

UNDERSTANDING & PREPARING FOR DIVORCE

dividing marital assets, especially if a spouse has not been in the workforce for a period of time.

MODIFICATIONS

Following a divorce, there are some circumstances in which child support or alimony provisions may be modified. Generally, if a former spouse has a substantial decrease or increase in income or financial wealth, an upward or downward modification may be possible. Increases in the financial needs of the children may also warrant a modification.

Child custody and visitation may also be modified under certain circumstances; for example, if one spouse moves to another state such that his or her ability to visit with the children is impacted. In such a case, a new parenting plan may need to be put into place to accommodate the distance to exercise the visitation. The child support may also need to be modified to accommodate the additional travel expenses necessary to exercise visitation. Modifications typically require the filing of another lawsuit and the exchange of financial information between the parties.

MEDIATION

Mediation is a common tool used during a divorce to try to resolve all or some of the issues without needing to go to court. Most counties have approved and trained mediators who are skilled at facilitating negotiations between the parties. The parties will commonly share the costs of the mediator equally. In order for mediation to be successful, both parties generally need to be willing to compromise on some issue of importance.

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Resolving divorce disputes through mediation can save both parties the high financial cost, and stress, of going to trial.

COLLABORATIVE LAW

Collaborative law is an increasingly popular alternative approach to obtaining a divorce.

Collaborative law provides a reasonable approach to divorce based on three principles: a pledge not to go to court, an honest exchange of information by both spouses, and a solution that takes into account the highest priorities of both spouses and their children.

Mutual respect is fundamental to a collaborative divorce. The process typically involves a financial consultant and divorce coaches, as well as a child specialist where appropriate.

The theory behind obtaining a divorce through collaboration is that the process may avoid much of the acrimony that accompanies some divorces, and is generally less expensive due to the avoidance of traditional litigation.

PRENUPTIAL AND POSTNUPTIAL AGREEMENTS

A Prenuptial Agreement (“Prenup”) is a contract that can define who gets what in case of a divorce. A carefully drafted Prenup can assist in avoiding costly divorce litigation. **A**

Prenup can only address property issues; a Prenup cannot address child custody

rights. Prenups are most commonly used by parties who have accumulated separate

assets prior to the marriage, with an eye towards providing a roadmap for division of joint (“marital”) assets that may be acquired after the marriage. A Postnuptial Agreement

(“Postnup”) is a contract between spouses similar to a Prenup except it is signed during

the marriage. A Postnup is entered into in contemplation of the marriage continuing. In

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both a Prenup and a Postnup, it is critical that both parties provide a full and fair disclosure of all their assets, and that each have separate and independent legal representation.

PATERNITY AND LEGITIMATION ACTIONS

When a child is born to parents who are not married, the mother may need to file a paternity action to establish the father's legal obligations to provide support to the child. Conversely, the father may file a legitimation action to establish his legal rights and his ability to visit with the child. In circumstances where the paternity of the child is in dispute, a DNA test may be required. In some instances, the mother may be able to recover some of the medical and birth-related expenses incurred from the father.

CONTEMPT OF COURT

Contempt of court is a court order which deems an individual as having willfully violated an order of the court. When a Judge signs a Final Judgment and Decree of Divorce ("Order"), all of the provisions of the order become legally binding on both parties. Sometimes a former spouse may fail to follow part of the Order, in which case the other former spouse may file an action for contempt. Such an action is a vehicle through which you may enforce the court's order. Common examples of causes for the filing of a contempt action include failure to pay child support or alimony. If the Judge holds a former spouse in contempt, the court may also order the contemptuous party to pay all or part of the other's attorney's fees and legal expenses. In some instances, especially where payment of child support is involved, a Judge may incarcerate the contemptuous party until she or he pays the money.

SOMEONE TO SPEAK TO

Here are counselors we recommend for your consideration:

Dr. Barbara Rubin
Psychologist
957 W. Marietta Street, NW
Atlanta, GA 30318
drbrubin@aol.com
(404) 224-0404

Dr. Lee Kyser
1263 Beech Valley Road NE
Atlanta, GA 30306-3123
drkyser@mindspring.com
(404) 842-1933

A WORD ABOUT US

Our legal philosophy



Pictured from left to right are Kitchens New partners Joyce Kitchens, Randy New, and Jeff Cleghorn.

Our firm understands that divorce is a difficult process and can be painful or provide a needed change, depending entirely on the individuals involved. We are committed to taking care of clients' legal needs with professionalism, compassion and creativity. Our attorneys and staff have chosen to be a part of the Kitchens New Cleghorn because they are committed to creating positive outcomes for individual people. We handle personal legal issues for our clients with direct

communication, clear plans of action and professionalism. We educate our clients on what we and they can control, what no one can control or change and what the law requires.

Our attorneys recognize that our clients have lives outside of the legal issues we are handling for them. In light of this, our attorneys set reasonable expectations regarding client involvement, potential timelines and possible outcomes.

Consultation and fees

When you contact our firm to discuss a divorce or other family law matter we will schedule a meeting with you so that you can decide on a 'person-to-person' basis whether we are the right attorneys for you. We are happy to discuss your situations in general on the telephone but we are unable to provide you specific legal advice without meeting you. If you feel the need for a 'get to know one another session', we are happy to schedule a one

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hour meeting at our office with one of our attorneys at a reduced “evaluation rate”. We will work with you to determine a course of action based on your needs, our assessment of your legal position and our evaluation of our firm’s suitability to handle your issue. Prior to beginning any extended representation on your behalf, our attorneys will prepare an engagement agreement that defines our course of action and fee structure.

THE INFORMATION PROVIDED IN THIS GEORGIA DIVORCE GUIDE IS GENERAL AND FOR INFORMATION ONLY AND DOES NOT CONSTITUTE LEGAL ADVICE FOR ANY PARTICULAR SITUATION OF FACTS AND CIRCUMSTANCES. IF YOU HAVE NEED FOR LEGAL ADVICE, PLEASE CONSULT WITH AN ATTORNEY FOR YOUR SPECIFIC QUESTIONS.