel that to be a "fighter," an attorney must (1) be uncooperative with opposing counsel in such matters as disclosing information, disclosing documents, and arranging for convenient dates for meetings, depositions, etc; and (2) never consider or advise compromise or negotiation with opposing counsel.

This notion is sadly misguided; the time to "fight" may be in TOUGH NEGOTIATIONS or in court. Being uncooperative with opposing counsel greatly increases attorney's fees with all legal steps done the hard way such as preparation of special documents, appearances in court, etc. The information and documents are ultimately subject to disclosure under the law. Therefore, an uncooperative attitude serves no useful purpose. At times it seems you are always on the defensive. At different stages of the case, the roles reverse. Don't worry, it evens out throughout the course of the case.

What If My Attorney Is Friendly with My Spouse's Attorney?

Attorneys in a particular area are likely to have many cases against each other over the years. They are also likely to attend the same professional events and may work on committees together. Because they deal with each other day in and day out, a camaraderie may develop. Your attorney and your spouse's attorney may exchange pleasantries, share a joke, or even have lunch together. This does not mean the attorneys are being disloyal to their clients. Remember, your attorney is professionally committed to achieve the best result for you given the facts and law applicable to your case. This does not mean that he or she must dislike the other side, or be hostile, rude or mean to the other side. Such behavior frequently harms, rather than helps, your case.

If the Other Side Suggested It, It Must Be Bad

It is unfortunately common to believe that just because the other side suggested some- thing they have an ulterior motive. Also, some parties believe that they should auto- matically do the opposite of what the other side wants. Let your attorney guide you in responding to requests

from the other side. However, a request, suggestion, or offer from the other side is not per se "bad." Most attorneys are not out to "get, trick, or ruin" the opposing counsel or client. Therefore, we do not advise a "knee jerk" nega-tive response to any request from the other side.

There Are Questions That May Arise During the Pendency of the Procedure

- Dating (May I?)
- Credit cards (Should they be terminated?)
- Bank accounts (Should I use them?)
- Withdrawal/sale of assets (Should I?)

Contact your counsel. These are appropriate questions.

What If I Have Some Doubt About the Lawyer's Handling of My Case?

First, you should raise issues of concern with your lawyer. Explain the concern from your perspective. Don't wait until you are really angry. Bring your concerns to counsel's attention as soon as they occur.

COUNSELING

Family law cases are extremely emotional. For that reason, clients should consider seeking counseling before or during the legal process.

Depending on the client's needs, counseling is for different purposes. One client may benefit from marriage counseling to improve or reconcile a relationship. Another may instead need "divorce counseling" to aid the parties in the process, accept that the marriage is over, cope with its demise, and pick up the pieces and go on.

A client will often put off going to a counselor because his or her spouse will not. Don't wait for your spouse to participate. Individual counseling can be extremely helpful and satisfying. Often parents and children attend counseling together. This helps to lessen the effects the divorce or custody dispute has on the children and helps the family put their emotions back together.

How do you find the right counselor? If you do not know where to begin, your attorney will recommend qualified counselors. Your employment and social or reli- gious contacts also might provide leads.

When you choose a counselor, be picky. Therapists have different styles and approaches. Inform the counselor at the first meeting about the goal of the session. Also check your health insurance policy to see if your plan covers any part of the cost. Counseling will aid you through this difficult time and make your attorney's job easier.

RECONCILIATION

Most clients come to the attorney's office to seek a divorce. Not all have decided to take that big step, and seek first to know their other options. We encourage clients or potential clients to explore alternatives to divorce. We often suggest other approaches that will protect the client and meet his or her needs, short of divorce.

If the topic of reconciliation arises, we are not questioning or judging your decision with respect to the divorce. We want to make sure you are aware that the results you seek are attainable by other means and confirm that you really want a divorce.

MEDIATION

For some families, mediation may be an answer. Ask us about whether mediation might work for you.

HOW YOU SHOULD DEAL WITH YOUR SPOUSE DURING THE DIVORCE

Divorce tends to bring out the worst in people. Self-interest apparently justifies deceptions and outright lies that would be intolerable to nice people in ordinary times. Self- protection requires a new set of guidelines for dealing with your legal adversary:

- If love is gone, substitute politeness.
- Be skeptical. Half of what is said is meant to deceive you. The other half is self-deception.
- Breast your cards. Don't let your spouse know how much you know. Walk away from arguments or conflict.
- Expect your spouse to resent your lawyer and to attempt to undermine his or her influence.
- Don't enter into private negotiations without your lawyer's knowledge and advice.
- Don't make agreements or sign anything without talking to your lawyer first. When in doubt, believe your lawyer, not your spouse.
- Use your lawyers as hired insulators. Learn to say, "Talk to your lawyer and have him or her talk to mine."
- Don't rub in your legal victories. Losers try to even up.
- Please obtain a post office box until the conclusion of the case so that your mail will not be intercepted by your spouse.
- Do not, under any circumstances, keep any files in connection with your case at your marital residence or any location where your spouse could seize and obtain them, thus learning your entire case and strategy.
- Do not, under any circumstances, enter into any Agreements of Sale on your real estate,

or the acquisition of new real estate, without first conferring with your attorney. Such an action or activity on your part could find you in a "squeeze play," without a place to live and without funds to make the purchase, if your settlement has not been consummated by that time.

- Do not presume that your counsel receives copies of any correspondence, legal pleadings, or notices that you may receive in the mail or by judicial process. Upon receiving any such documents, contact your attorney immediately and send your counsel copies of any such documents.
- Do not be intimidated by your spouse if an ultimatum or deadline is given you to accept or reject an offer or proposition. One does not negotiate "under the gun" as to time. That offer or a better offer, we frequently find, may always be available or, failing same, the court will direct the appropriate fair settlement award to you.

THE PROCESS — YOUR LAWSUIT AT A GLANCE

THE BEGINNING OF THE SUIT

We begin work on your case when we are retained. If we have decided to start the suit, we draft papers and submit them to you for approval before filing.

After service of the Complaint, the law provides a specified period for your spouse to answer your Complaint. The court or an agreement between attorneys may extend this period.

PETITIONS FOR SPECIAL RELIEF

Often immediate relief is necessary on the filing of a divorce proceeding. This relief may include requests for restraining orders, temporary support, control of assets, custody and visitation orders, the right to exclusive possession of a home, and/or attorney's fees. In such cases, we file the motion for temporary relief concurrently with the initial complaint or later. The orders, sometimes called "pendente lite," Latin for "during litigation," are temporary. They remain in effect until modified by agreement, or hearing, or until the case is finalized.

The need for support is one of the most common reasons for a temporary hear- ing. At the temporary support hearing, the dependent spouse presents evidence of his or her needs, obligations, and expenses. The spouse from whom support is sought will in like manner present evidence of his or her expenses and income. It is thus important for us to prove facts about the parties' income at this early stage. Therefore, provide us with any written evidence about these matters. Preserve and deliver to us such things as pay stubs and tax returns so we may have as complete a financial picture as possible.

Sometimes we must have the court decide who will remain in the family resi- dence during the pendency of the divorce, who will have control of certain assets (like a car), who will be responsible for certain debts. The judge also hears these requests for this relief.

DISCOVERY

The next stage of the proceeding is the "discovery" period. During this stage, both sides try to collect all the information necessary for settlement discussions and/or trial. Discovery refers to the ability of both parties to get information, primarily financial, from the other side. Discovery includes such devices as interrogatories, depositions, and requests for documents. Usually interrogatories are first and then a deposition may occur if additional information is necessary. This proceeding involves the taking of sworn testimony from you, your spouse, and/or third parties at one of the attorneys' offices. Usually both clients, both attorneys, and a court reporter are present.

NEGOTIATIONS

Please note that our approach to matrimonial litigation will always be to act so as to not make a bad situation worse. We will try to defuse tensions, avoid hostility, and maximize the ability of the parties and lawyers to arrive at a fair and reasonable set- tlement. Many studies and our own experience show that a negotiated agreement between the parties serves both parties best. An agreement allows the parties to "fine tune" matters between themselves in a way that courts are often unable to do. The court will never know a case as well as the parties and the attorneys do. Therefore, it is always prudent to work out a settlement if possible.

However, there are times when the case does not settle despite the best efforts of the attorneys and clients. In our experience, this is a small percentage of the time. Settlement may be impossible to achieve for several reasons, including the unrealistic expectations of the parties, disputes as to the facts or the law, the existence of novel and as yet undecided issues, or the desire on the part of a party to deny a divorce to the spouse. In those instances where trial is necessary, we are well qualified to represent you. Our ability to try cases when necessary allows us to negotiate from a position of strength.

Usually, there is understandably less legal expense involved in negotiating a settlement than in trying the case in court. There will be no settlement without your consultation and approval. We will keep you advised about the progress of your case.

CONTESTED CASES

If it does not appear that your case will settle or if your attorney feels that settlement negotiations may proceed better against the backdrop of a trial date, a trial date is requested.

Upon the completion of all discovery, the case is set for a hearing.

Settlement sometimes occurs just before trial, "on the courthouse steps." The attorney then recites the agreement on the record (before a judge and court reporter). Though both parties may desire a divorce, if there is no agreement on all issues, the matter is contested and a trial is necessary. Preparing for trial is an intense, time- consuming, and, therefore, expensive process. Testimony requires preparation. All evidentiary documents are copied and cataloged. If there will be testimony, your attorney will meet with the experts to prepare for cross-examination of the other side. Research and briefs may be necessary. At the trial, witnesses and records substantiate positions of the parties as to support, custody, property, or other issues.

MATTERS SUBSEQUENT TO JUDGMENT

Often deeds and other documents must be signed and recorded to complete property transfers after the final decree (by settlement or trial).

A list is made of all transfers necessary to carry out the property divisions as agreed by the parties or ordered by the court. Your cooperation in providing such documents as deeds and car titles will aid in the final transfers.

During your case, it may be necessary for you to provide us with certain items of personal property such as wills, stock certificates, and photographs. When the case is over, we will arrange for the return of these personal items as well as your file.

If the trial court renders a judgment that we feel is contrary to law or is completely unsupported by the evidence, we will discuss your options, including an appeal from the court's judgment. An appellate action occurs only after extensive discussion between attorney and client. Our office does not handle appeals, but we can connect you with other offices that focus on appeals.

THE HISTORY FOR YOUR ATTORNEY

It is helpful to your attorney to have information about you, your spouse, and your marriage. You will receive links in your client portal to intake forms that provide information necessary for us to initiate or respond to the pending matters.

WHAT IS DISCOVERY?

In most family law cases, the client on each side will be required to participate in "discovery" proceedings. Both sides must have all the information and documentation necessary to prepare for trial and to form the basis for meaningful settlement discussions. The actual discovery procedures may be as informal as a telephone request by us to you to produce any checking

account records you have in your possession at our offices at a particular time, or as formal as a multiple-page list of questions that you must answer under oath (see "Interrogatories" below). Discovery is a two-way street, and each side must produce documents and records and respond to questions, etc. It is always preferable to approach these matters in a spirit of cooperation with opposing counsel. We find that this sort of cooperation reduces the time required for the discovery phase of your case. In many instances it also substantially reduces the cost to you of that phase. It is, therefore, our practice and desire to try to get all the information that we may need on an informal basis. However, this may not be sufficient. Under such circumstances we must resort to the procedures provided by law in legal adversary proceedings. Some may be:

Requests for Admissions:
These require you or your spouse to admit or deny specific written statements. These require immediate attention because under the law, if a response is not received within a specified time, for example, thirty (30) days, the statements are deemed admitted, and the fact issue resolved accordingly.

Interrogatories:
These are detailed written questions that you and/or your spouse must answer (under oath) to the best of your ability. These also have a time limit. Failure to respond properly within the time required may subject you to possible sanctions and penalties.

Depositions:
This procedure is the most common discovery method. In its simplest form, a discovery deposition is the oral testimony of a witness taken under oath before trial. Most of the objections available at trial do not apply in a deposition. The basic rule is that the questions asked must address themselves only to information that is relevant to the case or to discovering further relevant facts. Depositions are expensive due to lawyers' time, court reporters' time, and the cost of the transcript.

Production of Documents:
This procedure is a written request to the opposing party to produce a specific list of documents at a specific date and time.

Request for Entry on Land or Business Valuations:
It is often necessary for us to appraise real property and/or the contents of residential or business real property. The request will specify a specific time and date for entry and state the purposes of the entry.

Request for Vocational Evaluation:
This procedure permits a trained vocational evaluator to evaluate the earning potential of a person through interviews and tests. The purpose is to find out what career choices would be

appropriate and what training is necessary to achieve those career goals. The evaluator also will report on the job market by explaining what job possibilities are available and what the potential earnings are.

Requests for Physical and Mental Examination:
Occasionally, there is such a request, usually in a custody case, if a party has put either their mental or physical condition at issue. Generally, a party may not request a mental examination, for example, just because he/she thinks the other party is "crazy." However, in custody cases or where the effect of mental or physical problems on ability to work is at issue, this procedure is appropriate.

Records Deposition:
This procedure is a direction to third parties to produce documents, such as credit card statements, brokerage statements, and other documentation.

Business Valuations:
We obtain evaluations of the value of a business or practice as an asset of the marriage. To determine the market value of the business or the practice for its inclusion in the marital pot, an expert is necessary.

Pension Valuation:
The pension, profit share, Keogh, annuity, or 401(k) plan is an important and, often, very valuable asset of the marriage. To value a defined benefit plan usually requires an actuary. Documentation such as annual benefits statement, plan descriptions, and plan booklets as well as annual salary statements is necessary for the expert to review. Defined contribution plans (IRAs, Keogh, etc.,) require copies of the statements.

YOUR DEPOSITION

Your deposition may be taken during the pendency of the divorce action. You should understand that a deposition is an important procedure and you and your attorney must prepare for it.

These instructions will help you understand what is going to occur at the deposition and how to act.

Pre-Deposition Instructions

Opposing counsel has to schedule your deposition. The purpose of these instructions is to inform you what a deposition is, why you are being deposed, the procedure, and pitfalls to avoid.
WHAT IS A DEPOSITION? A deposition is your testimony under oath. Opposing counsel will ask you questions. Usually, a official court reporter records the proceedings and all questions and

answers. The judge will not be present. Usually, the deposition is taken in one of the attorneys' offices or the courthouse. There is little difference between the testimony at a deposition and the testimony in the courtroom except that a judge does not preside at a deposition and rule over the matters as they arise. The judge may do so later.

THE PURPOSE OF A DEPOSITION. The opposing side is taking your deposition for three main reasons:

1. They want to discover what facts you have in your actual knowledge and pos- session about the issues in the case. In other words, they want to know what your story is and what it will be at the time of the final hearing.
2. They want to pin you down to a specific story. This way you will have to tell the same story at the final hearing. Through a deposition, they will know in advance what your story is going to be.
3. They hope to catch you in a lie to show at the final hearing that you are not a truthful person. This will cast doubt on your testimony, particularly the crucial and contested points.

These are very legitimate purposes and the opposing side has every right to take your deposition. Correspondingly, you have the same right to take depositions of the opposing party and all witnesses.

Pitfalls to Avoid

Always remember that, either as a litigant or a witness, your only purpose is to give the facts as you know them.

You must give the facts if asked. You do not, however, have to give opinions. Generally, your attorney will object to a question that calls for an opinion. However, after the objection, if he or she advises you to go ahead and answer, and you do have an opinion on the subject, then you may give it.

Never state facts that you do not know.

Quite frequently the attorney will ask a question and, even though you feel you should know the answer, you do not. Don't guess! This is not an I.Q. test. The other side is looking for information, but you need not answer if you don't know. If you do not know an answer to a question, don't guess. A guess or an estimate of an answer is usually the wrong answer and the opponent can use the guess to show that you either do not know what you are talking about or imply that you are deliberately not stating the truth.

Never attempt to explain or justify your answer. You are there to give the facts as you know them and not to apologize or attempt to justify those facts. Any attempt at such would make it appear as if you doubt the accuracy or authenticity of your testimony.

You are only to give the information that you have readily available.

If you do not know certain information, do not give it. Do not turn to your counsel or another

witness to ask him or her for the information or turn to another witness, if one should be present. Do not promise to get information that you do not have readily available unless your attorney advises it. If you know an answer then you should answer it. Do not agree to look up anything in the future and supplement the answer you are giving, unless we advise you to do so.

Do not, without your attorney's advice, reach into your pocket for any kind of document or information.
The purpose of a deposition is to elicit facts that you know and have in your mind, not for the production of documents. If the opposing side wants documents from you, there are other legal procedures available. Do not ask your attorney to produce anything from his file.

Do not let the opposing attorney get you angry or excited.
destroys the effect of your testimony and you may say things that may be to your disadvantage later. It is sometimes the intent of attorneys to get a deponent excited during the testimony. Deponents may say things that the other side could use against them later. Don't argue with the opposing attorney. Give him or her only the information you have, which is all he or she is entitled to. Respond to his questions in the same tone of voice and manner that you would in answering your attorney's questions. The mere fact that you get emotional about certain matters could be to your opponent's advantage in the case.

If your attorney begins to speak, STOP WHATEVER ANSWER YOU MAY BE GIVING and allow him to make his statement.
If he or she is making an objection wait until the objection is made and you are advised to complete your answer. If your attorney tells you not to answer a question, don't answer it. You should take your time in answering questions when necessary. Remember, the transcript of your deposition does not show the length of time used in considering your answer. However, it is advisable to answer all questions in a direct and straightforward manner.

Tell the truth.
The truth during a deposition or on the witness stand will never really hurt a litigant. Do not try to figure out beforehand whether or not a truthful answer will help or hinder your case. Answer truthfully. An attorney may explain away the truth, but he cannot explain the client's lies or concealment of the truth.

Do not volunteer any facts that are not specifically requested by a question.
Think of the deposition as if you are on the witness stand. Don't volunteer! Do not elaborate. You can answer questions with "yes," "no," "I don't know," or, if appropriate, "I don't remember." Answer yes or no, if possible.

After the deposition is over, do not chat with the opponent or the attorney.
Remember, they are your legal enemies. Do not let friendly manners cause you to drop your guard

DOCUMENTS REQUIRED DURING THE PROCEEDINGS

Please read this list thoroughly and start gathering as many of these documents as you can. Many of the documents may be necessary in the immediate future and it may take some time to obtain them.

A complete picture of the assets and income of both spouses is absolutely necessary. By providing us with the information and documents requested below, you will save time and money. You will also help us in the preparation of pleadings and documents required in your case. In addition, possession of these documents will help in preventing your spouse from dissipating or secreting any assets.

Please make a list of the documents that you cannot get and mail it to us as soon as possible. we will then attempt to help you to get them.

Gather the following documents to be available for inspection and copying upon request.

- Income Tax Returns. Completed personal, corporate, partnership, joint venture, or other income tax returns, state and federal, including W-2, 1099, and K-1 forms, in your possession or control from the start of the marriage.
- Income Information. Current income information, including payroll stubs and all other evidence of income since the filing of your last tax return.
- Personal Property Tax Returns filed in this state or anywhere else from the start of the marriage.
- Banking Information. All monthly bank statements, passbooks, check registers, deposit slips, canceled checks, and bank charge notices on personal and business accounts, certificates of deposit, and money market and retirement accounts from banks, savings and loan institutions, credit unions, or other institutions in which you or your spouse has an interest.
- Financial Statements submitted to banks, lending institutions, or any other per- sons or entities, which were prepared by you or your spouse at any time during the last five (5) years.
- Any Loan Applications made within the last five (5) years.
- Brokerage Statements. Monthly statements from all accounts of securities and/or commodities dealers or mutual funds maintained by you or your spouse during the marriage, and held individually, jointly, or as a trustee or guardian.
- Stocks, Bonds and Mutual Funds. Certificates, if available, of accounts owned by either spouse during the marriage or pre-owned by you.
- Stock Options. All records pertaining to stock options held in any corporation or other entity, exercised or not exercised.

- Pension, Profit Sharing, Deferred Compensation Agreement, and Retirement Plans or any other kind of plan owned by you or by any corporation in which you or your spouse has been a participant during the marriage, including annual statements.
- Wills and Trust Agreements executed by you or in which you have a present or contingent interest or in which you are a beneficiary, trustee, executor, or guardian and from which benefits have been received, are being received, or will be received and which are or were in existence during the past five (5) years, including inter vivos trusts.
- All records of declaration of trust and minute books for all trusts to which you are a party, including the certificates, if any, showing such interest and copies of all statements, receipts, disbursements, investments, and other transactions.
- Life Insurance or certificate of life insurance policies now in existence, insuring your life or the life of your spouse, and statements of the cash value, if available. General Insurance. Copies of insurance policies, including, but not limited to, annuities, health, accident, casualty, motor vehicles of any kind, property liability, including contents, and insurance owned by the parties during the past five (5) years of the marriage.
- Outstanding Debts. Documents reflecting all debts owed to you or by you, secured or unsecured, including personal loans, credit card statements, and law- suits pending or previously filed in any court.
- Business Records or ledgers in your possession and control that are either personal or business-related, together with all accounts and journals.
- Real Property. Any deeds of property in which you or your spouse has an interest together with evidence of all contributions, in cash or otherwise, made by you or on your behalf, toward the acquisition of such real estate during the marriage or thereafter.
- Sale and Option Agreements on any real estate owned by you either individually, through another person or entity, jointly, or as trustee or guardian.
- Personal Property. Documents, invoices, contracts, insurance policies, and appraisals on all personal property, including furniture, fixtures, furnishings, equipment, antiques, and any type of collections, owned by you individually, jointly, as trustee or guardian, or through any other person or entity during the term of the marriage.
- Firearm registrations issued or pending receipt of governmental registration documents, owned, possessed, or controlled by you during the last five (5) years. Motor Vehicles. All financing agreements and titles to all motor vehicles owned by you, individually or jointly, at any time during the last five (5) years, including airplanes, boats, automobiles, or any other types of motor vehicles.
- Corporate Interests. All records showing any kind of personal interest in any corporation (foreign or domestic) or any other entities not evidenced by certificate or other instrument.
- Partnership and Joint Venture Agreements to which you have been a party during the marriage.
- Employment Records during the term of the marriage, showing evidence of wages,

salaries, bonuses, commissions, raises, promotions, expense accounts, and other benefits or deductions of any kind. All records showing any fringe benefits available to you or your spouse from any business entity including, without limitation, auto, travel, entertainment, educational, and personal living expenses.

- Employment contracts under which you or your spouse have performed services during the past three (3) years, including a list of description of any oral con- tracts.
- Charge Account statements for the past three (3) years.
- Membership cards or documents identifying participation rights in any country clubs, key clubs, private clubs, associations, or fraternal group organizations dur- ing the past three (3) years of the marriage, together with all monthly statements. Judgments and pleadings in which you have been a party to, either as Plaintiff or Defendant, during the marriage.
- Medical bills, prescriptions, evaluation reports, or diagnoses for psychiatric treat- ment received during the last five (5) years.
- Photographs or tapes of your real estate or contents if available. Appraisals of any asset owned by you for the past five (5) years.
- Safe Deposit Boxes. A list of contents as well as the people authorized to enter.

Documents contain significant information that will help your attorney prepare for settlement or trial. We have included a check list in your portal to help you get started.

STANDARD LIST OF DOCUMENTS FOR DISSOLUTION CASES

- Completed financial affidavits for Husband and Wife showing all income, expenses, assets, and liabilities.
- Complete personal income tax returns, both Federal and State, with all attached schedules and partnership returns for the last five (5) years for Husband and Wife.
- Federal income tax returns for any corporation or partnership in which Husband or Wife has a 10% or greater interest for the last five (5) years.
- All financial statements and loan applications prepared or filed by Husband and Wife in the last three (3) years.
- Copies of all check registers, canceled checks, deposit slips, periodic statements, passbooks, and certificates of deposit for all money management accounts stand- ing in the name of Husband and/or Wife for the current and prior calendar years. Copies of all credit card statements for the current and last calendar years for all accounts on which Husband and/or Wife is a signatory.
- Copies of all titles and certificates of registration on all motor vehicles owned by Husband and/or Wife.
- Copies of all shareholder, partnership, or joint venture agreements in which Hus- band and/or Wife is a party or has any interest.
- Appraisals or market valuations for all property owned by Husband and/or Wife.
- Trust agreements showing Husband and/or Wife as trustee or beneficiary. Inventory of

any safe deposit boxes of Husband and/or Wife.

- Copies of all life insurance policies insuring the life of, or owned by, Husband and/or Wife including face sheets.
- Documentation of all indebtedness of the parties, showing when each debt was incurred, original amount of indebtedness, current indebtedness, and monthly payment requirements on each indebtedness.
- Evidence of Husband's and Wife's income from all sources, including payroll stubs, draw statements, and expense account statements for the current and last calendar years.
- Retirement and deferred compensation plan summaries and most recent annual report and account statement for Husband's and/or Wife's plans.

PENSION PLANS HAVE VALUE

Your pension plan or that of your spouse has a value. It may be necessary to have an actuary calculate the pension value. The form on page 228 will provide the information needed for the actuary. Fill in the information requested. If available, provide the documents listed.

USE OF EXPERTS

There should be a range of experts in every Domestic Relations case. Realistically, the use of experts may be cost prohibitive. You must ask:

- When do I need an expert?
- Where do I find the best expert?
- How much will an expert cost and are the costs prohibitive?
- What is a forensic accountant and why do I need one?
- What role will the expert play?

WHEN DO I NEED AN EXPERT?

An expert is a person with special knowledge about a subject that qualifies him or her to give an opinion on that subject in court. Upon first examining the issues of any case, it may be easy or difficult to deter- mine if there is a need for an expert. In a simple divorce there may be no need for experts. Does your case involve pensions, nonresidential real estate or unusual residential real estate, stock and bond portfolios, insurance, household items, jewelry, art collections, unusual vehicles, a business or professional practice, accounts or notes receivable, or intellectual property? Do you or your spouse have employment or own a business where income or salaries paid are of a discretionary nature? Should you share joint custody? Are there concerns of abuse? Do you, your spouse, or children have special physical or psychological needs? Are you or is your spouse a candidate for support? Is custody or visitation an issue? If the answer to any of these questions is yes, then at least one expert may be necessary.

We must evaluate the case to determine if an expert is necessary. The first rule is common sense. Are the values of the assets high enough to justify the use of an expert for valuation of assets?

Do you know a "ballpark" range for the assets? Are you "close enough" in your plan for custody? At each stage of a case, it is necessary to do a cost/ benefit analysis. If the value of a particular asset is not enough to justify hiring an expert for the evaluation, or you and your spouse are relatively close in values, an expert may not be advisable.
Is there another method to get the values? Is it possible that similar property has sold recently and you can use that for valuation purposes? Are there valuation guides published? Will the court accept the parties' valuations? If support is at issue, will it be based simply on the present needs of the recipient or will they look to future training, schooling, or other future needs?

If custody is an issue, will it be helpful to have a psychologist or counselor to guide the court? Do the children have any psychological disorders? What are the developmental needs of the children? What is the quality of the children's parental attachment? The determination of the need for one or more experts will be made only after an attorney has evaluated each particular issue and the value of those particular issues to your particular case.

WHERE DO I FIND THE BEST EXPERT?
When searching for the correct expert for the assets in a case, ask what type of expert you need. Do you need an accountant, an actuary, a life insurance agent, an economist, an appraiser, a tax adviser, or a personal property appraiser? Whose expertise is best in this particular case? How do you find the best one?

We know a variety of experts and will discuss them with you. We will recommend experts if you do not know one for the particular need in your case.

Your regular psychologist may not be the right person to testify on the need for support. It may erode the psychologist–patient privilege and open the door to other testimony that would not be helpful. A vocational psychologist or counselor who works in the area of assessing persons for employment may be a better witness. If a medical disability or disorder is at issue, the choice is whether to use the regular physician or find a specialist who will only evaluate and testify. You must consider the physician–patient privilege.

Custody experts must be able to evaluate the family and testify in court as well as have expertise in the facts of your particular case.

HOW MUCH WILL AN EXPERT COST AND ARE THE COSTS PROHIBITIVE?
We will advise you about the fee arrangement. Many experts require a retainer in advance. Some will do an appraisal job for a fixed fee. Some charge on an hourly basis. You must be ready to pay the expert for the evaluation or appraisal directly. Expert witness fees may be recoverable from the opposing party, but there is no guarantee of this.

Again, upon receipt of the fee quote, it is time for a cost/benefit analysis. There is no rule of thumb as to what return is necessary in order to pay the money to retain the expert. Common sense and your goals should control. In custody cases, however, the court may order or require

a custody evaluation.

WHAT IS A FORENSIC ACCOUNTANT AND WHY DO I NEED ONE?
A forensic accountant is an accountant who testifies in court. He or she will review books and records to establish an income stream for support or business valuation purposes.

WHAT ROLE WILL THE EXPERT PLAY?
Your attorney and you will deter- mine how active a role the expert will play. You may work closely with the expert to prepare testimony. The expert may attend meetings, depositions, and court hearings and may aid in cross-examination of the opposing expert. The experts will join settlement conferences and testify on your behalf. Experts may shorten the process by pro- viding solid evidence as to values of assets and convince the other side of your position.

WHAT ABOUT EMPLOYMENT?

In determining the issue of spousal and child support the court will want information on the ability of the supported spouse to earn money to contribute toward his or her own living expenses. A certified vocational evaluator can provide the court with an opinion about the supported spouse's possible employment, need for education or training, the job market, and potential earnings. The court generally gives consider- able weight to such testimony. The process by which the evaluator gains this information is called a "vocational evaluation." Many dependent spouses ask if they should return to work. We encourage you to prepare to return to employment by either completing your education or exploring employment opportunities. The sup- port guidelines do not penalize parents for returning to work. If it is not detrimental to the children, employment may be emotionally helpful to you during this very stressful process.

WHAT A CLIENT SHOULD KNOW ABOUT A VOCATIONAL EVALUATION

What is the purpose of Evaluation?
To assess current and/or future employability and wage-earning capacity. It can include the presentation of a vocational plan outlining specific details of how you could return to the job market (like training time, cost, appropriate programs, entry/ceiling earnings upon plan completion, and job availability).

What are the limitations of this process?
This procedure is not a method for the diagnosis or treatment of psychological problems. It also is not career counseling, like job development or job placement. You cannot "fail" a vocational test. The purpose is to identify your strengths, your interests and personality, your work values, and your transferable work skills.

What happens in a vocational evaluation?
You may be nervous about participating in vocational evaluation, so I want you to know what to expect.

The first step is usually a diagnostic interview that is a question/answer procedure to gather pertinent information affecting employability (e.g., work/life experiences, health, age, length of absence from the work force, educational background, vocational/career goals or priorities, motivation, and current family/personal situation). This also will be your opportunity to ask any questions you may have about this evaluation process.

The next step is vocational testing. There are a wide variety of vocational testing instruments used to assess employability. In general, these instruments develop a worker trait profile. You cannot pass or fail them.

Bring any relevant information such as medical reports to the evaluator. You must answer the questions as honestly and completely as you can. Be on time to your appointments and cooperate with the evaluator, as your attitude is a part of the report.

What are your rights in a vocational evaluation?
You have the right to a fair and impartial vocational evaluation and to review all test results. If you disagree with the examiner's conclusions, you have a right to have the report examined by a second evaluator. There is no confidentiality in this process, so anything you say about employability can be reported on and used in forming conclusions.

Are there any benefits to me in participating in this process?
View this process as an opportunity for you to learn more about yourself from a vocational perspective. It also provides an opportunity for you to expand your occupational knowledge and learn about careers that might interest you and fit your particular needs, skills, abilities, and interests.

YOUR DAY IN COURT

The address of the court in which your case is pending is set forth under INFORMA- TION YOU SHOULD KNOW ABOUT YOUR LAW FIRM, in the front of this manual. Going to court is bound to raise your anxiety a bit. If you know what is going to hap- pen and how to act, it will help diminish your nervousness. You should dress comfortably, conservatively, and in a manner that shows respect for the court. If you are uncertain what is appropriate, ask your attorney. The personnel in the courtroom will usually include a judge, a court reporter, a court clerk, and a bailiff. In a contested trial, your spouse, his or her attorney, experts, and other witnesses will be present. If

there is more than one case listed, you may have to wait a while for your case to be called. Being in court can be tedious.

When your case is called for trial, the general procedure will be as follows:

As your attorney, we will give a brief pending statement to inform the court about our case. This may occur in open court or may take place informally in the judge's chambers.

When the case is called, you will be asked to sit in the witness chair. This will be your place during your testimony. The petitioner will put on his or her wit- nesses first and then the other party will do likewise. Witnesses will be called and sworn and will testify. The attorney for each party can question each wit- ness, including the petitioner and the respondent. If you are the respondent in the case, you may be called for cross-examination (this means that the opposing attorney may request your testimony under oath) and/or as the first wit- ness. This is the usual procedure, so we will prepare you for this should it occur. Once the case is complete, your attorney argues the issues. Sometimes each attorney submits briefs and/or memoranda after trial. The judge may decide the case immediately, may take it under advisement (study), or may wait to decide the case (hand down a judgment) after receipt of the memoranda or briefs.

Guidelines for your court appearance.
Whether your case is uncontested or contested, the following suggestions will improve your appearance and testimony in court:

- The judge will be watching you not only when you are testifying but also when you are sitting at the counsel table. Do not react when you believe your spouse or other witness is lying. Sit quietly and write notes to your counsel if something occurs that needs to come to our attention.
- Tell the truth; don't guess, be sure you understand each question, and answer only that question. You may and should, however, when required, explain your answer after you have answered the question.
- Take your time and talk loudly enough for everyone to hear you. Don't chew gum, and keep your hands away from your mouth.
- Be courteous. Don't argue with the other lawyer and DO NOT LOSE YOUR TEMPER.
- Don't be afraid. Look at the person who asks you the questions and be as pos- itive as you can. Just tell your story in your own words and to the best of your ability.
- Be sincere, straightforward, and direct. Keep your answers to the point as much as possible.
- Do not be ashamed to tell the whole story. This is your day in court. The out- come of the case may well depend upon the facts you and your witnesses reveal to the court.
- Be careful of your demeanor whenever you are in the courtroom. The judge will observe you at the counsel table as well as on the stand and will draw conclusions both from observation and your testimony.
- During the trial, we will consult with you. You should inform us by written memo of anything

you feel we should be aware of while the trial is in progress. However, be careful not to distract us while we are watching the trial proceedings. Particularly during testimony, we must have total concentration. We need to hear each question and answer, watch the reactions of the judge and opposing counsel, and be ready to object instantly. Write notes.

TIPS FOR MEDIATION

What Is Mediation?

Mediation is a method of dispute resolution that is an alternative to the more traditional courtroom trial. It is the process whereby the parties meet with a trained mediator who attempts to help the parties in reaching an agreement. The mediator tries to facilitate an agreement, but does not force either party to agree. In short, both parties should make a good-faith attempt to agree on issues of the marriage, including cus- todial arrangements or property division, for example. Neither party, however, should feel that the "agreement" was forced upon him/her. If it is not possible to reach an agreement, another form of resolution, such as trial, is used.

Who Is the Mediator?

Most mediators have either social work or psychology training, although some also have legal training and some have training in all three fields. Many are highly skilled professionals with substantial experience in the field.

What Is the Length of Mediation?

Mediation can run from an hour to several meetings over the course of weeks. The duration depends upon the progress, the cooperative spirit (or lack of it) exhibited by the parties, the desires of the parties to keep trying, and many other factors.

Your Lawyer's Role in Mediation

We encourage lawyer participation in the mediation process. We will meet with you before the mediation session starts to discuss legal rights. We should receive reports and updates from you as the mediation progresses. This helps us to continue to advise you of the legal ramifications of any agreements you seek to reach.

As with every issue and factor in a marital dissolution, each case progresses differently through mediation and each requires specialized and sophisticated responses to the process. We are at your service at any time to discuss the progress of your mediation, to suggest ways in which it might be more productive, and, in the appropriate circumstances, to intervene to bring an end to fruitless mediation procedures.

What Is Arbitration?

Arbitration is a truncated procedure to avoid the lengthy court procedures. The par- ties choose a certified arbitrator who will hear the matter and be paid on an hourly basis. The arbitrator will listen to testimony by the parties as well as their experts, review all exhibits, and make a prompt decision, which, by agreement, may become a court order. The process is non-appealable and will end the matter far more inexpensively and faster than proceeding through court hearings.

SOCIAL SECURITY

If you and your former spouse were married for ten years or more and your former spouse paid into the Social Security Trust Funds, you may be entitled to spouse's ben- efits and/or survivor benefits on your former spouse's account if you have not remar- ried. Eligibility is not dependent on recognition of these rights in the judgment or decree terminating your marriage. The federal government provides these benefits; the state divorce judgment need not specifically address them.

To meet the ten-year marriage requirement, your marital status cannot terminate until ten years after the date of your marriage. The "date of separation" or other such date recognized under state laws to be the operative date affecting married parties' rights does not affect your right to receive spouse's or survivor benefits—it is the date of a judgment terminating your status as a married person that controls.

Spouse's Benefits

If your former spouse paid into the Social Security Trust Funds, and you meet the ten- year marriage requirement, you will be eligible for spouse's benefits upon reaching the age of sixty-two. Your receiving benefits on your former spouse's account will not affect the amount of benefits he or she receives. You will not receive these spouse's benefits if you are receiving equal or greater benefits from Social Security as a result of your own employment. Also, if you are receiving spouse's or survivor benefits on some other person's account, you will not be eligible for spouse's benefits from your former spouse's account.

Survivor Benefits

Former spouses are also eligible for survivor benefits. If your former spouse dies, and you meet the ten-year marriage requirement, you will be eligible for reduced survivor benefits at the age of sixty and full survivor benefits at the age of sixty-five. As with spouse's benefits, your receipt of Social Security survivor benefits does not affect the amount of benefits paid to anyone else on your former spouse's Social Security account.

If you remarry before turning sixty years old, you will lose your rights to spouse's or survivor benefits on your former spouse's account. You are still eligible for both spouse's and survivor benefits on your former spouse's account if you remarry after age sixty. You also may become "re-eligible" for benefits on your former spouse's account if you remarry before sixty but that marriage also ends.

You cannot receive both spouse's benefits and survivor benefits from your cur- rent spouse. If you are receiving spousal benefits at the time your former spouse dies, your benefits automatically convert to survivor benefits by the Social Security system.

Contacting Social Security

The Social Security Administration advises contacting it three months in advance of your anticipated eligibility date. For survivor benefits, this could be as early as three months before turning age sixty, and for spouse's benefits, this would be three months before turning age sixty-two.

When applying for Social Security benefits, you should have the following records:

- Your Social Security card
- Your birth certificate. Your marriage certificate. Your divorce judgment or decree showing the date that your marital status terminated

You may contact the Social Security Administration either in writing or by phone:
Department of Health and Human Services Social Security
Administration
Baltimore, MD 21235
(800) 772-1213

All phone calls are confidential.

Social Security laws are constantly changing and may affect your future benefits. To be sure of your exact benefits and earliest eligibility to receive them, contact the Social Security Administration directly. The Department of Health and Human Services issues numerous free pamphlets explaining exactly what your benefits are and how recent legislation affects them. Two booklets that may be helpful to you are *Under- standing Social Security* (January 1991) and *Survivors* (January 1991). For free copies of either or both pamphlets, contact the Department of Health and Human Services directly.

YOU AND THE INTERNAL REVENUE SERVICE

These general rules are intended to alert you to issues and provide general informa- tion. Each point mentioned has exceptions and fine points that you may wish to dis- cuss with your tax accountant. Before you sign any tax returns or take any actions with respect to your income tax returns, federal or state, you should review your situation with your CPA and your attorney.

If both you and your spouse sign a joint income tax return, each of you can be held responsible for the whole amount of the tax shown to be due.
If you are separated from your spouse, clear it with your attorney before signing and filing a joint return.

If you are having trouble securing past joint tax returns, you may get them directly from the IRS by completing Internal Revenue Service Form 4506.

You may officially notify the Internal Revenue Service that you have changed your mailing address from the address used on your last tax return by filing Internal Revenue Service Form 8822. You should not do this without consulting your tax advisor, as there may be circumstances wherein it may not be appropriate.

Spousal support or alimony is taxable to the recipient spouse if all the requirements of IRS Section 71 are met. It is deductible from the income of the payor spouse if the requirements of IRS Section 215 are met. By agreement, the alimony may be nontaxable to the recipient.

There are some very technical requirements imposed by the Internal Revenue Service about deductibility of spousal support or alimony. Your tax advisor can help you understand these rules.

Child support payments are not deductible from the income of the payor spouse or taxable to the recipient spouse. IRC Section 71(A), IRC Section 215.

Generally, the custodial parent claims the dependency exemption for the minor children on his or her income tax return. IRC Section 152. The custodial parent may execute Internal Revenue Service Form 8332 releasing the dependency exemption to the noncustodial parent. Some states will make an order about the allocation of the dependency exemption and require the execution of the waiver. Other state courts have refused to allocate and order execution of the waiver.
Generally, transfer of property under a divorce action is not a taxable event. Consultation with a tax advisor is advisable.

You must know the basis of the property that you receive in the division of your assets. The basis is usually the cost of acquisition of a capital asset. If the asset has appreciated, the person who receives the asset will be responsible for tax on the appreciation when the asset is sold.

When you and your spouse sell your jointly owned residence, you will each be responsible for reporting half the gain. To defer the gain, each spouse must purchase a new residence within two years that costs at least half the sales price of the whole residence.

If you or your spouse is fifty-five or close to turning fifty-five, you should be alert to the once-in-

a-lifetime exclusion of $125,000 of gain on the sale of a residence. If you meet the criteria and if you sell the residence while married, only one exclusion is permitted. If you terminate the marital status before the sale you lose the exclusion.

Generally, fees incurred for the production of income, such as obtaining spousal support or alimony, are deductible. IRC Section 2121. Fees for tax advice are also deductible. Fees incurred defending against paying alimony are not deductible. If your spouse pays your fees, you may not take the deduction.

A person qualifies as head of household for filing tax returns if he/she provides more than half the costs of a home for him/herself and a child or other dependent. IRC Section 2(b), 7703(b).

You and Your Credit

If you have joint credit cards with your spouse, you are both liable for all charges incurred against them. The only sure way to protect yourself on liability against further charges is to cancel the credit card.

Options to limit your liability include:

- Notifying the credit card company directly by certified mail, return receipt required, that you wish to close the account, or
- Obtaining court orders regarding use of the card and responsibility for payment. Such orders are effective between you and your spouse, but do not bind the creditor.

Immediately upon filing your divorce, you may want to consider obtaining a credit card in your own name. Sears is a good one to try first. Establish a credit history by using the card for several months and paying the bill promptly each month.

AUTHORIZATION FOR MEDICAL AND MENTAL HEALTH INFORMATION

Our office will provide you with a HIPPA form for any providers for which access is required.

TIPS ON CUSTODY CASES:

- Use all of your custody time. Don't pick the children up late or return them early.
- Read all you can on the subject of children, children's development, parents, and how to be a good parent. If a class or study course in this general area becomes available in your area, attend it. We have recommended reading lists available.

Long Distance Parenting

- Involve yourself in your children's activities.
- Devote some of your spare time to civic endeavors. Work with youth groups (Boy Scouts, Girl Scouts, Campfire Girls, Big Brother, Little League, sports, and other children's groups). Make your contribution to these or any other worthwhile organizations and groups. Actively participate and get to know children and how they play, develop, and grow. Become a student of children and learn from them. You should consider joining one or more organizations that has as its purpose helping individuals who are parents but not living with the other parent. Find friends or a group of people with whom you can talk and discuss your feelings, frustrations, and problems without embarrassment.
- Work up a plan as to how you will provide care, love, and guidance to and meet the needs of your child (children). Examples: Where the child would live; his/her daily routine; who would care for the child when not in school and when you were not physically present, educational and religious training plans, plans for custodial or visitation periods with the other spouse (be liberal in your thinking and planning). Develop a workable, reasonable, logical daily routine for the care of your child and, if possible, point out how your plan, your care, your attention to the needs of the child is better than that now in existence and how it will be BETTER—MORE BENEFICIAL—in the future for the child. Research and evaluate the schools your child would attend if living with you. Know and familiarize yourself with transportation, etc., and have a general knowledge of this important area of your child's development.
- Make sure the physical facilities of your home are child-oriented—adequate room, privacy and safety, neutral, objective vantage point.
- Develop common interests with the children. Become a part of their world and share and enjoy their world with them. Do not forget to attend their school activities. DO not overlook their birthday, holidays, and other special occasions that mean so much to a child. Show interest in their schoolwork, outside school activities, their sports, their clubs, organizations, their friends, and their plans for the future.
- Get to know your child's medical needs and school and health records.

SUGGESTIONS FOR CLIENTS IN CONTESTED CUSTODY CASES

If you already have custody, then the burden is not quite as heavy, but you still must show the kind of care, custody, and attention you can give and are giving to your child.

- Get a copy of the child's health record from his/her attending physician and dentist. Have these medical experts available to testify about the child's health and the care he/she receives.
- Have, maintain, and show an open healthy attitude toward contact with the other parent. Every child needs the love of both parents. Your own attitude in this respect gives clear signals to the child.
- Take care of yourself.
- Don't try to outbid the other parent. Money doesn't prove good parenting. Discipline . . .

this is important. Always saying "yes" would be just as wrong as always saying "no."

- Children can manipulate parents who are not sharing information. As a parent you must make judgments and decisions daily about your children and their requests. As long as you are consistent, reasonable, and fair, discipline at the right time for the right reason is not only necessary—it is vital.
- FACTOR: The other items listed and suggested above are also important. A nice balance is best. Remember, you need dollars and cents but you can't buy happiness for the child. Work for the balancing of all needs.
- What about your needs? Yes, consider these too. The court will recognize that as a human being you too have needs. It's how you fulfill these needs that is important.

This short space only allows a summary. But do not ever forget that your first duty and responsibility should be to provide adequately for the child security, safety, and the necessities of life. As an adult you should be able to fulfill your needs. You can be a better parent when you are enjoying life and are not hostile or frustrated with the world and life in general.

REMEMBER: Everything you do or don't do as a parent may have an effect on your child and his or her future. ALL YOU CAN DO IS TO TRY TO ACT IN THE CHILD'S BEST INTEREST. THIS YOU SHOULD ALWAYS DO.

CUSTODY AND CHILD SUPPORT

This section addresses questions about custody and child support. It is not a complete legal guide. Each case is unique, and this information may not cover your situation.

When you have children, your relationship with your spouse does not end with the final decree. You will have continued contact with your spouse about support, visitation, and other parental responsibilities. For the sake of your children, keep open the lines of communication with your spouse. Your goal should be that your children are not the losers.

Custody of minor children consists of two distinct concepts, decision making and timesharing. Both or one of the parents may be responsible for making decisions affecting the children. Timesharing refers to the amount of time each parent will spend with the children.

Factors in Determining Custody

The court determines custody based on what it believes to be the best interests of the children. The court considers all relevant factors, some of which include:

- The relationships of the child with his parents, siblings, and any other person who may significantly affect the child
- The mental and physical health of all individuals involved
- The ability and willingness of each parent to care for the children The wishes

of the parents
- The respect each parent accords for parental rights of the other parent Each parent's adherence to a timesharing schedule
- The suitability of parenting plans submitted by each party The geographic distance between the parties
- The willingness and ability of each parent to cooperate The wishes of the parent
- The wishes of the child depending on age and maturity

Legal Decision Making

Joint Legal Decision Making:
In joint legal custody, the parties share the responsibility of making major parenting decisions respecting a child. These decisions include residence of the child, medical and dental treatment, education or childcare, religion, and recreation. There is a presumption in Arizona that joint legal custody is in the best interest of the child. Joint custody does not necessarily mean equal time.

Joint Legal Decision Making with Final Say:
In some instances the court expects the parents to work together on major decisions but in the event of disagreement.

Sole Legal Decision Making:
Where the parties are unable to make decisions together due to substance abuse, mental health, intimate partner violence, or other reasons, one parent maintains the authority to make all decisions relating to medical, religion, and education but are often required to timely notify the other parent of same.

Parenting Time:
Parenting time schedules vary as broadly as the families that utilize them. The Court has a guide regarding ages and recommended schedules that we can provide you. Also, websites such as custodyxchange help parties visualize how the parenting time schedules will work based on their specific needs.

Child Support

Child support is money paid to the custodial parent for the support, maintenance, and education of the children. Voluntary gifts and payment of rent, which benefit the child when the child is with you, may not be considered support. The court does not usually require the custodial parent to account for the support. Child support ceases with emancipation of the child by state law or as

agreed by the parties.

Guidelines

All states have guidelines by which courts determine support. There is a calculator available as well as a copy of the guidelines so that you can estimate possible scenarios. The guidelines cover basic needs but generally do not cover all of the costs associated with raising a child.

Enforcement

Child support orders may be enforceable by a variety of means, such as wage attachment, execution, liens on property, or contempt. They are not dischargeable in bankruptcy, but unpaid support may be collectable for only a limited period of time, by statute.

Modification

Until emancipation of the child, the court has the power to modify custody and child support whenever circumstances make such change proper. The same factors used in making the initial award are considered for modification. Modification generally requires a significant change of circumstances. These factors could result in a change of the custodial arrangement or an increase or decrease in the support obligation. Remarriage of either parent does not automatically result in a change of circum- stances.

THE NINE COMMANDMENTS FOR PARENTS DURING AND AFTER DIVORCE

- Put your children's welfare ahead of your conflict with your former spouse. Avoid involving your children in any conflict with your former spouse.
- Remember that children need two parents. Help your children maintain a positive relationship with their other parent; give them permission to love the other parent.
- Show respect for the other parent as a parent. Do not make derogatory remarks about the other parent to or in front of the children.
- Honor your visitation schedule. Always notify the other parent if you will be late or cannot exercise your time with the children. Children may see missed visits, especially without notification, as rejection.
- If you are the noncustodial parent, do not fill every minute of your custodial time with the children with special activities. They need "at home" time with you.
- Do not use the children as "message carriers" or spies to glean information about the other parent or to send information to the other parent. Don't cross-examine the children when they return from the other parent's home. Don't use the children to collect child support.

- Strive for agreement on major decisions about your child's welfare and discipline, so one parent is not undermining the other.
- Use common sense in exercising your custodial and visitation rights. Follow this old adage: Do not make a mountain out of a molehill. Follow the golden rule: Do unto them as you would have them do unto you.
- Do not discuss the case with your children. This is not the children's divorce. They should not be reading the pleadings or letters from opposing counsel.

SUGGESTED GUIDELINES FOR PARENTS IN SEPARATION AND DIVORCE ACTIONS

- These suggestions are to help you and/or your children in this time of mental stress and emotional strain.
- Think first of your child's or children's present and future emotional and mental well-being before acting. This will be difficult because of your feelings, needs, and emotions but try, try, try.
- Maintain your composure and emotional balance as much as possible, and in talking to yourself (verbally and in your thoughts) remember it's not the end of the world. Laugh when you can and try to keep a sense of humor. Remember, what your child or children see in your attitudes is, to some measure, reflected in theirs.
- Allow yourself and your children time for readjustment. Convalescence from an emotional operation such as dissolution is essential.
- Continuing anger or bitterness toward your former partner can injure your children far more than the dissolution itself. The feelings you show are more important than the words you use.
- Refrain from voicing criticism of the other parent. This is difficult but absolutely necessary. For a child's healthy development, he or she must have respect for both parents.
- Do not force or encourage your child to take sides. To do so encourages frustration, guilt, and resentment.

SUGGESTED GUIDELINES FOR PARENTS SHARING CUSTODY AFTER DISSOLUTION

The behavior of parents has a significant influence on the emotional adjustment of their children. This is equally true after the dissolution of a marriage. The following guidelines are helpful in achieving meaningful contact between both parents and the children in the restructured, post-divorce family.

IT IS RECOGNIZED THAT THESE GUIDELINES WILL NOT ANSWER EVERY PROBLEM/QUESTION AND IS NOT A SUBSTITUTE FOR LEGAL ADVICE
However, if they help in time of CRISIS and stress, then they are useful and are worthy of your attention.

- Remember to put your child's or children's welfare first — try to meet their emotional needs and make sure that, as much as possible, they have an opportunity to develop normally under the circumstances.
- Remember that contact with the other parent, normally and under the proper circumstances, is necessary and helpful to your children's development and future welfare.
- Time spent with your children should be pleasant not only for the children, but for both parents. You should help your children maintain a positive relationship with each parent.
- Keep to your schedule and inform the other parent when you cannot keep an appointment. The children may view the failure to keep a commitment to be with them as rejection.
- You may need to adjust the scheduled time with your children occasionally according to their age, health, and interests.

Many of these resources are courtesy of Lynne Z Gold-Bikin and Stephen Kolodyn