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GETTING STARTED WITH THE DIVORCE: WHAT YOU NEED TO BE PREPARED

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By Richard F. Iglar

You have come to a decision which you may have been dreading, or which may make you feel relieved. You are taking the first step toward a decision which will allow you to take control of the direction of your future life. You are going to start interviewing divorce lawyers (and hopefully you have made the wise decision to hire a seasoned, wise and practical AAML attorney to guide you through the difficult divorce process). What is your matrimonial attorney going to need from you do his or her job effectively? What can you do to provide your attorney with the background and tools he or she will need to represent you in the effort to obtain the best possible outcome for you? What can you do to convey that information to your attorney in a practical and efficient way and put you ahead of the curve?

Your attorney is going to explain to you the three major issues before you in the divorce case: 1) custody and parenting time; 2) equitable distribution of the marital assets; and 3) the financial support issues of alimony and child support.

The issue of custody and parenting time is going to require you to relay the history and the current status of each parent's role in the child's life. Who historically acted as the child's primary care-giver and what was the division of responsibility for the child's care? What are the current arrangements? Rather than immediately worrying about titles and formal designations, what schedule actually works as a practical matter? What arrangement will serve your child's best interest and work for both parents' respective work responsibilities and schedules? Those are the topics to which you should give serious thought before even sitting down with your divorce attorney to discuss possible terms for a custody agreement or the goals of custody litigation. It is possible that documents related to the child, including records of schooling, activities, schedules, medical records, etc., may be helpful at some

point. In the initial stages, however, the essential thing is to be prepared to provide your narrative, orally at a consultation, or perhaps even in written form, in order to relay the history, the current arrangements and a proposed plan for the future.

Your preparation for a meeting to address the economic issues in the divorce, however, is going to be much more document intensive. The most basic documents related to the economic issues will be the tax returns. It would be helpful to have the last five years tax returns at the initial meeting with the divorce lawyer. Recent paystubs would also be helpful to substantiate current income. The three most recent paystubs will be needed during the course of the case to file the Case Information Statement, a basic financial disclosure document required by the Court.

As part of the financial support analysis, an examination of lifestyle spending and economic needs may become important. Is there any written personal budget? Has there been any formal tracking of personal spending using financial software such as Quicken? Can you easily assemble account statements or year-end statements for the past three years, or better yet, the past five years, with regard to bank accounts, financial accounts and credit cards? If possible, you should provide your attorney with documents in both paper and electronic format. It may be that it will be necessary to obtain complete documentation through formal discovery exchanges or signed authorizations or subpoenas during the course of the divorce case. However, if copies of these document can be assembled at the beginning, you are that much further ahead.

What are the marital assets? If a financial net worth statement or balance sheet has been prepared in the past, having that document at the initial meeting will provide an excellent snapshot of what is to be divided and the approximate values. Such a document might have been prepared on an annual basis for financial planning purposes, or it might have been prepared in connection with estate planning. Is there a will, trust or other estate planning documents which set forth assets? The identification of financial assets could be communicated orally in an interview, but what can be a better start than having at the outset a comprehensive written list, with assets specifically identified along with values. Obviously, if any asset has been appraised or valued in the past, your attorney will want to see the appraisal or valuation report.

If either party has a business, what documentation can be initially provided regarding that asset? Are there operative documents which are easily accessible? Do you have a shareholder agreement or operating agreement or other documentation related to a business entity owned by either party?

The divorce process can be personally challenging and can take an emotional and financial toll. You need to be as prepared as possible and have a good working relationship with your divorce attorney. By securing the information and documentation you have and providing it to your attorney at the outset, you will put yourself in the best possible position to proceed efficiently. You will avoid the waste of time and money involved in putting the needed information out on the table in dribs and drabs. Gathering the documentation to get started with your divorce immediately advances the discussions about the real issues in the divorce and puts you way ahead of the curve for any challenges ahead.

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