



FEATURE



The Divorce Dos and Don'ts

[By Richard M. Hoffman, CPA]

Every year in this country, thousands of couples are involved in separation or divorce proceedings, which become very emotional and costly processes. Here is some sound advice for those who are about to begin such a process:

The Dos

Retain a competent and experienced attorney who is knowledgeable about the matrimonial and custody laws in your state. Choose someone who is responsive to your needs and who will be accessible to you. Remember that your case may not be the only one being handled by your attorney, so be comfortable with his or her associates and legal assistants, too.

Retain an accountant who has experience and expertise in matrimonial proceedings. A qualified accountant can assist you and your attorney with structuring your agreement and helping you understand the tax ramifications that entangle the divorce process. He or she can prepare a lifestyle analysis, prepare business and asset valuations, or conduct forensic audits to help identify hidden or unaccounted for assets. Your accountant may also be called upon to testify as an "expert" witness on your behalf.

With the help of your professionals, make the best effort to resolve your case and negotiate your agreement. The courts prefer that you settle your case instead of litigating it. Mediation is another possible solution if the parties are stuck.

Draft the best agreement that you can. Address as many factors as you can. It's very costly and risky to go back to court to revisit certain terms. Consider drafting specific terms relating to issues such as cohabitation or providing for the special needs of a disabled child. When it comes to your children, be specific about who will pay for future events such as college or private school, religious celebrations, braces, camp, medical and health costs, cars, and weddings, to name just a few. Discuss these issues with your professionals *in the early stages* of the process. Unfortunately, most agreements are drafted very quickly at the end of the process, a time when the parties are very emotional and exhausted. It's at this critical stage that the parties don't give adequate consideration to all the terms of the agreement.

The Don'ts

Don't settle on an agreement you don't understand or with which you are uncomfortable. Take the time and effort to be sure that you can abide by the terms you negotiated. Unless there are extenuating circumstances, the courts do not like to revisit agreements.

Avoid putting your children in the middle of your dispute or using them as bargaining chips during your process.

Don't be caught off guard. The courts don't always understand or consider all the issues along the way. As a tactic to move your case forward, it's not uncommon for the courts to dismiss various motions that you may feel are valid or crucial at particular moments.

Don't get overwhelmed by the emotional aspects of the process. Be attentive and proactive. It's more than likely that you will need to steer the ship and get through the issues at hand. Communicate often with your professionals, make decisions about your future, and leave as little as possible for the courts to decide.

About the Author

Richard Hoffman is a partner in the Livingston, New Jersey, accounting firm of Levine, Jacobs & Company, LLC, and a member of the firm's matrimonial and litigation support department. The department's experts provide services relating to matrimonial disputes, including accounting, lifestyle analyses, business valuations, mediation and negotiation, and forensic auditing. Levine, Jacobs & Company, LLC, has worked with prominent matrimonial attorneys throughout the state of New Jersey.

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