DIVORCE IN KENTUCKY

What to Expect and Best Practices to Follow During the Divorce Process

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INTRODUCTION

This handbook is provided to assist in improving your understanding of the marriage dissolution process in the Commonwealth of Kentucky. Like any handbook, this one is no substitute for legal advice. It is intended only to give you a rough sketch of the dissolution process, applicable law, what to expect in a divorce, and to help you and your lawyer work together more effectively.

Thanks to the University of Kentucky Office of Continuing Legal Education for the use of portions of its materials in preparation for this handbook.

Section 1

AN OVERVIEW OF THE DIVORCE PROCESS

Introduction

The goal of the legal process of divorce is to conclude the legal relationship of a marriage, and to resolve matters incident to the dissolution, such as child custody, visitation, child support, spousal maintenance, property and debt division, and attorney's fees, and costs. While marriage legally comes to an end by divorce, the relationship between the parties is merely transformed. The parties will always have a past, and especially if children are involved, a future; divorce proceedings serve as a way to manage that future relationship.

A divorce decree, which is a document that usually incorporates the resolution of all applicable issues, can be based upon an agreement between the parties, or as a result from a contested trial before a judge. An agreement is usually less traumatic for you (and your children, if applicable), and less expensive, than a trial. Ultimately, most cases are resolved without a trial, and sometimes the parties can resolve matters by agreement without going to court.

In Kentucky, what is commonly known as "divorce" is frequently referred to as "dissolution of marriage" and, therefore, these terms are generally used interchangeably. Kentucky is a no-fault divorce state, meaning that the only grounds for divorce that need to be stated in the Petition are "irreconcilable differences."

Divorce Proceedings

The following description applies in Kentucky. Legal procedures in other states may be, and frequently are, very different, and the law in Kentucky and in other states is often changing and evolving. The development of any case is highly fact-dependent. Be mindful of this if you hear stories from friends or relatives about their divorces, particularly if they went through the process in other states. Kentucky, unlike some states, has a court system specifically created for resolution of family law matters, including divorce and those matters incident to any divorce. Kentucky's family courts use a "one family, one judge, one court" approach, which allows the same judge to hear all matters involving a particular family. In those counties that do not have a court dedicated solely to family law matters, there may be a "domestic relations commissioner" who manages the case and makes recommendations for rulings to the judge.

A divorce in Kentucky is either contested or uncontested. An uncontested divorce occurs in two situations. Either the parties have settled their issues by executing a separation agreement, or

the respondent (the party who did not file the Petition, but is responding to it) has not replied to the Petition or entered his or her appearance in the divorce case. Contested divorce, or any divorce that is not uncontested, is the subject of this handbook.

The Petition

A divorce begins with the filing of a "Verified Petition for Dissolution of Marriage," or simply the "Petition," with the court. With this document, one spouse legally notifies the court and other spouse that the filing spouse is requesting that the court legally terminate the marriage. The Petition usually lists additional relief requested of the court, such as child custody, child visitation, timesharing, child support, spousal maintenance, a division of property and liabilities, attorney's fees, and costs.

The Response

Kentucky law does not require the opposing party to file any type of formal response to the Petition with the court, though a response is permitted and is the regular course of practice. However, the responding party risks a default judgment by not filing a response if any issues relating to the divorce are disputed.

Provisional/Temporary Orders

Provisional orders, also called temporary orders or pendente lite orders, set the ground rules while the divorce case is pending. After the Petition has been filed, either party can request provisional orders from the court for temporary maintenance, child support, or custody. To some extent, a divorce can be thought of as having two stages. In the first stage, which normally occurs shortly after the filing of the Petition, the parties (or the court, if the parties cannot agree) must decide how various issues will be handled until the divorce can be finalized. For example, until the divorce is final, who will have temporary custody of the children? How much child support will be paid by the non-custodial parent? Who will have temporary possession of the marital residence? Who will pay which bills?

Generally, most divorces will also include a prohibition against either party spending down or transferring marital assets, except "as necessary to pay reasonable living expenses." This restriction is intended to keep marital assets from disappearing or being spent before they can be divided between the parties pursuant to the final divorce decree. The court may also enter an order that prevents the parties from allowing a lapse or cancellation of insurance policies, or changing the beneficiaries on those policies.

In some cases, the parties feel comfortable agreeing to "maintain the status quo" and no formal provisional order or agreement is necessary. It is important, however, to memorialize any oral temporary agreements in writing in case they become clouded as the dissolution proceeds.

It is usually in both spouses' best interest to agree upon reasonable arrangements while the case is pending rather than incurring additional legal fees and increasing animosity by having to go to court for temporary orders. In our experience, most temporary orders are agreed to by the parties, through negotiation and compromise, and a court hearing for a temporary order is not necessary. If an agreement is reached, it will be reduced to a written agreement by the attorneys, signed by both parties, and then submitted to the court for its approval. Once the court approves the agreement, the terms of the agreement will become a court order, which must be obeyed by the parties, or else a violating party may be subject to contempt sanctions.

Discovery

During the dissolution process, each spouse is entitled to information from the other about the case. The legal procedure for obtaining that information is called "discovery." Discovery may be a simple, speedy process, or one consuming a great deal of time, energy and money. This will depend mostly on the complexity of the case, as well as the cooperation of each party in providing requested information.

There are several different common discovery procedures. Interrogatories, which are written questions, may be sent to the other party requiring a written response, made under oath. Each party is generally limited to 30 interrogatories. By a request for production, one party may obtain documents from the other. In a deposition, the spouses or other persons, including experts, may be required to answer questions under oath in a lawyer's office while a court reporter takes down what is said and then prepares a transcript. If your deposition is to be taken, there will be advance notice and your lawyer will discuss the procedure with you.

Kentucky law provides for a very broad standard for what information is "properly discoverable." In almost all divorces, any type of financial information relating to either of the parties is properly discoverable, such as paycheck stubs, tax returns, bank and brokerage statements, etc. In fact, Kentucky courts mandate that each party disclose certain financial information within forty-five days after a Petition is filed. In divorces where child custody is contested, almost any information is properly discoverable, including issues pertaining to a party's character or parenting ability, such as drug use or mental health issues. In many Kentucky counties, a party's answers to interrogatories and requests for production are filed with the court, but documents produced with the answers are not filed with the court. If the parties are concerned that highly personal or confidential information will be made public, they can request that such information not be filed in the court record or filed under seal.

Negotiated settlement

Most lawyers and judges agree that it is better to resolve a case by agreement than to have a trial in which a judge decides the outcome. Also, people who have been through a divorce value the privacy and control that a negotiated agreement gives them. A settlement gives the parties and their attorneys the flexibility to be creative in fashioning an agreement that the court may not have the ability to order. Additionally, people are more likely to obey a judgment which is based on their agreement than one which has been imposed on them by a judge. Voluntary compliance is important because enforcement procedures available from the court are usually expensive and sometimes inadequate. For these reasons, following discovery—and at any time,

"Discovery may be a simple, speedy process, or one consuming a great deal of time, energy and money"

even during trial—the spouses and their lawyers should attempt to negotiate a settlement. Even though negotiated settlement agreements are done between the parties, certain issues are always modifiable by the court.

Because of the limited number of judges available to hear trials, some courts require that the parties and their lawyers attend a mediation in which a neutral third-party tries to assist the parties (and their attorneys) in coming closer to a settlement. Mediation is discussed in greater detail, below.

Although your lawyer may recommend that you accept or reject a particular settlement proposal, the decision to settle or not to settle is yours. Your lawyer cannot and will not make that decision for you.

Mediation

As suggested above, there are other methods of resolving your case than through a trial. These methods are collectively called alternative dispute resolution. While there are many types of alternative dispute resolution, the one used most frequently in the family law setting is mediation.

In mediation, the parties meet with a neutral third-party (who typically has completed training and is an attorney with special training, qualifications, and experience with family law) for the purpose of assisting the parties to reach an agreement. The mediator will help the parties identify the issues, foster joint problem solving, and explore settlement alternatives. It is important to have independent representation throughout the mediation process. The parties should consult with their respective lawyers about mediation and the legal ramifications of any proposed agreement.

Mediation is different from arbitration, another method of alternative dispute resolution, which is uncommon but is beginning to be used in family law cases. Unlike some states, Kentucky has not enacted family law arbitration legislation. Thus, the viability of family law arbitration in Kentucky is unclear. In arbitration, each party makes his or her case to the arbitrator, who then acts much like a judge and imposes a decision on the parties that is often final and binding. Mediation is very different; it is based on the collective wisdom of the parties, rather than on a decision handed by a judge or arbitrator. The mediator acts as a facilitator to help the parties share their sides of the story in order to craft a settlement agreement of their own. The mediator does not make a decision that binds the parties. If the parties, with the mediator's assistance, are unable to reach an agreement, then the mediation session has no effect and the case will usually proceed to trial. But a failed mediation does not mean you are precluded from coming to a settlement agreement before trial.

The cost of the mediator is generally shared equally between the parties. In our experience, mediation is frequently successful, and we normally recommend attempting mediation in all but the most unusual of cases.

Trial

If you and your spouse cannot settle your case, the matter will go to trial. At trial, you (and your attorney) will tell your story to the judge. It is told through your testimony, the testimony of other supporting witnesses called by your attorney, and documents called exhibits. In Kentucky, divorce trials are performed exclusively with a judge, and never to a jury.

Trial is likely to be expensive, and can be uncomfortable. However, it can be the only alternative to never-ending unreasonable settlement demands. Still, trials are risky. No lawyer can predict the outcome of a trial because every case is different. A judge, who is a stranger -- possibly with

a viewpoint, temperament and values very different from yours -- tells you and your spouse how to reorder your lives, divides assets and liabilities, and dictates when each of you may see your children and how decisions affecting your children will be resolved. Further, due to their heavy volume of cases, family court judges have limited time to devote to each case.

Sometimes, a trial does not end the case. Each party may, within a limited period of time, ask the judge to reconsider his or her decision, or appeal to a higher court. Either of these post-trial steps adds more time, expense, and uncertainty to the divorce process.

Section 2

CHILDREN'S ISSUES

Introduction

Ordinarily parents make decisions about their children together. But when parents divorce, the hostility between them sometimes causes them to disagree on what is best for the children. In addition, divorce presents a whole new set of child-rearing challenges. Even the best parents may find it useful to consult a child development expert for help in meeting these challenges. In addition, some counties in Kentucky require parents and children to attend "families-in-transition" or other parent/child classes before a divorce will be granted.

Issues related to children can present challenges for your lawyer as well. While your lawyer's loyalty is to you, your lawyer also has an obligation as an officer of the court to keep the best interest of the children in mind, even if that interest is inconsistent with yours.

Legal and Physical Custody

Kentucky law requires that custody decisions are initially determined by a "best interest of the child" standard. The court will consider a number of factors, including the wishes of the child's parents, the wishes of the child (depending on the child's age), the interaction and relationship of the child with his parents, siblings, and anyone else who may significantly affect the child's best interests, and the child's adjustment to home, school, and community. The law makes a distinction between "physical custody" and "legal custody." Physical custody is the responsibility of having the children live with you. The parent with whom the children are at the time has the responsibility for making day-to-day decisions about them. Day-to-day decisions include what the children eat and wear, whom they play with, and when they go to bed. Legal custody is the right to make important long-term decisions affecting your children's welfare that include the children's education, religion, and non-emergency medical care.

Many variations of legal and physical custody are possible. There may be joint legal custody (which is based on the presumption that the parties will be able to effectively communicate to resolve issues involving the children), but one parent has primary physical custody. Or, there may be sole legal custody with that parent also having primary physical custody. Also, there can be a joint legal and physical custody arrangement, such as where the children alternate spending some period of consecutive days with each parent.

In most cases, a parent without primary physical custody will have defined "timesharing" that functions in a way similar to joint custody. (In the past, this may have commonly been referred to as "visitation." However, courts now want to avoid the term "visitation" as both parents'

ability to parent their children is important.) Kentucky has "timesharing guidelines" that suggest a schedule based upon the child's age, and include divisions of holidays and other specific events. Additionally, some counties have their own local guidelines that parties may be ordered to follow. While timesharing can be ordered in accordance with any of those guidelines, the judge still has discretion to craft a timesharing schedule that takes into consideration the child's age, the parties' work schedules, the child's activities, the physical distance between the parties, and any other special concerns.

Joint Custody/Timesharing

There is not a standard "timesharing" arrangement. Some parents alternate weeks with the children, others alternate months. Still others divide the children's time unequally, but in a manner that meets the needs of each particular family. Parents who work out these arrangements themselves are usually more creative than courts are when the parents cannot agree. Legal custody, in which the parents share the right to make certain decisions for the children, can also be joint or divided in appropriate cases. Joint custody is not necessarily appropriate in every case, and some judges frown on children not having one home base.

Allegations of Child Abuse

Allegations of child abuse, whether sexual, physical, or psychological are serious. Unfounded or false claims are harmful to the children and obscure the real issues. Judges and lawyers will try to protect children both from a parent who is an abuser, and from a parent who fabricates such a claim.

Custody Litigation

Mediation

When parents can't agree on issues of custody and timesharing, Kentucky courts will frequently require the parents to participate in mediation. The mediator tries to help the parents reach an agreement on their own. The parties usually attend mediation with their respective counsel.

Investigation

The court will sometimes order, either on its own or at the request of one of the parties, an evaluation as to child custody/timesharing issues by a mental health professional or by another professional, such as a social worker. The investigation may include interviews with the parents, the children, teachers, day care providers, neighbors, doctors, and anyone else who is significantly involved with the children. The investigation may include psychological testing of the parents, and a review of any relevant medical or psychological records of the parents. The investigator usually writes a report and makes recommendations to the court. The recommendation can be helpful in reaching an agreement. If no agreement is reached, and the custody or timesharing dispute must be decided by the court, the judge will likely read the report and be significantly influenced by it, though the recommendation of the report is by no means conclusive and any decision must consider the child's best interests and those factors outlined in Kentucky law.

Lawyer or guardian ad litem for the children

The court may appoint a guardian ad litem (or "GAL") to represent the children or look out for their best interest in a custody or timesharing dispute. Frequently, the GAL will prepare a written report that is submitted to the court and reviewed by the judge.

Trial

If, after investigation, negotiation, and mediation, the parents are still not able to settle custody and timesharing issues, these issues are presented to the court for decision in a trial in which witnesses are called and arguments are presented. Then the matter is out of the parents' control as the judge decides what arrangement to impose on them. In some child custody matters, the judge will exclude the public from the courtroom if their presence is deemed to be detrimental to the child's best interests.

Children as witnesses

Parents often want to know if their children will be called as witnesses. Professionals usually advise against involving children in court proceedings because it is a very traumatic experience for them. This is equally true whether the dispute is over custody or something else.

Many people incorrectly assume that at a certain age children have an absolute right to pick the parent with whom they will live. While the child's preference as to custodial parent is never binding on the court's decision, Kentucky law does require that the child's wishes be considered as part of the "best interests of the child" analysis. However, even where the child's input is relevant, it is highly unusual for a child to be called as a witness. Generally, the wishes of a child are conveyed to the judge indirectly through a mental health professional or GAL who sensitively discusses custody matters with child, and then the professional testifies as to the child's input. Other times, the judge will conduct an in camera interview with the child, in which the judge meets privately and informally with the child, usually outside the presence of the parents or their attorneys.

Child Support

Under Kentucky law, child support is determined under the child support guidelines enacted in response to the Federal Support Act of 1988 which mandated each state implement child support guidelines (the "Guidelines"). The Guidelines use a few simple factors to calculate the parents' "combined monthly adjusted gross income," and then the child support obligations are based on that calculation. The factors considered are the gross income of each parent, the number of minor children, whether either parent financially supports prior-born minor children, and whether either parent is paying court-ordered maintenance. The child support obligation, as set forth in the Guidelines, is then divided between the parents' in proportion to their combined monthly adjusted gross income.

The Guidelines support level is presumed by Kentucky law to be the correct level of child support. While courts may deviate from the amount calculated under the Guidelines, this is fairly unusual, and requires special findings by the court. The Guidelines, however, were enacted to apply to a post-divorce model where one parent, usually the mother, was the primary custodial parent and earned less income than the non-custodial parent. When a timesharing schedule is established that does not conform to that traditional model, the court may consider the period of time the child lives with each parent in determining child support and can deviate from the guidelines in that situation.

In Kentucky, a monthly child support obligation generally continues until the child turns 18 years old, but if the child is still a high school student when they turn 18, the obligation continues until the child graduates high school or until completion of the school year in which the child turns 19. The support obligation can carry on if the child suffers from a physical or mental disability.

Misuse of Children

In the heat of divorce proceedings, it's easy to lose sight of the fact that the parents are getting divorced and not the children.

It is inappropriate to raise custody and timesharing issues to gain an advantage in negotiations over financial issues. Such tactics only heighten the emotional tension and make settlement more difficult. Your lawyer is not ethically permitted to raise custody or timesharing issues in order to gain an advantage in financial matters. You should not ask your lawyer to act contrary to this ethical obligation.

Your Conduct With Your Children

The behavior of parents before and after divorce has a great influence on the emotional adjustment of their children. The following guidelines may be helpful:

- Put your children's welfare first. Never use your children as a weapon against your spouse.
- Under Kentucky law, child support cannot be withheld by a non-custodial parent because the custodial parent does not allow court ordered timesharing access. Conversely, a custodial parent cannot deny court ordered timesharing periods because the non-custodial parent is behind on child support. Talk to your attorney if there are problems with timesharing or child support, but resist the temptation to view a link between the two.
- Be sure your children have ample time with the other parent. Absent unusual circumstances in which the other parent poses a danger to the children, they need frequent and meaningful time with the other parent.
- Don't introduce your children to your new romantic interest until the children have adjusted to your separation and your new relationship is stable.
- Don't bring your children to court or to your lawyer's office.
- Keep to the schedule. Give the other parent and the children as much notice as you can when you will not be able to keep to the schedule. Be considerate.
- Be flexible. You may both need to adjust the schedule from time to time.
- Giving of yourself is more important than giving material things. Feverish rounds of holiday type activities during every timesharing period or lavish gifts may be viewed as a crude effort to purchase affection, and is not good for the children.
- Do not use your children as spies to report to you about the other parent.
- Do not use the children as couriers to deliver messages, money, or information.
- Try to agree on decisions about the children, especially matters of discipline, so that one parent is not undermining the other parent's efforts.
- Avoid arguments or confrontations while dropping off or picking up the children and at other times when your children are present.
- Don't listen in on (or record) your children's phone calls with the other parent.
- Maintain your composure. Try to keep a sense of humor. Remember that your children's behavior is affected by your attitude and conduct.

- Assure your children they are not to blame for the breakup, and are not being rejected or abandoned by either parent.

- Don't criticize the other parent in front of your children. Your children need to respect both parents.

- Don't let guilt you may feel about the marriage breakdown interfere with discipline of your children. Parents must be ready to say "No" when necessary.

- You are only human. You cannot be a perfect parent. When you make a mistake, acknowledge it and try to do better next time.

Some Questions and Answers About Children's Issues

1. ***I once had a brief affair. My husband says he will take the kids away from me. Can he?***
   Misconduct or fault, which does not involve the children, is seldom significant in determining child custody, but could be a consideration in any maintenance award relating to a divorce. Tell your lawyer about these concerns.

2. ***I have had some problems during my marriage with depression. I saw a psychiatrist. My spouse says I'm crazy and will lose custody of the children. Is that right?***
   The mere fact that you have sought help for the problems you have encountered in your marriage is not a basis to lose custody if it is otherwise in the best interest of the children for you to have it. In fact, the ability to recognize the need for and to get professional help is usually seen as a good sign of maturity and responsible action, both desirable characteristics in a custodial parent.

3. ***I am a good father. Are judges prejudiced against fathers?***
   Under Kentucky law, both parents are equally entitled to seek custody of children. However, absent other circumstances, the court may be inclined to give primary physical custody to the parent who was the children's primary caretaker while you were married.

4. ***I want to move out of state and take our child with me. Will I be able to?***
   Under Kentucky law, prior to moving, a parent who has joint custody must file written notice with court and send to the same notice to the other parent. Within 20 days of serving the notice, either party can file a motion for change of custody or timesharing if they disagree about the relocation, or can file an agreed order if they want to modify timesharing by agreement. If a parent with sole custody is seeking to move, they also file notice with the court and serve it on the other parent. If the court-ordered timesharing is affected by the relocation, the non-custodial parent can file a motion contesting the change within 20 days of receiving the notice. The court will then set the matter for a hearing. The notice procedures do not apply if there is an active Emergency Protective Order or Domestic Violence Order against the non-relocating parent or custodian.

Section 3

PROPERTY ISSUES

Marital Property

Kentucky is an equitable distribution state – property is divided equitably between the parties and marital misconduct is not considered in that distribution. Under Kentucky law, marital property is defined as all property acquired by either spouse after the marriage and before the dissolution.

There are, however, five exceptions to that general definition. Marital property does not include: (i) property acquired by gift or inheritance, and any income derived therefrom unless it results from the significant activities of either party; (ii) property acquired in exchange for property acquired before the marriage or in exchange for a gift or inheritance acquired during the marriage; (iii) property acquired after a decree of separation; (iv) property excluded by a valid agreement of the parties; and (v) the increase in value of property acquired before the marriage unless it increased as a result of the efforts of the parties during the marriage. For purposes of whether an item of property is marital property, it does not matter in which party's name the property is titled or the form in which the property is held; divorce litigants often believe initially that, for example, because a car is titled in his or her name only, that the car is not marital property. This is incorrect. If it was owned by either party (or both parties) on the date of filing, it is marital property, unless one of the above-referenced exceptions applies.

Some property interests are obvious, such as a house, car, or bank account owned by one or both of the parties. However, be aware of other, less obvious marital assets. For example, vested pension interests are marital assets under Kentucky law, even where the participant is not in pay status and has no present right to access those pension funds. Pensions will often be valued by an expert. Certain retirement benefits are excluded from the definition of marital property. If one spouse's retirement benefits are excluded, the other spouse can exempt an equal amount of his or her retirement benefits from the classification as marital property. Kentucky courts have also considered professional degrees to be marital property in certain situations.

> *"It does not matter in which party's name the property is titled"*

Post-filing income may or may not be considered marital property. Kentucky generally follows a "bright-line" rule that provides all property acquired during marriage means any property acquired from the time of the marriage ceremony until the court enters a decree formally dissolving the marriage. However, Kentucky courts may enter a decree of legal separation, rather than dissolving the marriage. Any property acquired after a legal separation is, therefore, not marital property. If you have a question about what is or is not marital property, ask your attorney. This is a very fact-dependent inquiry with large gray areas.

The Bright-Line Rule

Unlike many other states, Kentucky gives little regard to the date a party files a petition for dissolution of the marriage. While finances on the date of filing are certainly considered, any and all property acquired by either spouse until the decree dissolving the marriage is entered is marital property. A court will consider when the property was acquired in its distribution; for example, if property is acquired during a period of separation, the court may handle the distribution of that property differently.

It is important to gather as much financial documentation as you can that covers the date of filing, and provide that to your attorney. For example, if your date of filing is January 3 of this year, try to provide your attorney with all financial statements that cover that date. If you do not have these in your possession, consider contacting your bank, credit card company, etc., to ask for statements. Kentucky requires that the parties exchange Preliminary Verified Disclosure Statements and file Final Verified Disclosures, which include the disclosure of debt and equity held in real property. The parties must also disclose any claims to a non-marital interest in property and their basis for that claim.

Kentucky has not specifically adopted one method of property valuation, and courts have routinely allowed valuations based on the fair market value of property, or even the value of the property when comparing assets versus liabilities. There is no requirement that the assets be valued within close proximity to the date of the divorce decree.

Equitable Distribution of Marital Property

Since Kentucky is considered an "equitable division" state, a judge is required to divide all marital property between the parties in "just proportions." Since this directive to the judge is a bit hazy, the Kentucky legislature gives judges some additional instruction on marital property division.

Kentucky law is clear that there is no presumption that marital property is to be divided equally. The statutory language significantly excludes the word "presumption," and identifies four factors which the court must consider in dividing the marital property. Those four factors are: (i) the contribution of each spouse to the acquisition of marital property, including the contribution of a spouse as homemaker; (ii) the duration of the marriage; (iii) the amount of non-marital property which has been assigned to each spouse; and (iv) the economic circumstances of each spouse at the time of the division, including the need of the spouse with custody of the parties' minor children to retain the marital home. The operative term in the law is that the property division must be "just," but not equal. The distribution of property is in the court's sound discretion. Kentucky law effectively sees a marriage as a partnership. Any property that is acquired by the parties during the partnership should be distributed according to their contribution.

It is also important to understand what facts will usually not be considered in the court's distribution of marital property. The fact that your spouse was unfaithful (unless the unfaithfulness had economic consequences) will not give rise to a division of the marital estate in your favor. The fact that your spouse is the one who filed the divorce will not give rise to a division of the marital estate in your favor. The fact that your spouse is not likeable will not give rise to a division of the marital estate in your favor.

Section 4

SPOUSAL MAINTENANCE

Kentucky law, unlike the law in many states, does not recognize "alimony." Alimony traditionally means the payment of money from one spouse to the other, sometimes for the duration of the lifetime of the recipient spouse. Parties can agree to alimony, but the court cannot order alimony payments over the objection of either party.

While Kentucky has abolished "alimony," it nevertheless recognizes the concept of "spousal maintenance." Spousal maintenance may be ordered as part of a temporary order and/or as part of the final divorce decree. Generally, temporary spousal maintenance is ordered to preserve the status quo while the action is pending. Your attorney will receive information about your spouse's income, as well as ask you to complete a budget, to determine whether or not spousal maintenance should be requested in your case.

The purpose of spousal maintenance is to support the spouse until that point in the future, if and when, the spouse is capable of meeting his or her own needs. Before the court will order spousal maintenance, two specific things must be found: (1) that the party to whom maintenance will be paid does not have sufficient property to provide for their own reasonable needs; and (2) that the party to whom maintenance will paid is unable to support him or herself through appropriate employment, or must forego employment to take care of a special needs child. No party to a marital dissolution is entitled to maintenance without both findings.

Once the court determines that a party is entitled to maintenance, it must then consider a number of factors in determining the amount and duration of maintenance to award. Kentucky's legislature has outlined six factors that the court must consider. Those include: the financial resources of the party seeking maintenance, the time necessary for the party seeking maintenance to find appropriate employment, including time needed for education or training, the standard of living established during the marriage, the duration of the marriage, and the age, physical and emotional condition of the spouse seeking maintenance. Finally, the court must take into consideration the ability of the paying spouse to meet his or her needs while meeting those of the spouse seeking maintenance. Kentucky courts do not follow any set formula for determining a maintenance award, and any maintenance award will be determined on a case-by-case basis.

While spousal maintenance is not ordered in every case, it is not unusual for it to be ordered. Ask your attorney about whether spousal maintenance might be ordered in your case as it is a very fact-dependent analysis.

Section 5

CONDUCT DURING THE DISSOLUTION AND ANSWERS TO COMMON QUESTIONS

General Guidelines

Here are some good rules to follow during divorce:

- Do try to maintain good communication with your spouse and children.
- Do talk to your lawyer before agreeing to a settlement.
- Don't physically or verbally abuse your spouse or children.
- Don't say anything to others that you wouldn't want your spouse or the judge to hear.
- Don't put anything in writing, including in text messages, e-mails, on Facebook or other social medial sites, that you wouldn't want the judge to hear.
- Don't go on a spending spree. Excessive spending on yourself or others may harm your case.
- If you communicate with your attorney or others by e-mail, or through the use of your voicemail, be sure both are secure and private.
- Don't throw away financial records or other possible evidence.
- Don't try to hide evidence or assets.
- Do keep your perspective and try to be rational.

Divorce is stressful, but not the end of the world. How you or your spouse feels during your divorce can change dramatically as the case progresses. It's normal to go through stages of denial, anger, guilt, depression and acceptance on the way to a resolution. These stages don't necessarily occur in any order or only once. So, if you're depressed, for example, you can take some comfort in knowing that you'll probably feel different next week.

Some Questions and Answers About the Divorce Process

1. ***Should I be the first to file?***
   That depends. In some instances, the first person to file has a choice of more than one court. In that case, your lawyer may have a preference about which court would be best for you. Otherwise, it doesn't usually matter who files first.

2. ***Why did my spouse ask for so much in the Petition? I thought we agreed on some of those things.***
   Before knowing what the issues will be and what might happen under the law and the facts of the case, no one wants to take the chance of asking for too little. So people tend to ask for more than they really expect. Like when you read in the newspaper that someone has filed a "10 million dollar lawsuit", what is demanded in the Petition or Complaint often has little real meaning.

3. ***What are the chances my case can be settled?***
   Most divorce cases are settled. Kentucky courts encourage and sometimes require mediation in order to facilitate a settlement rather than have the case go to trial.

4. ***May I date?***
   As a general rule, in cases where either there are no children or children's issues are not contested, then the court will not be concerned with your private life. In others instances, especially where child custody or visitation is contested, a dating relationship may hurt your case, especially if the other side is able to raise serious questions about the character of the new boyfriend or girlfriend, or their relationship with the children. Usually the answer to this question is very fact-dependent, so you should consult your attorney if you have questions.

5. ***May I spend money on my new romantic relationship?***
   There are at least two reasons why you shouldn't. First, the court may award more property to your spouse than it would have otherwise if, during the marriage, you spent money on a lover. In effect, you may have to pay back the money when the property is divided. Second, your spouse may be very angry. That anger could lead to distrust that could complicate the divorce proceedings.

6. ***How long will my divorce take?***
   That depends on a lot of things. Every divorce is different. Factors that can make a difference include the schedules of both parties, both lawyers and the court, the cooperation of witnesses, the speed of the appraisers and evaluators, and the complexity of the case.

7. ***Nothing is happening in my case; what can I do?***
   Talk to your lawyer. You are entitled to know the status of your case. There may be a very good reason for a pause or delay. For example, appraisals may not yet be completed. Information or documentation requests may still be pending.

> *"People tend to ask for more than they really expect"*

Section **6**

RECONCILIATION

Sometimes divorce seems the only solution to problems in a marriage; often it is not. Sometimes it takes the start of a divorce to motivate people to make an effort to save a once cherished relationship. Don't be embarrassed to tell your lawyer if you're interested in reconciliation. Every experienced matrimonial lawyer knows how important it is to exhaust all possibilities of saving a marriage before finally deciding to end it.

If you are considering trying to reconcile, talk to your lawyer about the effect that your efforts will have on your divorce if reconciliation fails. In some cases, parties can reconcile and at the same time enter into a "post-nuptial agreement," which can determine property rights in the event that the parties subsequently file for divorce again.

While trying to save your marriage, counseling can be very helpful. Your lawyer is not trained as a therapist, but can recommend a counselor if you need one.

> *"Don't be embarrassed to tell your lawyer if you're interested in reconciliation"*

Section 7

COUNSELING

Purposes of Counseling

Here are some ways that counseling can benefit you and members of your family:

1. **Helping you help your children through the breakup of their family.**
   How you act and what you say during the divorce affects your children. Your conduct makes a big difference in how your children feel and how they relate to you and your spouse. A mental health professional can give you guidance to help minimize the damage and speed the healing process.

2. **Helping you and your spouse work together for your children's welfare.**
   Cooperating during the divorce can set the tone for how you and your spouse will work together in the future for your children's welfare. Even after you are divorced, you both are still parents of your children. The children's best interests are served if each of you is courteous to the other and maintains an active role in the lives of the children and in the decision-making that affects them. If you and your spouse are not yet able to put aside your differences and put the children first, counseling can help.

3. **Helping you deal with the stress of divorce.**
   Some people cope better with stress than others. Talking with a counselor about how to deal with stress is often helpful.

4. **Helping you work with your lawyer.**
   Counseling may help you see emotional issues for what they are so that you can make better judgments as to legal and financial matters. Lawyers are not trained to provide psychological counseling, just as mental health professionals are not trained to give legal advice.

5. **Helping you rebuild your life.**
   If you understand and appreciate the problems of your marriage, you will be better equipped to recover from your anger and frustration, and to rebuild and get on with your life.
   Although you may think that you will never marry again, most divorced people do remarry. A better understanding of your role in the breakup of this marriage will maximize your chances of success next time.

6. **Reconciliation.**
   If there is a chance of saving your marriage, explore it.

If You Have Been to Counseling

If you have had some counseling, and you find during the process of the divorce that there are still unresolved emotional issues, don't be reluctant to return to a counselor to deal further with those issues. Many times our problems and issues do not surface until we are in the middle of a divorce.

Some Questions and Answers About Counseling

1. ***Are my conversations with my counselor confidential?***
   This is very fact-dependent. In a contested custody case, your counselor's records may be disclosed. Ask your lawyer about your particular circumstances.

2. ***Must I go to counseling even if I don't want to?***
   No, unless the court orders you to. If you and your spouse don't agree about custody or visitation, you may be interviewed by a mental health professional or Guardian ad Litem who will make a recommendation to the court about how the issue should be decided. Often times, these people are favorably impressed that a parent has had some psychotherapy or counseling.

3. ***Do we have to go to counseling together?***
   It depends. If the purpose of going to a counselor is to help save your marriage or to work on problems the two of you are having, you may need to go together. However, if the purpose is to work on problems of your own, you will usually go alone.

4. ***Do we have to see the same counselor?***
   If you are going for individual counseling or therapy it is usually a good idea to go to separate mental health professionals. You or your spouse might question the loyalty of someone that the other is also seeing individually, unless that person is specifically working with both of you.

5. ***Should I consider counseling for my children?***
   Yes. Many children have trouble dealing with divorce. They are frightened and feel responsible. Your children may benefit from counseling or support groups. In addition, some counties in Kentucky require parents and children to attend "families-in-transition" or other parent/child classes before a divorce will be granted.

Section 8

AFTER THE DIVORCE

Modification

Whether the issues in your divorce are settled by you and your spouse or are decided by a judge, some things in your judgment can be modified (changed) by a judge after a hearing. Absent fraud or some other highly unusual circumstance, the property division portion of a divorce decree is generally not modifiable. Children's issues (such as child custody, visitation, and support) are always modifiable. Child custody may be modified where (1) the factual basis of the custody decree has changed since it was entered or there were facts unknown to the court at the time of the decree, (2) a change has occurred in the circumstances of the child, or his custodian, and (3) modification is necessary for the best interests of the child. Whether a change in circumstances has occurred, and whether modification is in the best interests of the child, depends on a number of factors, including whether the custodian agrees to the modification, whether the present environment endangers the child's health in any way, and those factors initially considered in making the custody determination. A custody decree cannot be modified for 2 years after it is entered unless the child's present environment is a danger to his or her health, or the appointed custodian has placed the child with another person, who has become the de facto custodian.

Under Kentucky law, child support generally may be modified only when the support amount, if calculated under the Guidelines at the time a modification is contemplated, would be at least 15% different than the existing order. For example, if an existing child support order provides for support of $1000 per month, that order generally may not be modified until a re-calculation of child support would lead to a support level that is at least 15% different than the current order (i.e., more than $1150 per month or less than $850 per month). Even if there has been a 15% change in financial circumstances, the other party can still argue that there has not been such a change in circumstances as to require modification.

The Kentucky legislature has provided that, unless otherwise agreed to or ordered by the court, a maintenance award automatically terminates when either party dies or the party receiving maintenance remarries. Before either of those events occurs, court-awarded maintenance is modifiable when there have been "substantial and continuing" changed circumstances. The law on whether the court can modify agreed upon maintenance is much murkier. At present, it appears that Kentucky courts can modify an agreement for maintenance if the parties have not expressly agreed that it is not modifiable. It is not clear, however, whether the court can modify maintenance for "substantial and continuing" changed circumstances if the parties have agreed that it is not modifiable. Since the law is in flux, any agreement between you and your spouse should plainly state whether or not maintenance can be modified.

Enforcement

If you or your spouse disobeys an order that the court makes in your divorce judgment, there are ways to enforce those orders. Examples of disobedience of an order are failure to pay support, failure to turn over property that was awarded and refusal to allow the timesharing that was ordered.

Orders to pay money can be enforced by garnishing wages or bank accounts or by having the sheriff or marshal seize and sell property belonging to the person who hasn't paid. Orders for support, to turn over property, and for timesharing can usually be enforced by contempt of court proceedings. Papers are prepared and served on the disobedient person, ordering that person to appear in court. After a hearing, the judge can issue any of a number of sanctions against the non-complying party, even time in jail for serious or repeated violations.

Section 9

THE LAWYER-CLIENT RELATIONSHIP

Introduction

Whenever a relationship is established, its participants form expectations of each other. The lawyer-client relationship is no different. And as in any other relationship, lawyers and clients have rules and boundaries, which govern those expectations. Some expectations are appropriate; others are not. Here is an overview of what you can and cannot expect of your lawyer.

What You Can Expect From Your Lawyer

Having the assistance of a skilled lawyer during your divorce gives you the security of having someone on your side that knows what to do. Furthermore, you will have someone you can talk to in confidence about your situation and how best to deal with it.

Lawyers provide a variety of specific services for clients going through a divorce. These services include:

- Consulting with you
- Educating you about the law and facts
- Devising and carrying out case strategy
- Investigating the law and the facts
- Preparing and reviewing documents
- Negotiating a settlement
- Preparing and filing all necessary court papers
- Preparing you to testify
- Preparing other witnesses to testify
- Hiring experts and appraisers
- Conducting discovery
- Responding to discovery initiated by your spouse
- Preparing for court appearances including trial
- Conducting trials and hearings
- Advising you about what to expect
- Advising you on conduct and alternatives
- Taking the heat for tough decisions

What You Cannot Expect from Your Lawyer

1. **Your lawyer will not handle matters that are beyond the scope of your agreement.**
   The lawyer you have hired to represent you in your divorce will not usually represent you in other matters unrelated to your divorce, unless the two of you specifically agree otherwise. For example, if you need legal assistance in selling your home, dealing with tax issues, preparing your will, or defending against a civil lawsuit, it will be necessary to make specific arrangements with your lawyer, or to hire another lawyer, possibly in the same firm, with the appropriate experience.

2. **Your lawyer cannot guarantee results.**
   The eventual outcome of your divorce depends on the facts, the law, how the judge views your case, and other factors. Every case is different. Although your lawyer may express an opinion on possible or probable outcomes, nobody can be sure of the result until it happens.

3. **Your lawyer cannot do anything unethical or illegal.**
   Lawyers work under very strict legal and ethical codes and take them very seriously. If you ask your lawyer to do anything unethical or illegal, your lawyer will refuse. If you insist, your lawyer will withdraw from your case. Examples of forbidden conduct are: encouraging or permitting perjury, hiding assets or income, and in any manner deceiving the court or the other side.

4. **Your lawyer may be reluctant to act against the best interests of your children.**
   A lawyer's first duty is to look out for the client's best interest. Yet divorce lawyers are also concerned about the welfare of the children and some ethical guidelines encourage lawyers to keep the children's interest in mind.

"As in any other relationship, lawyers and clients have rules and boundaries"

Section 10

COMMUNICATION BETWEEN LAWYER AND CLIENT

The Importance of Communication

The lawyer-client relationship works best when the two of you are able to communicate, not only about the facts of your case, but also about your working relationship.
Information should flow both ways between you and your lawyer. Just as your lawyer should satisfy your need for information, you should provide your lawyer with all information that your lawyer requests. Advice based on incorrect or incomplete facts may be worse than no advice at all.

If you do not understand the advice you are given, or find it hard to accept, tell your lawyer. If, for example, you do not understand why your lawyer is recommending that you accept or reject a particular settlement proposal, you should ask why the recommendation is being made. Only by giving your lawyer the opportunity to explain things will you know whether there is a real problem to be addressed.

Some clients have frequent questions or concerns that they wish to share with the attorney. In such cases, it may be advisable–and thrifty–to send a periodic e-mail or other correspondence to your attorney listing all of the questions or concerns you've thought of in recent days or weeks. This is often easier and less expensive than picking up the phone to call your lawyer each and every time you think of something to share with him or her.

Financial Information

Your lawyer will ask you for financial information, and perhaps ask you to fill out a questionnaire. Financial information includes income, expenses, assets, and liabilities. Your lawyer may also want to see papers such as income tax returns, paycheck stubs, statements of savings and investments, employee benefit statements, and papers regarding your debts. Your cooperation in getting this information to your lawyer, although time consuming, is essential to the proper preparation of your case. The more detailed information you can provide to your attorney, the more effective job your attorney can do while representing you. Plus, most, if not all, of that information will have to be provided to the other side and/or the court.

Marital History

Your lawyer may also ask you to prepare a history of your marriage which includes personal as well as financial information. Where the custody of your children is in dispute, more than

financial information will certainly be necessary. In addition to a history, some lawyers ask their clients to keep a diary of events related to the divorce. Complete candor, including any negative facts about you, is crucial.

Keeping in Touch

Your lawyer will be communicating with you. There may be periods of inactivity, but when something important happens your lawyer will want to let you know. If you move, or are planning to be away, be sure your lawyer knows where you are.

Calling Your Lawyer and Returning Calls

Lawyers work on more than one case at a time and the practice of matrimonial law requires lawyers to spend time in court, at depositions, in conferences, and on the telephone. You should not expect your lawyer always to be available immediately when you call. You should, however, expect that your lawyer, or a staff member, will respond to your telephone calls promptly. If a genuine emergency arises, tell the person who answers the telephone that it is an emergency and explain the situation.

Likewise, if your lawyer calls and leaves a message for you to call back, you should do so as soon as possible. Your lawyer will understand that you also have commitments that may make you temporarily unavailable.

Your lawyer will appreciate your calling during regular business hours. But most lawyers will make every effort to be available when needed for a real emergency.

Being Available

You and your lawyer will have a hard time communicating if you are not available to each other. Before hiring any lawyer you should consider whether your schedules are compatible. If you can't meet with your lawyer during normal business hours, make that clear before you hire the lawyer. Remember that your lawyer is a human being who has family and other outside commitments just as you do.

Correspondence

When you receive correspondence from your lawyer, read it and respond. Delay in responding to correspondence could be harmful to your case. It can also add to your fees, if your lawyer or legal staff needs to spend time following up with you regarding these matters.

Your Involvement In Other Legal Proceedings

If at any time during your divorce, you are involved with any other legal proceeding, such as criminal, traffic, juvenile, probate, tax, bankruptcy or a civil lawsuit, let your lawyer know as soon as possible. It may affect your divorce.

Some Questions and Answers about Communication

1. ***What result can I expect?***
   Don't be concerned if your lawyer's opinions and advice are guarded. There is little that is black and white, and much that is gray, in divorce. First impressions of a case can be wrong, so be wary of lawyers who say at the beginning that they can accurately predict the results. As the case progresses, your lawyer will be able to give you a range of possible results.

2. ***Can I get a second opinion?***
   Yes, but keep a few things in mind when you do. Many lawyers believe it's best to tell your lawyer you're going to do it and ask if it's OK to have the second lawyer call for information. They feel that second opinions can be valuable, but only if based on accurate information. Other lawyers do not like to limit a client's ability to get a second opinion without telling their lawyer.

3. ***Do I really have to tell my lawyer everything?***
   Generally, yes. It is extremely difficult for your lawyer to represent you effectively without knowing everything.

Section 11

THE RELATIONSHIP BETWEEN OPPOSING COUNSEL

Introduction

People watching the interaction between the lawyers in their divorce sometimes have a hard time making sense out of what they see. One client said at the end of the divorce, "I could never understand how they could be at each other's throats one minute and cracking jokes the next." In spite of appearances, it is usually to your benefit if the two lawyers get along with each other.

You Benefit From Cooperation Between the Lawyers

Stipulations can be reached which simplify the case, move it toward settlement, and save you money. Lawyers often speak with each other without their clients to try to isolate areas of agreement and disagreement and to cooperate in exchanging information. Your lawyer will discuss any such agreements with you.

All this can be done without compromising your position. If negotiations don't result in a settlement, your lawyer can and will vigorously represent you in trial. The time spent exchanging information and negotiating will make you and your lawyer better prepared for trial.

Lawyers routinely extend simple courtesies to each other such as agreeing to extend deadlines and postpone hearings. You may feel like every advantage should be pressed in your favor, and that if the other side is under time pressure, your lawyer should take advantage of it. But in the long run, it doesn't help you for your lawyer to be uncooperative. In most cases, an extension is available by court order anyway. Refusing to agree just costs you and your spouse more legal fees, and the shoe will be on the other foot someday. When you need more time, the other side will remember your discourtesy and refuse. Then you will have to go to court for relief and both of your legal fees will again increase. Still, you are not powerless in these matters. If you truly believe that a delay will work to your detriment, tell your lawyer so that you can discuss what to do.

Finally, it is important for lawyers to treat each other in a way that makes it possible to work together in all cases. The good reputation your lawyer has developed for cooperation and reasonableness in previous cases will benefit you in your case.

You Will Be Hurt if the Lawyers Are Drawn Into an Emotional Fight

Part of the job of a matrimonial lawyer is to be objective, to stay calm and rational during the emotional cross fire of a divorce. Experienced lawyers know that anger can impair their

judgment, so they try to avoid personal feuds with the opposing lawyer. Still, some clients are pleased at first when their lawyers attack opposing counsel. Their pleasure usually lasts only until they realize the cost in fees and lost settlement opportunities caused by belligerence. If you feel your lawyer is not being aggressive enough, the two of you should talk about your concerns. Some cases require more aggressiveness than others. But if your desire for a more militant approach is motivated by anger, your best interests may not be served, and your fees will certainly be higher.

Dirty Tricks Do Not Help

Your lawyer will be honest with opposing counsel and will expect you to do the same. Concealing information, lying, or in other ways being dishonest or trying to hide behind legal technicalities will almost always hurt your case. Lawyers and judges are angered by conduct which violates the rules requiring full and truthful information. Your case could suffer if you are less than candid. Another reason to do things right is your lawyer's duty to the judicial system. Lawyers have good reasons to obey all the rules that govern their profession. Breaking the rules means losing the respect of judges and other lawyers, and even risking the loss of a license to practice law.

Some Questions and Answers About the Relationship Between Opposing Counsel

1. ***Can lawyers be friends and still put their clients' interests first?***
   Yes. Matrimonial lawyers take their work very seriously. Even if the opposing lawyer is a friend of your lawyer, both lawyers can and will work zealously for their clients' best interest. Although it is sometimes hard for clients to understand, lawyers learn early in their career to take their client's side and argue positions with great conviction, even if they are arguing against a lawyer who is a close friend.

2. ***Why is the other lawyer being so nasty when my lawyer is being so nice?***
   Lawyers are people, each with an individual style. Some think they gain an advantage by trying to intimidate the other side. Other lawyers are overly aggressive because they think their clients expect it.

   Intimidation almost never works. Keeping calm and polite in the face of inappropriate behavior is usually the best way to a settlement or success at trial.

> *"It is important for lawyers to treat each other in a way that makes it possible to work together in all cases"*

Section **12**

ATTORNEY'S FEES AND COSTS

Introduction

It is important to both you and your lawyer that you talk about fees and costs at your initial conference. Unless fees and costs are discussed, either of you might make incorrect assumptions about what the other expects. False assumptions can lead to misunderstandings, which can harm the lawyer-client relationship.

If you are concerned about the cost of your divorce, discuss with your lawyer how much you can afford to pay, how extensive the lawyer's work needs to be, and any limits you think should be placed on fees.

If you feel you can't afford the fees of the lawyer you consult, say so and ask for the names of other lawyers or agencies that can handle your case. You should make an agreement to pay fees only if you know you will be able to honor it.

Written Fee Agreements

Your lawyer will likely ask you to sign a written fee agreement. You are entitled to an opportunity to review the fee agreement, to think about it, and to get answers to any questions you have about it. You should read and understand it. Once you sign, the fee agreement is a legally binding and enforceable contract.

Some Questions and Answers About Fees and Costs

1. ***I don't want the divorce; why do I have to pay for it?***
   We all have expenses for things that happen to us that we don't bring on ourselves. We don't ask to get sick, but if we use health care professionals, we have to pay our medical bills.

   If you are involved in a divorce and choose to be represented by a lawyer, you must expect to pay for those services.

2. ***Will the court order my spouse to be responsible for my attorney's fees, or me to be responsible for my spouse's attorney's fees?***
   Maybe. In most family law matters, Kentucky law allows a court broad discretion to order one party to pay the other party's attorney's fees after considering the financial resources of both parties. Most attorney fee awards occur in cases where there is a significant disparity of income between the parties and/or where one party's obstinence or frivolity caused the other party's fees to increase excessively.

Nevertheless, attorney fee awards are not made in every case. Clients should always remember that they are primarily responsible for attorney's fees that they incur.

3. ***Why do lawyers charge the fees that they do?***
   Lawyers are professionals who run a business with all the usual overhead. Supply and demand influence legal fees as they do the cost of most things. Therefore, lawyers who are in greater demand and/or have more experience generally charge higher fees.

4. ***How much will my divorce cost?***
   It's impossible to predict how much your divorce will cost, although your lawyer may be able to give you a range. The cost of the case depends on many factors, many of which are beyond your lawyer's control. These factors include the complexity of the case, the kind of lawyer your spouse hires, how you and your spouse behave in the litigation, and the court to which your case is assigned. Generally, the more things you and your spouse can agree on, the lower your fees will be.

5. ***Is there anything I can do to help keep the fees down?***
   Yes. Be actively involved in your case. Take the time and trouble to learn what's going on. Follow your lawyer's instructions. Volunteer to help with the work whenever possible. Have reasonable expectations of your lawyer. Watch for ways to settle issues. Don't insist on fighting to the last drop of blood over small issues, or for a supposed principle.

6. ***What if I can't pay for appraisers and other experts?***
   If you don't have money to hire experts, you may have no choice but to proceed without experts. It may also be possible to get a court order for expert's fees to be advanced by your spouse or from marital property. In any event, it is not your lawyer's obligation to pay for experts which might be needed on your case.

7. ***Why do I have to pay a lawyer to force my ex-spouse to comply with the marital settlement or judgment?***
   No one can guarantee that your spouse will honor agreements or court orders. Courts will enforce orders if an appropriate request is made, but it is not the lawyer's responsibility to provide enforcement for no fee. Your lawyer may request that the court order the non-complying party to pay your attorney fees relating to enforcement, but courts are generally not required to do so absent a written agreement or statute allowing an award of fees.

CONCLUSION

This handbook should have provided you with some basic information about the divorce process in Kentucky. Remember that this handbook is not an exhaustive description of Kentucky family law, and is provided only to offer a basic roadmap for the marriage dissolution process in the Commonwealth. Be sure to consult your attorney about specific issues that affect your case.

LET'S TALK

To reach an attorney regarding a separation, matrimonial or family law matter, **please call (800) 436-3644**.

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