

What Every Woman in
PENNSYLVANIA
Should Know About
DIVORCE

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MHKATTORNEYS

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INCLUDING:

- ◆ 25 important truths for women confronting divorce.
- ◆ Steps to take to prepare for divorce.
- ◆ 42 financial records with which every woman should be familiar.
- ◆ 15 questions to consider before hiring your divorce lawyer.
- ◆ Stages of divorce.
- ◆ Overview of the divorce process.
- ◆ 17 factors used to determine alimony.
- ◆ Factors Used to Determine Equitable Distribution
- ◆ A list of helpful books.
- ◆ A resource guide to help you through this time.

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WARNING AND DISCLAIMER

THIS BOOK IS NOT LEGAL ADVICE

The Pennsylvania State Bar requires that I inform you that this book is not legal advice. I am not your attorney until we enter into a written agreement that I will be your attorney. This book is for information purposes only and should not be construed as legal advice. Every divorce case is different. Once your attorney fully understands your case, he or she should be able to give you quality legal advice to protect your interests. Receiving this book does not imply an attorney/client relationship between MHK Attorneys and the reader.

After reading this book, if you have any other unanswered questions, I would be happy to meet with you and discuss whether or not you need an attorney.

“WHO WROTE THIS BOOK AND WHY SHOULD I LISTEN TO THE AUTHOR?”

Relax. Slow Down. Breathe. It’s going to be okay. The prospect of going through a divorce may seem daunting, but take a deep breath and begin the process one baby step at a time. I have seen women go through the process and come through stronger and sleeker, lightened and relieved of baggage, feeling more free and unencumbered.

If you are a woman contemplating or confronting divorce, you don’t have to do it alone. Help, guidance, and information to empower you are readily available. I want you to know:

1. The different and distinctive ways you can resolve your divorce.
2. Those truly effective professionals who can help you organize and structure your life into manageable parts abound in our community, so that your divorce does not seem so daunting and overwhelming.
3. That understanding the laws that govern divorce and understanding the process of divorce helps relieve the stress of divorce. Knowledge is power!

My name is Connie J. Merwine. I have been a lawyer since 1988 and have been representing families in divorce and custody cases since 1990. I started my law firm with my partners, Joseph P. Han-

yon and Michael B. Kaspszyk in 1997 and have focused my attention on representing families in trying times and I wrote this book for women because I sensed a need for women to have a strong, confident, knowledgeable attorney on their side during the most emotional time of their life. I also sensed a need for women to be educated when going through the divorce process and have guidance as they navigate through the divorce process. I work to give them a sense of confidence and a feeling of support.

I wrote this book to provide the handbook, not only for my clients, but also for other women, to give them guidance in each of their unique situations. Prior to becoming an attorney, I obtained my Certified Public Accountant's license from the State of Pennsylvania. After becoming an attorney, I continued my education with a Master's degree in Women's Studies and a Master's Degree in Taxation. I am able to provide unique guidance to women who are confronting a momentous time in their lives, and are often caught between various confusing emotions and conflicting loyalties. If you are like most women, you are trying to make sense of the prospect of change – for you, your children, your extended family and your friends.

My Promise to You

You are in the right place at the right time because we will empower you. You will have answers to more divorce questions than most women ask. And, odds are that you will not only know more than your husband, but that you will also know more about getting divorced than 99 percent of the men who inhabit this planet!

25 IMPORTANT TRUTHS FOR WOMEN CONFRONTING DIVORCE

As we get started, I want to share some basic truths about divorce that I have learned while helping women get divorced.

1. Look out for yourself first! If you're okay, your kids will be okay. Just like on an airplane, you need to give yourself oxygen so you will be able to give it to them.
2. Never ever let him know you FEAR going to court! Embrace the court; it can be your best friend.
3. Turn his voice off in your head. He is no longer the authoritative figure in your life; you are.
4. Don't be predictable. In fact, do the unexpected; it throws him off balance. He will see he is dealing with someone new – a stronger, more focused, more autonomous you.
5. Don't sign anything! Unless your attorney says it's okay and you understand the ramifications, do not sign *anything*.
6. When you negotiate, listen! Then take time to discuss with your "board of advisors." Listening is the key. Know what you are confronting. Listen to the nuances and underlying agenda.
7. When in doubt, do nothing. Then talk to a divorce professional (mental health provider, divorce financial professional, or divorce lawyer).
8. When he says, "Trust me," DON'T!

9. F.E.A.R. – “False Expectation Appearing Real” – Write out your worst case scenario and then write out how you will overcome it. Then the F.E.A.R. evaporates.
10. CHOOSE Wisely! You can CHOOSE to be the victim or you can CHOOSE to move on with your life. No one, and I mean no one, can make that choice for you.
11. Nobody will look out for you like you will. The best attorney in the world cannot know or care as much about your outcome as you do, so partner with your attorney, set achievable goals and keep communicating with your attorney.
12. Do not make your children your confidantes during your divorce. Children should be allowed to remain children no matter how you feel or what you think. Protect and love them like only a mother can.
13. Divorce is about outcome, not fault. See the big picture.
14. Custody is about CHILDREN, not fault. Use the term co-parenting, not custody or visitation, when speaking with your husband.
15. The “law” is not always fair; it is “the law.”
16. It’s not called the “Fairhouse.” It’s called the “Courthouse.” Your attorney will help you understand your case in this unfamiliar venue.
17. Be observant and resourceful. Gather documents like tax returns, pension statements, bank accounts, and anything that helps prove your financial situation.
18. Read the actual laws governing spousal support, child support, custody, and property division (called “equitable distribution”).
19. Take down your MySpace, Yahoo! Facebook, Personals, and other social networking pages. Make sure to print a copy of his Internet pages or other signs of Internet dalliances.

20. Get your own new e-mail account with a brand new password! Still, be careful what you send into cyberspace because most of this can be traced!
21. Never ever move out and temporarily leave your children with their dad. It is a sure way to lose physical custody. Always do and be what best serves your children.
22. Don't move out with the children unless you have a detailed plan of action with your attorney. Even then, understand that this may put you at risk of losing physical custody. This should only be done after careful consultation with an attorney who fully understands your situation.
23. If you do not have children but need spousal support, don't leave home without a plan of action agreed upon by you and your lawyer. Ask your attorney about the Pennsylvania Rules with regard to spousal support and APL (alimony pendente lite). Each county in Pennsylvania has specific rules with regard to your entitlement to spousal support and you don't want to jeopardize your opportunity to receive spousal support by making an impetuous decision to move out. This could affect your financial security.
24. Be cognizant that the only limitation regarding the terms of a Marital Settlement Agreement is the creativity of its author.
25. Your Marital Settlement Agreement is your Constitution, your Bill of Rights and your Declaration of Independence, all written up in one agreement. Make sure an experienced divorce attorney reviews it on your behalf BEFORE YOU SIGN IT!

This book does not offer you a panacea to all of your problems, but it does provide you a wealth of information.

For more information on divorce visit:

www.MHKFamilyLaw.com

Or visit us on Facebook under MHK Attorneys.

TAKE AS MUCH TIME TO PLAN YOUR DIVORCE AS YOU DID TO PLAN YOUR WEDDING

Steps to Prepare for Divorce

1. Consult an attorney about your legal rights.
2. Write a narrative for your attorney, detailing the date you began living together, the date you married, your children's birth dates, previous separations, when various assets were acquired, and the separate property either of you brought into the marriage or inherited.
3. Gather information about what you own and owe. You'll need copies of financial statements, tax returns, retirement plan documents, brokerage statements, and insurance policies.
4. Obtain detailed information on each retirement plan in which you and your husband have participated.
5. Decide which assets you would like to keep if you divorce and what you are willing to give up. Consult with your accountant about the tax consequences of various options, especially for keeping the house.
6. Get preliminary estimates of the value of the property you own and list the debts that you owe. Pay bills and credit cards from joint funds before separation, so you don't get stuck with them later.
7. Find out what is in the safe deposit box. Secure both keys, if possible.
8. Prepare a spending history for last year from your checkbooks, so you can determine future needs and decide where to cut back if necessary.

9. Before you separate, use joint funds to repair your automobile and home, buy clothes for yourself and your children, and get needed dental work and medical checkups. If you wait until after separation, those expenses will be yours alone.
10. Apply for credit cards in your own name. If possible, obtain credit cards with check writing privileges.
11. After separation, close joint credit card accounts, get control of both cards issued on accounts, or notify creditors that you will no longer be responsible for your husband's charges on accounts.
12. Open a post office box that you can use for your mail before you separate and while you are in the process of divorce.
13. Begin a divorce notebook in which you list all problems with impending separation and divorce. Also list each step that you take in the divorce process, including a synopsis of all telephone calls and conferences with your attorney and accountant. Keep good notes.
14. Divorce is scary, but it will be less so if you figure out the worst that could happen and decide in advance how you will deal with it. Investigate community resources that are available to you.
15. Explore your career options. Use the crisis of divorce to catapult yourself into a more satisfying future.
16. Begin negotiation discussions with your husband, as calmly as possible. Find out what his hot buttons are and where he is willing to make concessions.
17. Talk to family and friends who have recently been through a divorce. Get a feel for the territory you will be crossing.
18. Find a good therapist or support group to help you through the months ahead. Divorce is too traumatic to go through it alone.
19. Take your time and don't rush matters. Planning for divorce is best done deliberately and slowly. This is your chance for a new beginning.

FINANCIAL RECORDS WITH WHICH EVERY WOMAN SHOULD BE FAMILIAR

1. Net worth statement.
2. Copies of all notes signed by yourself and your husband (include 1st and 2nd mortgages).
3. Copies of any guarantees on behalf of others signed by you or your spouse.
4. Tax returns for the last 5 years—including individual, business, and all other relevant returns.
5. Benefit statements of your employer and spouse's employer (pension plan, profit sharing, 401K, IRA, etc.).
6. Life insurance policies on you, your spouse, and your children.
7. Short term disability policies on you and your spouse.
8. Long term disability policies on you and your spouse.
9. Homeowner's policy.
10. Umbrella liability policy.
11. Vehicle information—titles, registration, and insurance.
12. Health insurance policies.
13. Long term care insurance policies.
14. Other insurance policies (mortgage payment, credit life, AAA policy, cancer policy, etc.).
15. All bank account statements.
16. All credit card statements.
17. All brokerage statements.
18. Any military benefits.
19. Copy of credit history (obtain from retail merchants and any other applicable agencies).
20. Inventory of personal property (written and video).

21. Applicable employment contracts.
22. Copies of buy/sell agreements.
23. Copies of partnership agreements.
24. Inventory of lock box.
25. Power of Attorney for you and your spouse.
26. Medical Power of Attorney.
27. Health Care directives.
28. Wills.
29. Living Wills.
30. Copies of any Wills or Trusts of which you are the beneficiary.
31. Trusts.
32. Social Security benefits statement.
33. Pre-nuptial Agreements.
34. Separation Agreements.
35. Lease Agreements.
36. Real Estate – addresses, purchase information, appraisals, deeds, leases, and assessments.
37. Annuity statements
38. Personal property of high monetary value, with appraisals if possible.
39. Proof of debt owed to you and your spouse.
40. Proof of debt owed by you and your spouse.
41. Stocks, bonds, mutual fund statements.
42. Miscellaneous income– lawsuits, patents, copyrights, trademarks, rights to royalties.

IN MARRIAGE AND DIVORCE, LOOK BEFORE YOU LEAP

15 Questions To Consider Before Hiring Your Divorce Lawyer

For most people, choosing a divorce lawyer is a daunting task. You are about to embark on an unfamiliar and treacherous journey through the legal system. And to make things worse, you have to do this while you are in the grip of extreme emotional turmoil.

Guiding you through this traumatic life experience should be a lawyer you can trust completely, and with whom you can establish a close working relationship that will continue as long as you need—months or, in rare cases, even years.

Throughout the selection process, remind yourself that all lawyers are not created equal. Protect yourself by carefully considering the following fifteen questions before parting with that retainer check:

I. Is the lawyer's practice focused exclusively on family law?

Choose a lawyer who practices exclusively, or at least primarily, in the area of matrimonial and family law. This is a constantly evolving, highly complex area of practice. You need a knowledgeable and experienced lawyer in your corner, who is intimately familiar with the intricacies of divorce law and related matters. You cannot leave the welfare of your children and your future financial security in the hands of a “Jack of All Trades, Master of None.”

2. Is the lawyer attentive when you are talking?

It is crucial to have a face-to-face initial consultation with any potential lawyer before signing a retainer agreement. An initial consultation is a golden opportunity to assess whether the attorney will treat you with compassion and dedication, or whether you will be just another number in his book and a faceless file stacked in the corner of his cluttered office. If the lawyer is checking his e-mails, typing away on his Blackberry, or taking other calls during your meeting, you should go elsewhere.

3. Does the lawyer have an office policy ensuring the timely return of you phone calls?

Communication between attorney and client is key in any divorce action. A lawyer should be reachable by phone and e-mail. Unfortunately, clients' main complaints against their divorce lawyers are that the lawyers fail to respond in a timely manner to their calls, e-mails, and other communications. Ask any lawyer you consider retaining whether there is an office policy regarding the prompt return of phone calls and emails. If the lawyer hesitates, there most likely is no such policy, and you will be frustrated to no end in trying to get in touch with him or her.

4. Is the lawyer selective in accepting cases?

Does the lawyer you are considering accept every client that walks through the door, or does his or her practice consist of fewer, but select, clients? In order to provide dedicated and comprehensive service, an attorney owes it to existing clients to be highly selective in accepting new matters. Make sure the latter is the case with your attorney.

5. Is your personality compatible with the lawyer's personality?

In order to work effectively with your lawyer, you must be comfortable with him or her. Make sure that the lawyer you retain is someone with whom you can talk, to whom you can listen, and with whom you will be able to share the most intimate details of your life and finances without feeling threatened in any way.

6. Does the lawyer treat you with compassion and empathy?

Make sure that the lawyer treats you as the unique individual that you are. A good lawyer will be eager to listen to your marital history and will make sure to understand your priorities and objectives fully, without being in a rush to help you into categories or hurry you out the door.

7. Is the lawyer proactive?

You should hire a divorce lawyer who is able to provide you with a plan of action. This attorney should listen to you and then take charge.

8. Will the lawyer handle your case personally, or will your matter be delegated to an associate or paralegal?

Find out who will handle your case. Will it be the attorney with whom you are meeting during the initial consultation? If any portion of your case is going to be delegated to an associate or paralegal, you should insist on meeting that lawyer or paralegal as well. You must be completely satisfied that any other staff member working on your case is competent and experienced. This is essential.

9. Is the lawyer willing to attempt a negotiated settlement of your matter?

Only a very small percentage of divorce cases actually go to trial. The vast majority of cases are settled, some on the courthouse steps on the very day of trial. A good attorney knows that there is no “winner” in a divorce or custody trial. If it is left unchecked, the process can be emotionally and financially devastating to both parties. Your attorney should, therefore, make every reasonable effort to negotiate a settlement on your behalf, while at the same time diligently preparing your case for the potentiality of a trial. Cases settle when the lawyers are prepared and dedicated.

10. Is the lawyer willing to educate you and to answer your questions?

Your divorce lawyer must be a good communicator and be willing to answer all of your questions. Any skilled divorce lawyer knows that educated clients are better equipped to make sound and informed decisions with regard to their and their families’ futures.

11. Is the lawyer assertive without being arrogant?

Many people make the mistake of looking for a divorce lawyer who will be a “pit-bull.” In hiring a divorce lawyer, remember that louder does not necessarily mean better. A good attorney will not feel the need to compensate for a lack of skill by being obnoxious. A good attorney will aggressively and effectively advocate for you, but without an ego that squeezes the air out of any room.

12. Is the lawyer being honest with you, or are you being promised the sun, the moon, and the stars?

Be very wary of any lawyer who guarantees a specific result in your divorce case. All litigation is inherently risky and can be influenced by present circumstances, future developments, and the decisions

and attitude of the judge. Every case has strengths and weaknesses, and your lawyer should point out both. You can trust an attorney who tells it like it is—who is candid with you about your chances of obtaining a particular outcome. You cannot trust an attorney who simply tells you what you want to hear.

13. Does the lawyer underscore that your children’s best interests are your highest priorities?

No parent should ever use children as pawns in a divorce action. Your children’s welfare and best interests should be your paramount priority. Any good lawyer will understand and support this objective and will caution you that manipulating your children will be devastating to them personally and to your chances of being awarded custody.

14. Does the lawyer present himself or herself well?

If you are put off by your lawyer’s personal grooming, dress, behavior, or language, chances are that the judge and opposing counsel will be too. If a lawyer’s office is a mess of paper, pizza boxes, and dirty clothes, the legal documents that he or she prepares on your behalf will most likely reflect that. The work product on your case will not be thoughtful, cogent and organized either. You want an attorney who cares enough to present himself or herself, the staff, and the office in a professional manner.

15. Is the lawyer able to utilize the latest technology?

In this day and age, your lawyer should be up-to-date on the latest technological tools. Your lawyer should understand how computers, the Internet, PDAs, etc., are changing communications, relationships and society. He or she should be aware of the implications of this. If a lawyer has chosen to remain blindly “old school” about technology, do you think he or she cares enough to stay up-to-date

with the latest developments in the law?

If you need to hire a divorce lawyer, be sure to do your homework and to consider these questions before signing a retainer agreement. The last thing you need during your divorce case is to waste your precious energy on disagreements with your lawyer. So, be sure to hire the right lawyer right from the start and save yourself the agony of lost time, big bills, and endless frustration.