



DIVORCE ME
Family Law Attorney

DIVORCE **HANDBOOK**

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WELCOME TO DIVORCE ME, P.A.



Your family is unique. Your attorney should be, too. Divorce Me, P.A. is a full-service divorce and family law firm serving the South Florida communities of Miami-Dade, Broward, and Palm Beach Counties. We focus exclusively in the areas of divorce and divorce-related family law matters like alimony, child support, and child custody. We bring a modern mindset to the practice of law — that means combining more than 15 years of divorce and family law experience with the latest technologies to make your client experience as effortless as possible.

This handbook was designed to provide an introductory overview of the divorce process in Florida. We hope that you find the information useful.

If you haven't already done so, be sure to call our office to schedule your free phone consultation. We want to hear from you.

Sincerely,

S. ANDREW FOSTER

OWNER & ATTORNEY AT LAW

GLOSSARY OF COMMON TERMS

➤ **Affidavit**

A written statement in which the facts stated are sworn or affirmed to be true.

➤ **Alimony**

Spousal support which may be ordered by the court in a proceeding for dissolution of marriage. Types of alimony include: bridge-the-gap, durational, rehabilitative, or retroactive, and may be either temporary or permanent. The court may order periodic payments, payments in lump sum, or both. In determining whether to award alimony, the court must determine whether either party has an actual need for alimony and whether the other party has the ability to pay. The court must consider the factors set forth in section 61.08, Florida Statutes, and must make certain written findings. An alimony award may not leave the paying party with significantly less net income than that of the receiving party without written findings of exceptional circumstances.

➤ **Answer**

Written response by a respondent that states whether he or she admits (agrees with) or denies (disagrees with) the allegations in the petition. Any allegations not specifically denied are considered to be admitted.

➤ **Asset**

Everything owned by you or your spouse, including property, cars, furniture, bank accounts, jewelry, life insurance policies, businesses, or retirement plans. An asset may be marital or nonmarital, but that distinction is for the court to determine if you and your spouse do not agree.

➤ **Attorney**

A person with special education and training in the field of law who is a member in good standing of The Florida Bar and licensed to practice law in Florida. An attorney is the only person who is allowed to give you legal advice. An attorney may file your case and represent you in court, or just advise you of your rights before you file your own case. In addition to advising you of your rights, an attorney may tell you what to expect and help prepare you for court.

➤ **Bridge-the-Gap Alimony**

Spousal support which is ordered to assist a party to make the transition from being married to being single. Bridge-the-Gap alimony is designed to assist a party with

legitimate, identifiable short-time needs; its length cannot exceed two years and it cannot be modified.

➤ **Child Support**

Money paid from one parent to the other for the benefit of their dependent or minor child(ren).

➤ **Dependent Child(ren)**

Child(ren) who depend on their parent(s) for support either because they are under the age of 18, have a mental or physical disability that prevents them from supporting themselves, or are in high school, between the ages of 18 and 19, and performing in good faith with a reasonable expectation of graduation before the age of 19.

➤ **Dissolution of Marriage**

Divorce; a court action to end a marriage.

➤ **Durational Alimony**

Spousal support which is ordered to provide economic assistance for a set period of time following a marriage of short or moderate duration or following a marriage of long duration if there is no ongoing need for support on a permanent basis. Durational alimony terminates upon the death of either party or upon remarriage of the party receiving support. It may be modified or terminated, but cannot exceed the length of a marriage.

➤ **Filing**

Delivering a petition, response, motion, or other pleading in a court case to the clerk of court's office.

➤ **Final Judgment**

A written order signed by the judge that formally dissolves your marriage.

➤ **Financial Affidavit**

A sworn statement that contains information regarding your income, expenses, assets, and liabilities.

➤ **Health Insurance**

Coverage under a fee-for-service arrangement, health care maintenance organization, or preferred provider organization, and other types of coverage available to either parent, under which medical services could be provided to a minor or dependent child.

➤ **Liabilities**

Everything owed by you or your spouse, including mortgages, credit cards, or car loans. A liability may be marital or nonmarital, but that distinction is for the court to determine if you and your spouse do not agree.

➤ **Lump Sum Alimony**

Money ordered to be paid by one spouse to another in a limited number of payments, often a single payment.

➤ **Mandatory Disclosure**

Items that must be disclosed by both parties except those exempted from disclosure by Florida Family Law Rule 12.285.

➤ **Marital Asset**

Generally, anything that you and/or your spouse acquired or received (by gift or purchase) during the marriage. For example, something you owned before your marriage **may** be nonmarital. An asset may only be determined to be marital by agreement of the parties or determination of the judge.

➤ **Marital Liability**

Generally, any debt that you and/or your spouse incurred during the marriage. A debt may only be determined to be nonmarital by agreement of the parties or determination of the judge.

➤ **Marital Settlement Agreement**

A document created to formally set forth the terms of the divorce that are agreed to by the parties. The Marital Settlement Agreement should outline the parties' agreements on assets, liabilities, alimony, and any other important issues related to the divorce.

➤ **Nonlawyer**

A person who is not a member in good standing of The Florida Bar.

➤ **Nonmarital Asset**

Generally, anything owned separately by you or your spouse. An asset may only be determined to be nonmarital by either agreement of the parties or determination of the judge.

➤ **Nonmarital Liability**

Generally, any debt that you or your spouse incurred before your marriage or since your

separation. A debt may only be determined to be nonmarital by either agreement of the parties or determination of the judge.

➤ **Nonparty**

A person who is not the petitioner or respondent in a court case.

➤ **Notary Public**

A person authorized to witness signatures on court related forms.

➤ **Obligee**

A person to whom money, such as child support or alimony, is owed.

➤ **Obligor**

A person who is ordered by the court to pay money, such as child support or alimony.

➤ **Order**

A written decision, signed by a judge and filed in the clerk of the circuit court's office that contains the judge's decision on part of your case, usually on a motion.

➤ **Parenting Course**

A class that teaches parents how to help their child(ren) cope with divorce and other family issues.

➤ **Parenting Plan**

A document created to govern the relationship between the parents relating to the decisions that must be made regarding the minor child(ren). The Parenting Plan must contain a time-sharing schedule for the parents and child(ren) and shall address the issues concerning the minor child(ren). The issues concerning the minor child(ren) may include, but are not limited to, the child(ren)'s education, health care, and physical, social, and emotional well-being. In creating the Plan, all circumstances between the parents, including their historic relationship, domestic violence, and other factors must be taken into consideration. The Parenting Plan must be developed and agreed to by the parents and approved by the court. If the parents cannot agree to a Parenting Plan, or if the parents agreed to a plan that is not approved by the court, a Parenting Plan will be established by the court.

➤ **Party**

A person involved in a court case, either as a petitioner or respondent.

- **Payor**
An employer or other person who provides income to an obligor.
- **Permanent Alimony**
Spousal support ordered to provide for the needs and necessities of life as they were established during the marriage for a party who lacks the financial ability to meet his or her needs and necessities after dissolution of marriage. Permanent alimony is paid at a specified, periodic rate until: modification by a court order; the death of either party; or the remarriage of the party receiving alimony, whichever occurs first. Permanent alimony requires consideration of the factors set forth in section 61.08(2), Florida Statutes, and must include certain written findings by the court.
- **Personal Service**
When a summons and a copy of a petition (or other pleading) that has been filed with the court are delivered by a deputy sheriff or private process server to the other party. Personal service is required for all petitions and supplemental petitions.
- **Petition**
A written request to the court for legal action, which begins a court case.
- **Petitioner**
The person who originally files a petition that begins a court case. The Petitioner remains the Petitioner throughout the duration of the case.
- **Pleading**
A formal, written statement of exactly what a party wants the court to do in a lawsuit or court action.
- **Pro Se or Self-Represented Litigant**
A person who appears in court without the assistance of a lawyer.
- **Rehabilitative Alimony**
Spousal support ordered to be paid for a limited period of time to allow one of the parties an opportunity to complete a plan of education or training, according to a rehabilitative plan accepted by the court, so that he or she may better support himself or herself after dissolution of marriage.

- **Relocation**
A change in the location of the principal residence of a parent or other person in accordance with section 61.13001, Florida Statutes.
- **Respondent**
The person who is served with a petition requesting some legal action against him or her. The Respondent remains the Respondent throughout the duration of the case.
- **Service**
The delivery of legal documents to a party. Service must be in accordance with Florida Rule of Judicial Administration 2.516.
- **Shared Parental Responsibility**
An arrangement under which both parents have full parental rights and responsibilities for their child(ren), and the parents make major decisions affecting the welfare of the child(ren) jointly. Shared Parental Responsibility is presumptive in Florida.
- **Sole Parental Responsibility**
A parenting arrangement under which the responsibility for the minor child(ren) is given to one parent by the court, with or without rights of time-sharing to the other parent.
- **State Disbursement Unit**
The unit established and operated by the Title IV-D agency to provide one central address for the collection and disbursement of child support payments made in both Department of Revenue and non-Department of Revenue cases, in which the obligation is paid through an income deduction order.
- **Supervised Time-Sharing**
A parenting arrangement under which time-sharing between a parent and his or her child(ren) is supervised by either a friend, family member, or a supervised visitation center.
- **Supportive Relationship**
A relationship, defined in section 61.14(1)(b)1, Florida Statutes, existing between an obligee who receives alimony and a person with whom that obligee resides.
- **Time-Sharing Schedule**
A timetable that must be included in the Parenting Plan that specifies the time, including overnights and holidays that a minor child or children will spend with each parent. The

time-sharing schedule shall either be developed and agreed to by the parents of a minor child or children and is approved by the court, or established by the court if the parents cannot agree, or if their agreed-upon schedule is not approved by the court.

➤ **Trial**

The final hearing in a contested case.

➤ **Uncontested**

Any and all issues on which the parties are able to agree and which are part of a marital settlement agreement.

DIVORCE BASICS

DISSOLUTION

Florida courts and statutes use the term “dissolution” instead of “divorce”. That said, the terms are essentially interchangeable. The primary document used to begin the divorce process is called a Petition for Dissolution. The person who files for divorce is called the “petitioner”. The non-filing spouse is the “respondent”.

RESIDENCY REQUIREMENT

Before filing for divorce, you or your spouse must be a Florida resident for at least 6 months. Residency is generally proven by a Florida driver’s license or Florida ID card. If you do not have either of these, you may have an acquaintance complete an affidavit that corroborates residency. Please notify us immediately if you need such an affidavit prepared.

JURISDICTION AND VENUE

Jurisdiction refers to the proper court for filing your divorce—ex. Circuit, District, Superior, etc. Venue refers to the proper county for filing the divorce. In Florida, the proper county is generally where the Respondent lives or the last place the parties lived together with the intention to stay married. If the Respondent is not a Florida resident, the divorce should generally be filed in the county where the Petitioner lives.

GROUND

Florida is a no-fault state. Either party may seek a divorce without proving any reason other than the desire to end the marriage. There are two recognized grounds for divorce in Florida—the marriage is irretrievably broken; or mental incapacity of one spouse for a period of at least 3 years. Typically, it is sufficient to allege that the marriage between the parties is irretrievably broken.

NAME CHANGE

Florida allows a spouse to restore a former name through the divorce proceedings. Generally, obtaining a name change through the divorce proceedings does not require any additional documents or costs.

THE DIVORCE PROCESS

PLEADINGS

Pleadings are formal statement of each party's position. The two primary pleadings in a divorce case are the *Petition for Dissolution of Marriage* and the *Answer*.

Petition for Dissolution of Marriage

The petition lets the court know what relief you want as part of your divorce. For example, if there is real estate or personal property, the petition may specify which items you want to keep after the divorce.

Service of Process

Once the petition for dissolution is complete, the Respondent must be served with a copy. There are a few ways to get the Respondent served under Florida law. In most cases, a certified process physically hands a copy of the petition to the Respondent at the Respondent's home or place of business.

Answer

After service, the Respondent generally has about twenty days to file an answer stating which parts of the petition are agreed to and which parts are not. For example, the Respondent may agree that the marriage is irretrievably broken, but may disagree with the Petitioner about alimony, timesharing, or how marital property should be divided.

DISCOVERY

The discovery process is how each spouse gathers information that can be used to support a claim at trial. For example, if one spouse requests alimony, the other spouse's income records can be used to prove ability to pay. Here are just a few of the discovery tools available under Florida law.

Interrogatories

Interrogatories are written questions that must be answered under oath.

Requests to Produce

A request to produce is a written demand for copies of relevant records or documents.

Subpoenas

A subpoena is a written command that requires the recipient to appear at a specific place and time to either testify under oath, produce documentary evidence, or both. Failure to obey a subpoena may be considered contempt of court.

Requests for Admission

Requests for admissions are among the most useful discovery tools because the party who is served with a request for admissions must either admit or deny each assertion under oath. Once an assertion is admitted it is considered an established fact. This limits the number of facts that have to be established at trial and helps to narrow the issues the court has to decide.

Depositions

A deposition is an opportunity to get testimony, under oath, from a party or witness outside of court before a certified court reporter who records the questions and answers for later use.

MEDIATION

Mediation is the formal process of trying to negotiate a settlement agreement outside of court with a trained and certified family court mediator. Many judges require the parties in a divorce case to attend mediation at least once before a final hearing date can even be scheduled.

TRIAL

Some divorce cases simply cannot be settled. When that happens, the case goes to trial or final hearing as it is usually called in family court. In these cases, the judge makes the final decision.

PREPARING FOR YOUR CONSULTATION

Preparing for your initial consultation is the first step toward a successful resolution of your case. Here is a checklist of items that you should have with you so that you can make the most of your initial consultation.

A List of Questions

Our consultations are more like strategy sessions. You should feel free to ask any and all questions you have. We will do our best to answer them all as thoroughly as we can in the time provided.

Pay Stubs

The parties in a divorce or family law case are almost always required to disclose certain financial information, including income numbers. You should be prepared to produce at least three months of pay stubs for yourself and, if you have access to them, the other party.

Tax Returns

Tax returns can often provide a more complete and comprehensive picture of both parties' financial situations than pay stubs alone can.

Legal Documents

It is important that you have with you copies of any court documents in your possession. This includes the summons, petitions, motions, or other documents filed or served by you, on your behalf, or by the other party in your case. Additionally, if any court orders or judgments have been issued, be sure to have those with you as well.

Written Agreements

If you and your spouse have any prenuptial agreements, postnuptial agreements, settlement agreements, or other written contracts, you should be prepared to tell us about them at the initial consultation.

Schedule of Assets and Liabilities

You should be prepared to provide a list of property that you (and your spouse) own, as well as a list of your debts. Property includes both real estate and personal property such as bank accounts, retirement accounts, family businesses, cars, boats, and jewelry. Some typical debts may include mortgages, student loans, and credit card debt. Being as thorough as possible will allow us to get a more accurate view of your financial situation and we will be better able to assess any strengths or potential issues with your case.

PREPARING FOR DIVORCE

The divorce process can be both complicated and time-consuming. And all too often, the legal system is intimidating and confusing for people who are not used to dealing with it every day. But there are a number of things that you can do to prepare for a successful outcome to your divorce case and to stay organized along the way.

HIRE AN ATTORNEY

Lawyers aren't cheap. We get it. Even in an **uncontested divorce** case, an experienced and qualified South Florida divorce attorney might cost you a couple of thousand dollars. But retaining an attorney early in the case is an investment in your future and your family's future. There is absolutely no substitute for the advice and guidance that a trained South Florida divorce attorney can provide.

KNOW THE NUMBERS

It's important to know what you own and what you owe. One mistake that people make is not being familiar enough with their own financial situations before a divorce is filed. Sometimes this is because the other spouse is secretive or untruthful and, in those cases, your lawyer will know how to get the information that you need. But many times, you just have to keep your eyes open and ask questions. For example, by reviewing tax returns, bank account and credit card statements regularly, you will get a better idea of where both you and your spouse stand financially. This can also help you better predict how much money you will need to support yourself on your own.

GET SEPARATE ACCOUNTS

If you and your spouse use joint bank accounts, it might be a good idea to consider changing that. Depending on your circumstances, it can be extremely risky to continue depositing your income into an account that your spouse can access. A better idea may be to open a separate bank account for your deposits. If necessary, you can transfer just enough funds into the joint account to pay household bills from month to month.

DOCUMENT YOUR ASSETS

The court in a divorce case has a duty to identify marital assets and to divide them between the parties. But what if your spouse starts removing valuables from the home or disposing of property before the court has a chance to do its job? One thing you can do to protect yourself is

to take photographs or videos of your possessions including household items, jewelry, and vehicles. It can also be helpful to have your property appraised when appropriate. That could mean less guesswork for the court later on if the property goes missing during your divorce.

GATHER YOUR PAPERWORK

Here is a checklist of documents that you will be required to disclose early in your case. The sooner you begin gathering them, the more time your attorney will have to review them with you and to identify potential issues with your case. If you are thinking about a divorce or going through one now, and you have not already done so, you should start putting these documents together now. Both you and your attorney will be glad that you did.

Tax Returns

All federal and state income tax returns, gift tax returns, and intangible property tax returns filed by you or on your behalf for the past 3 years. IRS form W-2, 1099, and K-1 for the past year, if the income tax return for that year has not been prepared.

Pay Stubs

Pay stubs or other evidence of earned income for the 3 months.

Income Statements

A statement identifying the amount and source of all income received during the past 3 months if not reflected on the pay stubs produced.

Loan Documents

All loan applications and financial statements prepared or used within the 12 months, whether for the purpose of obtaining or attempting to obtain credit or for any other purpose.

Deeds and Promissory Notes

All deeds within the last 3 years, all promissory notes within the last 12 months

Financial Accounts

All periodic statement from the last 3 months for all checking accounts, and from the last 12 months for all other accounts (for example, savings accounts, money market funds, certificates of deposit, etc.), regardless of whether or not the account has been closed, including those held in your name individually, in your name jointly with any other person or entity, in your name as trustee or guardian for any other person, or in someone else's name on your behalf.

Brokerage Accounts

All brokerage account statements in which either you or your spouse held within the last 12 months or holds an interest including those held in your name individually, and your name jointly with any person or entity, in your name as trustee or guardian for any other person, or in some else's name on your behalf.

Retirement Accounts

The most recent statement for any profit sharing, retirement, deferred compensation, or pension plan (for example, IRA, 401(k), 403(b), SEP, KEOGH, or other similar account) in which you are a participant or an alternate payee and the summary plan description for any retirement, profit sharing, or pension plan in which you are a participant or an alternate payee. (The summary plan description must be furnished to you on request by the plan administrator as required by 29 U.S.C. 1024(b)(4)).

Insurance Policies

The declarations page, the last periodic statement, and the certificate for any group insurance for all life insurance policies insuring your life or the life of your spouse, and all current health and dental insurance cards covering either you or your spouse and/or your dependent children.

Corporate Tax Returns

Corporate, partnership, and trust tax returns for the last 3 tax years if you have an ownership or interest in a corporation, partnership or trust greater than or equal to 30%.

Debts

All promissory notes for the last 12 months, all credit card and charge account statement and other records showing your indebtedness as of the date of filing this action for the last 3 month, and all present lease agreements, whether owed in your name, individually, in your name jointly with any other person or entity, in your name as trustee or guardian for any other person, or in someone else's name on your behalf.

Marital Agreements

All written premarital or marital agreements entered into at any time between you and your spouse, whether before or during the marriage. Additionally, in any modification proceeding, you must serve all written agreements entered into between you and your former spouse at any time since the order to be modified was entered.

Documents Reflecting a Special Interest in Property

All documents and tangible evidence supporting any claim you might have of special equity or non-marital status of an asset or debt for the time period from the date of acquisition of the asset or debt to the date of production or from the date of marriage, if based on premarital acquisition.

Alimony and Child Support Orders

Any court orders directing you to pay or receive spousal or child support.

These are just a few of the steps that you can take now to begin planning for your divorce. If you want to learn more about any of the steps or what else you can do to prepare for a successful resolution of your case, contact Divorce Me, P.A. to schedule your initial consultation today.