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Your Financial Planner: Posturing in divorce



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Financial disagreements are a leading cause of divorce.

A prudent soon-to-be divorcee will engage the services of a complete team of professionals, including financial experts, to minimize the disruptions inherent in the transition to the next chapter of their life.

Maximizing the efficiency of the divorce transition is commonly understood to require the services of an attorney and an accountant, but considering that one of the most-common issues that necessitate the divorce is finances, a well-rounded team would be well advised to include a CDFA (Certified Divorce Financial Analyst).

Some people may think that it's holding on that makes one strong, but sometimes it's letting go.

The American Psychological Association estimates 40-50% of all marriages end in divorce. While the actual divorce rate and risks are debatable, I've seen an increase in the number of soon-to-be and newly divorcees that need financial planning assistance. Over the course of many conversations, I've found that financial disagreements are one of most common causes of marital conflict and contribute to the eventual demise of the relationship.

Understanding the various traps for the unwary associated with divorce is essential to transitioning to life's next chapter as seamlessly as possible. Addressing financial and investment considerations early in the process can give you confidence when you need it most. This is important whether you are a stay-at-home parent, the main breadwinner or in a marriage of financial equals. 

Planning in advance and hiring a financial professional can help keep things rational during this period where emotions may be at an all-time high. 

A good divorce attorney will tell you that a certified financial expert is often necessary to adequately advise you with respect to the financial implications of the divorce. Attorneys attended law school to become experts in the law, not to become financial experts. A judge has extensive legal training, but it is unlikely that a judge will be a financial expert.

This is why hiring a CDFA as part of the divorce team can be invaluable. A CDFA will assist your attorney in understanding how the financial decisions made during the divorce will impact the client's financial future based on certain assumptions. These financial analysts also offer valuable insights to the court. The judge may know the broad brushstrokes, but CDFAs know the fine details.

Let's talk dollars and "sense."

An important key throughout the divorce process is planning in advance and making rational decisions. One way to do this is to explore the alternative methods of settling cases in lieu of spending significant dollars on fees and years in litigation. There are a number of different approaches to reaching a settlement agreement.

The most common methods of alternative dispute resolution are mediation, arbitration and collaborative divorce.

- Mediation is where a couple uses a neutral, unbiased mediator to help the parties come to an agreement. It's a good idea for both parties to still consult with their own, individual attorneys during the mediation process.
- Arbitration is where the power is solely with the arbitrator. This method is good in situations where both parties disagree and cannot move past their deadlock, but are willing to accept a third party's resolution of the issue(s) as binding. This can be less costly than going to trial.
- Collaborative Divorce is when a couple works out a divorce settlement without going to court. This is more of a team approach to divorce. In a collaborative divorce, no one may go to court or even threaten to do so. The lawyers will have to find solutions that satisfactorily meet the needs of both parties. Unfortunately, though, I have found that the collaborative method often doesn't work well to settle divorces involving complicated financial situations or when there are significant assets.

A divorce that has not been properly managed from the legal, accounting, financial and investing aspects can have devastating consequences that can seriously inhibit one's ability to start anew. A litany of financial aspects should be taken into consideration such as retirement plans, dividing the marital residence, spousal maintenance, child support (if applicable), Social Security, insurance, debt, credit and bankruptcy.

Also consider the sale of the principal residence, tax and ERISA issues concerning retirement plans, financial planning issues, analysis of the personal tax return with an eye toward income tax and capital-gains issues, data preparation and problem solving.

Finally, you'll need to update important estate-planning documentation, such as your trust and will.

Ignorance is not bliss when it comes to divorce, and what you don't know can actually hurt you.

A divorce team that involves a CDFA is poised to assist you analyze your options to allow you to make truly informed decisions. Neglecting to address financial issues during a marriage may be water under the bridge, but it's never too late to learn good habits going forward in the hopes of ensuring a good, stable economic future.

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