**KNOW YOUR LEGAL RIGHTS**

**Considerations before filing for divorce**

By Atty. Chris Duren

Filing for divorce will be one of the most important decisions a person can make in their life. Before filing, you need to consider the following:

**Do you know your financial situation?**

You need to know your finances as best you can before filing. Gather and organize as much of your financial information as you can, including your spouse's finances. Gather all joint bank statements for the last year, current mortgage balance statement, credit card statements, W2 statements, retirement account statements, and a copy of your most recent tax returns.

Pull a copy of your credit report to confirm outstanding debt. Gather as much financial information as you can. Your attorney or the court may need a copy of this information and it will be best to have it prepared and organized when you file your divorce.

**Do you have separate funds your spouse cannot access?**

Before you file, you need separate funds solely in your name that your spouse cannot access. Having a separate account will protect you in case your spouse withdraws all or most of the funds from joint bank accounts. Court division of your marital joint bank accounts may take time, so you need to have access to separate funds that will allow you to support yourself until the necessary court orders can be entered. You should also try and avoid depositing your income into a joint bank account before filing divorce since your spouse will be able to withdraw those funds until a court order is entered dividing the funds.

**Where do you plan on living during and after the divorce?**

Divorce turns one marital home into two separate homes. Are you planning to continue to live in the marital home during the divorce? If not, have you secured another residence? If you and your spouse cannot agree, the court can order one of you to move out before the divorce is final, and this could happen before you are ready.

Can you be prepared with an alternate residence if the court orders you to move out of the marital home? If you are requesting that your spouse move out, do you have a proposal of where you spouse will live? What will be the cost to rent another residence?

If you do want to keep the marital home, will you be able to secure individual financing to remove your spouse from a mortgage loan on the marital home? If you do plan to try and keep the marital home, you should talk with one or more lenders about your ability to finance and the requirements. Planning for your living situation both during and after your divorce will be one of the most important considerations you will need to make.

**What about the children?**

If you have minor children, will you and your spouse be able to secure two residences in the same school district? If you move out of the district and you want residential placement, it may be more challenging. Divorce is never easy on children, and don’t underestimate how hard it will be on you. Discussions involving the welfare of children (school, healthcare, etc.) can get messy quickly as you’re soon-to-be ex may have no desire to co-parent. This will add to the cost of your divorce. Brace yourself for the emotional roller coaster ride. Rely on a strong support system.

**Are you prepared to hire and pay for an attorney if needed?**

Do you have sufficient separate funds available you can access to pay the retainer fee to hire an attorney? If not, do you have a family member or friend that can help you pay the retainer fee until your marital assets are divided by the court?

Even if you completely believe that you and your spouse will be amicable and will agree on everything, this can always change at any time during the divorce. When you and spouse cannot agree, court hearings will be necessary and you will want legal representation to help you present your case to the court. When you have made the important decision to file for divorce and you know you want to hire an attorney to represent you, you will need to make sure you have sufficient funds available to hire your attorney when the day arrives.

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