

# Basic Issues to be addressed in divorce cases

## 1. Merger vs. Survival

## 2. Division of assets

- a. contents of home (ie furnishings, appliances, art, jewelry, collections, etc.)
- b. motor vehicles, etc.
- c. bank accounts, investment accounts, CD's, etc.
- d. retirement/pension accounts
- e. life insurance policies with a cash value
- f. points accumulated on credit cards
- g. Trusts
- h. accounts with or held on behalf of children or another need to be addressed

### i. real estate

1. buy-out or sale
2. timing
3. refinancing if buy-out
4. broker selection and listing price and reductions if a sale?
5. how proceeds allocated if sale or how paid out if buy-out
6. what are the obligations of each party up to date of buy-out or sale
7. If sale, how will fair market value be determine?
8. capital gains treatment?
9. Who will get mortgage interest and real estate tax deductions?

### j. business interests

- k. anything else that is part of the marital estate and which needs to be

divided or addressed.

## 3. Division of liabilities

## 4. Custody and parenting plan

- a. legal custody
- b. physical custody or residence of the children, if it is going to be addressed
- c. specific routine parenting plan
- d. legal and religious holiday and school and summer vacation schedule
- e. is there going to be a parent coordinator?
- f. Is one parent going to be in charge of scheduling and attending well-child doctor's visits, specialist visits, and dentist visits or how are those to be handled?
- g. telephone and e-mail contact
- h. scheduling of extracurricular activities...Do parents need to consult with each other and agree on activities?
- i. obligation to take children to their academic, extracurricular, religious and social activities
- j. what happens if a parent is going away for business or otherwise during his/her parenting time? Does that parent have to offer the other parent an opportunity to take the children during that time? What if the travelling parent wants to use his/her travel and an opportunity for the children to spend time with his/her family friends?

k. what happens if a parent has to cancel his/her parenting time? Does that parent have a right to make up the missed time? If so, within what time frame would the time need to be made up? Does it make a difference if the time was cancelled due to work commitments or illness as opposed to personal reasons?

5. **Child support**

- a. amount and duration (typically until emancipation or death of the parties)
- b. frequency of payments
- c. direct deposit?
- d. definition of income
- e. How are bonuses and additional compensation (over and above base salary) to be treated?
- f. Do you want to exchange financial information periodically? If so, what documentation and how frequently?
- g. Are the parents going to allocate the any of the following costs, over and above child support payment?
  1. extracurricular activity and lesson costs
  2. camps
  3. daycare/preschool
  4. tutoring
  5. SAT/ACT prep
  6. equipment/big ticket items
  7. car insurance
  8. car
  9. Driver's education
  10. prom costs, school pictures, school ring, etc.
  11. significant school trips
  12. enrichment programs
  13. private school tuition
  14. Religious education
  15. etc.

6. **Alimony**

- a. amount
- b. duration
- c. termination triggers
- d. How are bonuses and additional compensation (over and above base salary) to be treated?
- e. Do you want to exchange financial information periodically? If so, what documentation and how frequently?

7. **Dependency exemptions**

- a. are these to be shared?

8. **Health insurance**

- a. who provides for the parties? Children?
- b. how are costs allocated?

9. **Uninsured medical expenses**

- a. for the parties
- b. for the children

10. **College education**

- a. Have funds been set aside?
- b. How will expenses be allocated?
- c. If children are young, is there a preference to wait until they are in their junior year of high school to decide how college will be allocated?
- d. is there a philosophy that the children should be obligated to contribute toward the cost of their education in some manner?

11. **Taxes**

- a. How will audit of prior joint returns be handled?
  - 1. if they result in additional taxes/penalties?
  - 2. if they result in a refund?
- b. If parties can file jointly in current year, will they?
  - 1. how will taxes and refunds be allocated?

12. **Security in the event of death**

- a. should either or both parties be obligated to maintain life insurance in the event of death?
- b. who should be the beneficiary of the policy?
- c. amount of the policy?
- d. duration of the obligation?

13. **Counsel fees**

- a. should each party be obligated to pay his/her own counsel fees or should they be allocated in some other fashion?