SAM HASLER
ATTORNEY AT LAW

DIVORCE MANUAL

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A BRIEF INTRODUCTION

My name is Sam Hasler. I graduated from Ball State in May of 1982 with a Political Science major. I went onto law school at Valparaiso University. I obtained my Juris Doctor degree in May of 1987. During law school I was on the Valparaiso Law Review for 1986-87 and I worked as a research assistant for Professor Robert Blomquist in the area of causation in torts.

I began practicing law in Anderson, Indiana in October of 1987. I started as a sole practitioner. That general practice involved criminal defense, debt collection, family law, appeals, corporate law, consumer protection issues (including the Fair Debt Collection Practices Act), bankruptcy and civil litigation. From April 1, 1993 to December 31, 1997, I was a partner in Hasler & Maynard, P.C.. At that time I returned to a solo practice. Then on July 1, 2000, I was hired by Dorn & Associates, P.C, and moved to Indianapolis. Dorn provided pre-paid legal service to members of various union Carpenter and Millwright Locals. I left Dorn in September of 2002 dissatisfied with the limited practice areas of a pre-paid legal services program. I returned to private practice in Anderson shortly after that.

Indiana's ethical rules prevent me from saying I am a specialist. I can say that I concentrate my practice to certain areas of the law. I tend to concentrate my practice in the areas of family law, business law, and consumer law.

Some people may tell you that an attorney's practice is limited to one county. This is not so. The Indiana Supreme Court licenses attorneys and that license allows me to go into any court in the state. I do limit my the counties where I practice based on economics. It is a bit too expensive to try an ordinary divorce case in Evansville from Anderson. The counties where I find it feasible to practice family law are: Madison, Delaware, Blackford, Henry, Hancock, Marion, Hamilton, Tipton, Grant, Howard, and Boone. I will go further but my fees will be high.

A few words about my philosophy with divorce cases, which I premise on my ethical obligation to protect your best interests. Since this is a potentially traumatic experience for you, I will not make mountains out of molehills but neither will I advise you to cut off your nose to spite your face. We will get you want you need in the most efficient manner possible.

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YOUR CASE AND HOW IT (USUALLY) WILL PROCEED

Generally, there are three steps to a divorce case. First, file the Petition for Dissolution of Marriage. Second, attend the provisional hearing. Lastly, there is the Final Hearing. I will explain all of this in the following pages and some more, too. As I said, this is how things *generally* go.

Each case is unique. Divorce deals always with dividing property and debts. Other matters depend on if there are children or not. Again generally, courts divide the property and debts on a 50-50 basis. Custody always depends on the best interests of the child.

Between the provisional hearing and the Final Hearing, there may be settlement negotiations, mediation and discovery. The facts of this case are unique, and how the law applies to our facts is unique. The court interprets the "fit" between our facts and the law. That means the judge might not see things our way if we go to trial. That is why there may be settlement negotiations. Remember the phrase, a bird in the hand is better than two in a bush? That thinking applies directly to settlement. You and I will weigh the costs of settling the case versus taking it to trial -- costs in money, time, energy, stress, and what litigation might do to the relationship you have with the other person (your ongoing relationship is especially important if you are parenting children together). You and I will weigh the benefits of settling on a sure thing versus taking a chance for more in court, bearing in mind that the judge might rule against us. If we can settle all matters, then there is no need for a Final Hearing. The settlement agreement becomes your Decree of Dissolution signed off by the judge in your case.

Some counties require mediation. Instead of a judge, we appear in front of a mediator and the mediator works us towards a settlement. Then we ask the Court to adopt the agreement and convert it to an order. Mediation requires additional costs because we must pay for the mediator. If successful, mediation means no final hearing. The mediation agreement becomes your Decree of Dissolution signed off by the judge in your case.

Discovery is the process where we get information from the other side and they get information from us. I discuss this more below. Both sides engage in discovery because the lawyers want all the information possible before we go into court.

Then we get to the conclusion, the Final Hearing. WE could not settle all matters, mediation was not required or was unsuccessful, and so now we put the issues in your case to the judge. The judge makes a decision which he puts into a Decree of Dissolution.

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MY OBLIGATIONS TO YOU AS MY CLIENT

I represent you. Not anyone else. Representing you means you st the objectives you want and I do what I can legally to reach those objectives. Our ethical rules say specifically:

> Rule 1.2. Scope of Representation and Allocation of Authority Between Client and Lawyer
>
> (a) Subject to paragraphs (c) and (d), a lawyer shall abide by a client's decisions concerning the objectives of representation and, as required by Rule 1.4, shall consult with the client as to the means by which they are to be pursued. A lawyer may take such action on behalf of the client as is impliedly authorized to carry out the representation. A lawyer shall abide by a client's decision whether to settle a matter. In a criminal case, the lawyer shall abide by the client's decision, after consultation with the lawyer, as to a plea to be entered, whether to waive jury trial and whether the client will testify.

I am to "act with reasonable diligence and promptness in representing" you. IN.R.Prof Con. 1.3. Our ethical rules require me to do the following about communicating with you:

> Rule 1.4. Communication
>
> (a) A lawyer shall:
>
> (1) promptly inform the client of any decision or circumstance with respect to which the client's informed consent, as defined in Rule 1.0(e), is required by these Rules;
>
> (2) reasonably consult with the client about the means by which the client's objectives are to be accomplished;
>
> (3) keep the client reasonably informed about the status of the matter;
>
> (4) promptly comply with reasonable requests for information; and
>
> (5) consult with the client about any relevant limitation on the lawyer's conduct when the lawyer knows that the client expects assistance not permitted by the Rules of Professional Conduct or other law or assistance limited under Rule 1.2(c).
>
> (b) A lawyer shall explain a matter to the extent reasonably necessary to permit the client to make informed decisions regarding the representation.

I will copy you will every document I receive and I send out. I do this not only because this rule requires it but because it is your life, your case, and you need to know what is going on. I am to represent you zealously and I will do so.

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YOUR RESPONSIBILITIES TO ME

Our client-attorney relationship does require a few things from you. First, you need to cooperate me with in everything with your case. For example, if I need documents or information and you do not provide them, then I cannot do my job. Second, if you do not pay your bills, then I cannot afford to represent you. Lastly, if you do not keep my office informed of any changes in your mailing address or telephone, I cannot keep you informed of your case.

I will withdraw as your attorney if you do not follow through on your responsibilities.

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DEFINING SOME LEGAL TERMS

These definitions might differ some from the dictionary but my hope here was to define them so that they are understood in everyday English.

Petitioner: the person who files for divorce first. Being the Petitioner does nothing more for the person filing than having control over whether the divorce becomes final or not and (generally) gives the person the choice of court to file in.

Respondent: the person who is not the Petitioner.

Contested divorce: means that you and your spouse have not agreed completely on dividing property and debts, and, if there are children, decided custody, parenting time, and child support issues. Contested does not mean whether or not you will get divorced.

Uncontested divorce: you and spouse have decided between yourselves all of the issues that are to be decided in your divorce - property, debts, custody, support, parenting time (visitation).

Irretrievable breakdown of the marriage: that the marriage cannot be fixed. Part of what the Petitioner has to say to get the divorce finalized - "I agree that the marriage is irretrievably broken. So long as the Petitioner says that the marriage is irretrievably broken, there will be a divorce.

Provisional Hearing: the hearing between filing the Petition and the Final Hearing where temporary support, temporary maintenance, temporary custody, temporary child support, and temporary parenting time are set by the court.

Final Hearing: the hearing where the marriage is ended.

Discovery: the process of getting information from the opposing party and others that we need for our case. Discovery is a set of tools including interrogatories (written questions), motions to produce (to get documents), motions to produce directed to third parties (same as a motion to produce but not for you or your spouse), and depositions (appearing before a court reporter and being asked questions under oath).

Temporary maintenance: payment to the spouse for expenses; not child support and not always granted by a court.

Decree of Dissolution of Marriage: the formal name of the court's Order that dissolves your marriage, divides your property and determines child custody, support and parenting time.

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Parenting Time: the technical term now used for visitation.

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You performed the first step by retaining me as your attorney. Now, I will prepare the documents needed in your case. For contested cases these documents are:

- Petition for Dissolution of Marriage
- Notice of Provisional Hearing
- Summons

For uncontested cases, there are more documents prepared at the start:

- ✓ Petition for Dissolution of Marriage
- ✓ Waiver of Final Hearing
- ✓ Waiver of Summons
- ✓ Property Settlement Agreement.

I discuss uncontested divorce separately and will only be discussing contested divorces from here on out.

The Respondent must always get notice of any hearing. We lawyers call that due process - notice and an opportunity to be heard. It is a constitutional right.

The next step is the provisional hearing. If you are the Petitioner you must be there and you better be there if you are the Respondent. Nothing requires the Respondent to be at any hearing. However, if the Respondent is not at the hearing, he gave up any ability to contradict the Petitioner or defend himself.

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THE UNCONTESTED DIVORCE

Uncontested divorce means you and your spouse have settled all of your differences before filing the divorce petition. This procedure allows you and your spouse to part ways in a more friendly manner than if we let a judge decide all the issues. Judges may not decide to divide things the way you and your spouse may like.

I cannot represent both of you. I want to make it clear that only the person hiring me is represented by me. I see my job as having two parts. To tell you if the agreement is better than what you would get in court and to prepare the documents for filing with the court.

An uncontested divorce allows you and your spouse to avoid the time and stress of appearing in court. One of the documents we prepare at the start of a case is called a Waiver of Final Hearing. That means both sides agree that there is no need for a hearing because all issues have bene agreed to by you and your spouse.

A document called a Property Settlement Agreement contains your agreement with your spouse. We prepare that and file it with your Petition for Dissolution of Marriage. Another document prepared for you is a Waiver of Summons. We do this so that your spouse does not need to have a summons served on them. The Decree will approve the Property Settlement Agreement and include the terms of the Agreement into your Decree. Essentially, your Property Settlement Agreement becomes your Decree of Dissolution of Marriage.

We file the Petition for Dissolution of Marriage, Waiver of Summons, Waiver of Final Hearing, and Property Settlement Agreement all at the same time. Sixty days after filing the Petition, I take a Decree of Dissolution to the court for signing by the judge. This ends the case.

It is possible for you and your spouse to do these things on your own. The Indiana Supreme Court has the forms for an uncontested divorce online. What I provide is a relief from the stress of making certain that you have complied with all of the rules and statutes and an objective review of your agreement.

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THE PROVISIONAL HEARING

Simply put, the provisional hearing means a temporary hearing. They are generally short and to the point. Quite often, the parties agree to matters before the actual hearing. The purpose here is for preserving as much of the status quo as possible and provides for a transition to a post-marriage life for the parties. Only the Final Hearing determines the issues with anything approaching permanency. Indiana Code 31-15-4-13 specifically deals with this: "The issuance of a provisional order is without prejudice to the rights of the parties or the child as adjudicated at the final hearing in the proceeding." The provisional order ends in one of the following ways: 1) at the Final Hearing, 2) the Petitioner dismisses the Petition for Dissolution, or 3) a petition to modify is filed before the Final Hearing.

If either you or your spouse needs possession of property until the Final Hearing, this needs to be brought up at the provisional hearing. Dividing that property permanently is for the Final Hearing.

We may also request a temporary restraining order. Indiana law allows a temporary restraining order to only property issues. You and your spouse may be restrained from transferring, encumbering, concealing, or in any way disposing of any property, except in the usual course of business or for the necessities of life or granting temporary possession of property to either party. For protecting people, there is a protective order proceeding. The law requires a protective order be filed separately and the joined to the divorce case.

Law allows courts to order counseling. I am aware of one judge who will not order counseling for the parents if one parent objects. He reasons that counseling will have no effect if both parties are not willing to make an effort. I think his reasons are valid. The statute says this about counseling:

> The court may require the parties to seek counseling for themselves or for a child of the parties under such terms and conditions that the court considers appropriate if:
> (1) either party makes a motion for counseling in an effort to improve conditions of their marriage;
> (2) a party, the child of the parties, the child's guardian ad litem or court appointed special advocate, or the court makes a motion for counseling for the child; or
> (3) the court makes a motion for counseling for parties who are the parents of a child less than eighteen (18) years of age.

The next statute specifically forbids joint counseling without the consent of both parties or "or "if there is evidence that the other party has demonstrated a pattern of domestic or family violence against a family or household member."

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PROPERTY DIVISION

Every case involves the division of property. Some people do not realize that they have property. Property is stuff. The value need not be great but there is a need for dividing this between you and your spouse. All too often clients do not want to think about their belongings but want only to be rid of their spouse. Think about the cost of replacing the things you do not want to "fight over" and ask your self if you can really afford not to get your 50-50 split. This is the principal reason I will tell you that you need to get your half and advise against cutting off your nose to spite your face.

The law presumes a 50-50 split of property. This means that there is no fighting over property unless you deserve or your spouse wants more than 50-50 split. This also means that neither party can take the other to cleaners without rebutting this presumption. The law sets out how to rebut this presumption. The party wanting more than 50% of the marital property must show that a 50-50 split is unjust and unreasonable using these factors:

> (1) The contribution of each spouse to the acquisition of the property, regardless of whether the contribution was income producing.
>
> (2) The extent to which the property was acquired by each spouse:
>
> (A) before the marriage; or
>
> (B) through inheritance or gift.
>
> (3) The economic circumstances of each spouse at the time the disposition of the property is to become effective, including the desirability of awarding the family residence or the right to dwell in the family residence for such periods as the court considers just to the spouse having custody of any children.
>
> (4) The conduct of the parties during the marriage as related to the disposition or dissipation of their property.
>
> (5) The earnings or earning ability of the parties as related to:
>
> (A) a final division of property; and
>
> (B) a final determination of the property rights of the parties.

Marital property includes property "(1) owned by either spouse before the marriage; (2) acquired by either spouse in his or her own right: (A) after the marriage; and (B) before final separation of the parties; or (3) acquired by their joint efforts." Notice that you and your spouse must own the property to be divided. One typos of property where the ownership may not be clear involves retirement benefits. Unless the retirement benefits have vested, there is no ownership.

The court has several ways to divide property. It can divide by kind - there are two cars and so one goes to you and the other to your spouse. If there are retirement benefits, the court can order them distributed between you and your spouse. Then, too, the court can order the property sold. Lastly, the

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court has the power of "setting the property or parts of the property over to one (1) of the spouses and requiring either spouse to pay an amount, either in gross or in installments, that is just and proper." Whatever method the court uses must be just and reasonable. The court must take into consideration the tax consequences of any property division.

One other tool available to the court in property division is set out in this statute:

> If the court finds there is little or no marital property, the court may award either spouse a money judgment not limited to the property existing at the time of final separation. However, this award may be made only for the financial contribution of one (1) spouse toward tuition, books, and laboratory fees for the higher education of the other spouse.

I have not seen it used but the law is there as limited as it is to cases with little or marital property and for the spouse receiving the money who is attending a school of high education.

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MAINTENANCE

Indiana does not allow for alimony. Indiana does allow for maintenance. Maintenance is the payment of money to the former spouse for their support.

Temporary maintenance is only allowed from the provisional hearing to the Final Hearing. Here the purpose is to keep the other spouse afloat during the transition out of marriage and two incomes. The spouse seeking maintenance must not be able to support themselves. My experience is that courts are not likely to grant maintenance and when they do order it, the spouse paying maintenance is ordered to pay bills rather than pay cash to the other spouse.

Post-divorce maintenance is of three varieties and the statute defines them so that they are available only in specific cases. First, one spouse is disabled and incapable of supporting themselves. Second, one spouse has custody of a child who is so disabled that the spouse must give up work to take care of the child. The last type of maintenance is called rehabilitative maintenance and the statute sets out the criteria for rehabilitative maintenance:

> (A) the educational level of each spouse at the time of marriage and at the time the action is commenced;
>
> (B) whether an interruption in the education, training, or employment of a spouse who is seeking maintenance occurred during the marriage as a result of homemaking or child care responsibilities, or both;
>
> (C) the earning capacity of each spouse, including educational background, training, employment skills, work experience, and length of presence in or absence from the job market; and
>
> (D) the time and expense necessary to acquire sufficient education or training to enable the spouse who is seeking maintenance to find appropriate employment....

No maintenance is permanent. Rehabilitative maintenance lasts only three years. Where the court gives maintenance because of the spouse's disability when the spouse can support themselves is the end of the maintenance. When a child's disability is the reason for the maintenance order, the court orders the maintenance for what it considers to be an appropriate amount of time.

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CHILD CUSTODY

The divorce court determines child custody twice - at the provisional hearing and at the Final Hearing. Child custody determines child support obligations and parenting time rights. After the Final Hearing, what the Decree ordered for custody, support and parenting time may be modified. I have more on post-dissolution modification in following pages.

The only question regarding the children is what in their best interests. "Best interests" does not include who has the most money, or who has the better house. Indiana law makes it quite clear that a parent's wealth does equal a better parent. The law explicitly says that no presumption exists between mothers and fathers as being a preferred custodian of their children. One does not need to prove the other parent unfit. Unfit means something so bad that the best interests are obvious to one and all - they are the black and white cases. I will tell you that the majority of custody disputes are not black and white but involve different shades of gray. Indiana's statute on child custody does give us a rule or a definition of best interests. What the statute does give us is a list of factors that a court must consider in a custody dispute. This list is as follows:

(1) The age and sex of the child.
(2) The wishes of the child's parent or parents.
(3) The wishes of the child, with more consideration given to the child's wishes if the child is at least fourteen (14) years of age.
(4) The interaction and interrelationship of the child with:
  (A) the child's parent or parents;
  (B) the child's sibling; and
  (C) any other person who may significantly affect the child's best interests.
(5) The child's adjustment to the child's:
  (A) home;
  (B) school; and
  (C) community.
(6) The mental and physical health of all individuals involved.
(7) Evidence of a pattern of domestic or family violence by either parent.

I view custody issues through this statute. They require attention to detail and we will need to work hard to bring those details before the court - interviewing and preparing witnesses, discovery, and then presenting all this to the judge. In the end, the judge has wide discretion in awarding custody. So long as any evidence supports the judge, his decision will be upheld on appeal. This makes custody difficult for all.

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CHILD SUPPORT

Indiana has child support guidelines. These guidelines tell us how to calculate child support. Basically, it depends on the income of you and your spouse and how many children. The Child Support Guidelines can be found on the Internet here: http://www.in.gov/judiciary/rules/child_support/index.html. You can get all the details there. What you need to understand more than anything else is this: 1) the mathematics is more complicated than say $50.00 per child per week, 2) it is impossible to get an accurate child support figure without accurate numbers going into the computations, and 3) there is no standard child support figure - put three families of three together and you will get three different child support figures unless they have exactly the same income, same deductions allowed by the Guidelines and have the same amount of overnight visitation.

The State of Indiana also provides us with an online child support calculator. You will find this particularly useful after the divorce is final. You can find the calculator at this Internet address: https://secure.in.gov/judiciary/childsupport/calculator/support.pl. If you are online, I suggest that you add this site to your Favorites/Bookmarks list.

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PARENTING TIME

Parenting time includes what we all once called visitation but is also more than visitation. The Parenting Time Guidelines include rules on sharing information about the children and transportation as well as visitation. The Guidelines breakdown visitation according to the age of the children and the type of visitation. The Indiana Supreme Court designed the Parenting Time Guidelines to be understood by you and your spouse and to be self-operating - that is without the need to go to court for hammering out details. You can find the Parenting Time Guidelines online at http://www.in.gov/judiciary/rules/parenting/index.html.

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THE FINAL HEARING - DO WE REALLY HAVE TO GO COURT?

No, we do not always need to go to court to get the divorce final. By law, your divorce cannot be final any earlier than 60 days after filing the petition. This gives the parties work on reconciliation. The divorce can end several different ways:

1. You and your spouse reconcile and the case is dismissed.
2. Some counties require mediation rather than a hearing.
3. The parties reach a settlement and we do not have a hearing but file a written Property Settlement Agreement.
4. We reach an agreement but instead of filing a writing with the court, we appear at the Final Hearing and verbally explain the agreement to the court.
5. We go to the Final Hearing, put on evidence and leave it to the judge to decide the case.

I will tell you that a settlement is generally preferable to letting a judge decide a case. I say generally because some settlement offers are plainly unacceptable. Settlement means an agreement which means that both you and your spouse do not disagree about the terms of the settlement.

Ethically, I must report to you all settlement offers. I see my job with settlement offers to explain to you the legal pros and cons of the offer. It is not my job to always advocate a settlement offer. The choice of accepting is in the end yours.

You also should be aware that sometimes divorces do not end automatically on day 60. The court may have too much on its calendar for exactly the sixtieth day after the petition was file din your case. There may be issues, usually custody, which will require us to move the date beyond the sixtieth day.

Unless you and your spouse reconcile, the result will be a Decree of Dissolution of Marriage. This is the court's order dissolving your marriage and resolving all the issues in your case. Your marriage ends but your divorce may just be starting. We will discuss that more in the next few sections. Generally speaking, if you do not have children and you are happy with the court's decision, this will be the end of the case.

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WHAT TO DO IF WE DO NOT LIKE THE COURT'S DECISION: APPEALS

Trial courts make mistakes. Because courts make mistakes there is what we call the appellate process. Appeals are a bit more complicated and this is the barest outline about appealing a case. I am writing this from the perspective of the party doing the appeal. The not doing the appeal

First, the Court of Appeals and Indiana Supreme Court do not have trials but only pass judgment on how the trial judge's applied the law to our facts. That is, the judge incorrectly applied the law to the facts of the case or that there are no facts supporting the trial judge's judgment. The appellate courts will not do anything if our complaint is only how the trial judge judged the evidence. Sounds a bit like splitting hairs but just remember if there is any evidence supporting the trial judge, the appellate courts will find no error in the trial judge's work.

Second, there are no trials before the Court of Appeals or Indiana Supreme Court, we just file what are called Briefs. In our Brief we write how the trial judge erred in applying the law to our case.

Lastly, appeals take time and have pretty rigid rules about time, too. As soon as we get the Decree of Dissolution, we need to consider whether to appeal or not. Thirty (30) days after the date of the Decree, we must file a Notice of Appeal. Then ninety (90) days after that, the clerk is to have the transcript of the hearing ready for filing with the Court of Appeals. Then thirty (30) days after that, we need to file our Brief and then the other party has thirty (30) days to file their Brief, and we can file a Reply Brief thirty (30) days after that. So far there is 210 days involved in the appeal. The time increases waiting for an opinion from the Court of Appeals.

Filing an appeal also means an additional cost in the shape of a filing fee with the Court of Appeals.

What you need to understand most is that the case does not necessarily end with the trial judge. In addition to appeals, certain items can be modified.

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ENFORCING THE DECREE

If the court orders something done by either party and it is not done, you need to know that the court does not keeps tabs on us or take steps itself to enforce its order. The parties enforce the court's orders. There are several tools for enforcing the court's orders:

1. Contempt of court.
2. Income withholding orders or wage assignments for support.
3. A bond to secure custody or parenting time.
4. Garnishment
5. Any other method that might be used to collect any other judgment - of which there are many but these depend on the facts of the case.

If you do not obey the court's order, then you can expect any of these being used against you. If the other side does not obey the court's order, you must let me know. I can help you enforce the court's order but just as the court I do not monitor your case after the Decree.

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MODIFYING THE DECREE

This section applies if you had children in your divorce. Child support ends when the child reaches 21unless emancipated earlier and can go after the child is 21. With children involved, your divorce does not really end until the youngest child is emancipated. I want to emphasize two things: 1) this is, again, a broad outline, and 2) that the General Assembly has the power to change these things. I keep my clients informed who want to be kept informed of changes in the law by way of newsletters. Keeping you informed means you keeping me informed of any changes in your mailing address. I do handle modification cases. If you want to modify an order or your former spouse is trying modify anything, then you need to give me a call.

Modifying Support. Child support modification requires a substantial and continuous change in circumstances so as to make the terms unreasonable, or there has been a change of more than a twenty percent (20%) in the past 12 months from the amount ordered by the court. "Substantial and continuous change" certainly means any serious decrease or increase in income of either parent. I suggest that you keep the online child support calculator bookmarked on your computer (if you have one) so that you can see if you need to modify support.

Modifying Visitation. Parenting time allows little in the way of modification. Child support can change as often as the parent's income but there should be too often a change in parenting time. A parent moving out of the area is grounds for modification. Otherwise, restricting parenting time means showing the court "that the parenting time might endanger the child's physical health or significantly impair the child's emotional development."

Relocation. The changed in 2006 on this issue. The prior law stated that one must give notice only if a party were moving mroe than 100 miles from the courthouse where the party got their divorce. No such distance requirement is in the new statute. The statue requires notice if a party is moving. The court must set the matter for a hearing and the court can modify any of the following: a custody order, parenting time order, grandparent visitation order, or child support order. If you are thinking of moving, you need to contact me immediately.

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Modifying Custody. A custody modification requires a substantial and continuous change that makes a modification of the custody order in the child's best interests. What I said in the section above about custody applies here, too.

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SOME THINGS YOU MUST DO AFTER THE FINAL HEARING

1. Change your Will.
2. Change any insurance policies where the beneficiary is your now former spouse.
3. If you are the wife and got your name changed, make sure that Social Security and the Bureau of Motor Vehicles issue new cards to you with your new name.

If you do not have a Will and you do have children, I recommend very strongly that you get a Will. Think about these scenarios: 1) you are the custodial parent and you do not want your former spouse to have custody of the child.; 2) you are the custodial parent and your former spouse dies before you do; and/or 3) you remarry or your spouse remarries. All three scenarios require some basic estate planning which this office can do for you.

First, understand that you cannot use a Will to keep a non-custodial parent from getting custody of the children after your death. However, you can use a Will to nominate a guardian for the children. That guardian can petition the court for custody of the children. That takes care of the first scenario. A Will nominating a guardian also takes care of the second scenario. I strongly recommend anyone with children under 18 years of age have a Will which provides for a guardianship of the children - even if there is no great amounts of property.

The third scenario involves more choices but a serious discussion is needed about estate planning for the children of the previous marriage if you or your former spouse remarries. Unlike the first two scenarios, this one does require that you have assets that you want to pass along to your children.

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ODDS AND ENDS

Some items that do not quite fit into any of the pages above but which might have some importance to you and/or your case.

Attorney Fees. The trial court can order attorney fees for the entire divorce case. (The trial court also can order them in modification cases). Parties' incomes determine how the court orders attorney fees except for contempt. Contempt is about enforcing the court's orders and it will depend on winning the case rather than the income of the parties. If one party has a great deal less of an income, the other party needs to expect to pay attorney fees.

Grandparent visitation. The grandparents can petition the court for visitation. We do defend these cases. Generally speaking, the visitation must be in the child's best interests and a custodial parent opposing visitation with the grandparent must have a reasonable basis for not allowing the visitation.

Change of Name. The statute says the wife has the option of choosing to change her name. I do not believe that the husband can force the wife to change her name.

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