



of 50

Common Questions and Concerns Regarding Divorce

By Lisa Rosenberg Moore, Esquire

Some of the most common questions clients ask when considering divorce include: 1.) What are my rights regarding my children? 2.) How will our property be divided? 3.) How expensive is a divorce?

The areas creating the greatest anxiety are concerns relating to the custody, parenting time and support of the children. Except in the most extreme circumstances, both parents will have frequent contact with their children and have equal rights.[1] In a perfect world, the Courts strive to formulate a parenting schedule which provides for as close to equal time sharing as practical and in the children's best interest. The Courts have excellent mediation programs to assist parents in formulating a parenting plan. Litigation should be a last resort, only after the parents attempt to amicably resolve child related issues.

A second area of concern among clients contemplating divorce is how much a party will pay/receive in child support. With the exception of families whose combined net income exceeds \$3,600.00 per week, the New Jersey Child Support Guidelines take the guess work out of how much child support will be paid/received. The amount of parenting time the nonresidential parent exercises as well as the amount of alimony paid/received, affects the child support amount to be paid to the parent with whom the child primarily resides.

A third commonly asked question relates to the division of marital assets. New Jersey law provides for the equitable distribution of assets and liabilities acquired during the marriage.[2] Equitable, however, does not necessarily mean equal. The Court views

marriage as a "joint enterprise" acquiring property due to both parties' financial and non-financial contributions to the marriage. Inheritances, gifts to a particular spouse and premarital assets which are not commingled with marital assets may be exempt from distribution.

[3] In today's stressful economic times the cost of litigation is of concern. When a client asks me what to expect in terms of cost I assure them that they and their spouse are in control of the costs. While it is true that matrimonial matters are billed on an hourly basis, the client controls the amount of time the attorney will spend on their case. It is important to remember that the client's ability to resolve the matter as amicably and expeditiously as possible curtails fees. Unnecessary motion practice, e-mails and emotional letter writing serves no other purpose other than to escalate fees. The courts should be the last resort to resolve your dispute only after exploring alternative avenues for resolution, such as negotiation, mediation and arbitration.

A divorce is a difficult decision with long term effects to the family. You need to be certain you exhaust all avenues to resolve your marital difficulties, prior to moving forward with the dissolution of your marriage. Once you have made that decision, knowing the law and your parameters will enable you to expeditiously resolve your matter in the least costly manner. - *Advertorial*

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