

# I FEAR MY MARRIAGE IS ENDING! WHAT NEXT?

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A Step-By-Step Guide  
To Divorce In Florida

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**RAND LIEBER, ESQ.**



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## **Splitsville Family Law**

2455 Hollywood Boulevard

Suite 305

Hollywood, FL 33020

(954) 928-9995

[www.splitsvillefl.com](http://www.splitsvillefl.com)

# TESTIMONIALS

*"My future wife had created a PNA that I needed a family lawyer to review. Mr. Lieber was recommended to me by an attorney friend. It was a great recommendation. Mr. Lieber was able to accommodate my schedule and meet when it was convenient for me. He was very upfront and honest about his costs and how much time his services would take. He thoroughly reviewed the document and provided me comprehensive feedback and suggestions with thorough explanations. He was very patient with me with any questions that I had, or any alterations that I needed from the document."*

**- Jason**

\*\*\*\*\*

*"Having some experience with family attorneys I found Rand Lieber to be well-grounded, level headed and most unusual in the family law business; he put my family's financial consideration before his own. He is a level headed litigator with a bright mind and common sense. I would not hesitate to recommend hiring Rand to deal with most any adversary in the family law arena."*

**- Bob**

\*\*\*\*\*

*"Rand is incredibly well versed in all areas of Family Law and is an absolute pleasure to be around. You can count on Rand and Splitsville for excellent service at a fair price. He comes highly recommended!"*

**- Ryan T.**

\*\*\*\*\*

*"Sorry but Divorce will become your business deal. Take breath just think as a business person gets through it. I had a long marriage, he handled my divorce with the best service, assistants and overall a person who gets the job done. He listens and thinks outside the box when necessary. I highly recommend him."*

**- June**

\*\*\*\*\*

*"While most couples who seek family therapy resolve their differences, some still pursue a divorce. For the client who pursues a divorce, I strongly recommend Mr. Leiber for mediation services in order for the couple to reduce costs, maintain harmony with child custody agreements, and keep the channels of communication open and respectful."*

**- Doug N.**

\*\*\*\*\*

*"Rand is a reliable and hardworking attorney. He showed extreme patience and understanding when explaining certain issues and ways to handle them. He is very knowledgeable and kept me informed every step of the way. I could have never made it without him. Two thumbs up!"*

**- Jennifer**

\*\*\*\*\*

*"Mr. Lieber is absolutely amazing! He is extremely knowledgeable in the area of family law. He is the attorney you can trust when you have a problem. I have consulted with him on numerous occasions. He has always been quick to respond and gives great legal advice. Hire him and you won't go wrong!"*

**- Sasha D.**

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## ABOUT THE AUTHOR



My name is Rand Lieber, and I've been practicing law in the state of Florida for 24 years. During my first six years, I was a prosecutor in Florida prosecuting criminals as an assistant state attorney. For the last 18 years, I've been practicing family law exclusively. I started out working for someone that was very prominent in the Family Law sector in Miami. He taught me how to practice family law, and I learned that I was good at it. I'm an exceptional listener with outstanding litigation and courtroom skills that I developed during my six years as a prosecutor to enhance my ability to help people with their family law issues. I have worked for different firms throughout my legal career until I decided to open my own firm, which I named Splitsville Family Law.

It's important that clients and lawyers reach an understanding when they are considering working together. They should be on the same page and think similarly. For instance, I know my firm's name is out of the norm, but that is the kind of client I am looking to work with. I am interested in clients who understand that I am a strong litigator that will fight for them. Furthermore, I will also be honest and transparent with them throughout their case in order to obtain favorable results.

### ***Who Is This Book For And What Do You Want Readers To Gain From It?***

This book is intended for readers who are interested in the divorce process in the state of Florida. I want them to understand the concept of mediation and what it entails. I also want them to learn about the different myths regarding divorce that are generally not true. This book will help them understand the truth about the dissolution of the marriage process and help them decipher what's real from myth.

# CHAPTER 1

## PREMARITAL AND POSTMARITAL AGREEMENTS



In a regular divorce case, you reach what is called a marital settlement agreement, which is a settlement of all of the issues between you and your spouse. A premarital or post-marital agreement is the same thing with the exception that you are not getting divorced. A premarital agreement is an agreement that you reach with your fiancé. You want to resolve all of the issues that could possibly come up in a divorce case, in advance of the marriage. If the marriage ends up failing, you don't have to fight because you have

written down everything you want and everything your spouse wants, and it is already taken care of.

Postmarital agreements sometimes arise when parties are having some trouble. They're not at the divorce point yet but they are at the point where they want to resolve their issues, so if their relationship does escalate into divorce mode, they can look to that postmarital agreement for how they're going to resolve their marital issues.

### ***Components Of A Solid Premarital Or Post Marital Agreement***

The most important component of the premarital agreement is the exchange of financial disclosure. Generally speaking, premarital agreements come about because one of the parties has much more income and/or assets than the other party and they are trying to protect that money. What is most important is that everything, whether it's marital or non-marital, is disclosed. Both parties have to have time to review all the information and to consult with an attorney.

The post-marital agreement is the same, although you're already in a marital relationship. Many times, even in marriage, there's one party who has a lot more financial knowledge than the other of what's going on in the financial relationship. That all has to be exchanged so that both parties are clear on what there is and what there isn't.

### ***When Should Couples Discuss Or Implement A Premarital Or Post-Nuptial Agreement?***

If you are considering a premarital agreement, you want to do it as far in advance as possible of the wedding. The closer you get to the wedding the more evidence the other party will have that they were somehow coerced or put under duress into signing the agreement. You must have full financial disclosure so that both parties can fully review everything, understand what they're doing, have time to reflect on it, and take away any possible arguments that they were pushed into this agreement. Postmarital agreements come up when people are recognizing that maybe their marriage is going downhill and they want to resolve the issues while they have a clearer, calmer head.

## ***Most Common Misassumptions About Pre And Post Nuptial Agreements***

There are not a lot of misconceptions about postnuptial agreements because the parties are already married and know each other. As far as premarital agreements, the higher wage-earning spouse cannot just have their fiancé sign off the day before the wedding and think that they are going to protect all of their things. It is a very complex process that involves a full exchange of financial information. There are many things you need to comply with so that it is clear that the other party has full knowledge of everything that is happening. You're not going to trick the other person or catch them at the last moment, and end up protecting all of your rights.

## ***Can A Prenuptial Or Post Nuptial Agreement Become Invalid For Any Reason?***

There are some very rare instances where pre/postmarital agreements can become invalid. That would include if there was a change in the law on a particular aspect that was addressed in the agreement. A change in the law would probably not invalidate the entire

agreement but rather just the point that was affected. Another area that you must be very careful with is any issues regarding children because the law thinks about the best interests of the children. It is very difficult to include future children's issues in a premarital agreement.

### ***Are Pre Or Post Nuptial Agreements Easy To Break?***

If you follow the proper procedure, pre/postmarital agreements are not easy to break. The ones that are easy to break are the agreements that are signed the day before the wedding. As long as you take plenty of time to exchange financial information, have each of the parties reflect on it, and sign it, they are not easy to break.

### ***Can A Prenuptial Or Post Nuptial Agreement Ever Be Terminated?***

You can absolutely terminate a premarital agreement. A premarital agreement is just a contract between two parties. As long as you have a subsequent contract that you both sign and you both understand that the premarital agreement is no longer in effect, the premarital agreement is done. Another thing that happens is people enter into premarital agreements and they have a sunset clause. It says

something like if they remain married for 10 years or more, then the premarital agreement will no longer be in effect.

### ***Should Both Parties Have Separate Attorneys When Drafting A Pre Or Post Nuptial Agreement?***

It is very important for both parties to have their own independent attorneys for pre/postmarital agreements. It is not uncommon for one of the attorneys to do most of the drafting of the agreement but the other party should absolutely have time to sit down with their own independent attorney to go over the agreement so that it can be fully explained. Then, they have a full understanding of the legalities of the different things they are being asked to agree to. The reason this is also important for the side drafting of the agreement is it is more evidence for them in support of their side, should the other party try to break the agreement later.



## CHAPTER 2

# WHAT TO EXPECT WHEN GOING THROUGH A DIVORCE IN FLORIDA?



When you go through a divorce in Florida, the first step is to file a petition. In the petition, you're going to include everything that you want to happen. Perhaps you want a divorce, you want to divide the house, and you want to share the children. You put that in the petition. Once that petition is filed with the court and served on the other party, they have 20 days to answer that petition. They will also have the opportunity to file a counter-petition. After that responsive pleading is filed, you move forward

through the court. There are certain deadlines for certain events, such as discovery. Discovery is simply the exchange of information. In most divorce cases, it's the exchange of financial information.

A month and a half after the case is filed, all of the financial information needs to be exchanged. Both parties must share all of this information. If there are children involved or if there is an alimony claim, both parties are required to file financial affidavits. A financial affidavit is a snapshot of your income and expenses, as you're going through the divorce. It also includes a list of all of the marital assets and liabilities. After all of this information is exchanged, the parties can start trying to work towards a settlement, which they can either do without court intervention or in mediation, which is court-ordered. At the end of a mediation, it is possible to either settle the whole case or just settle some of the issues and reserve the issues that you couldn't agree on for court. If the issues are not resolved, you will go to court and have a trial, where the judge will make a decision on the issues that were not resolved.

## ***Are There Any Advantages Or Disadvantages To Being The First Person To File For Divorce?***

The first person to file is called the petitioner and there is absolutely no advantage to it. Both parties have equal rights, regardless of whether they are the petitioner or the respondent.

## ***Options Couples Have When Filing For A Divorce***

When a client comes in, I explain to them all of their different options. In Florida, once a case is filed, you are required to go to mediation before you see the judge. Depending on the amicability of the two parties, you can get a lot of things done before you go to court. On the other hand, if they are very contentious, you're going to go to court right away, so that you have the judge overseeing the process when conflicts arise.

## ***Can We Handle A Divorce On Our Own If We Want To End Our Marriage Mutually?***

It is possible to end a marriage mutually without the assistance of an attorney. Florida has a procedure called simplified divorce. Couples can use a simplified divorce

when there are no children and no property to divide. However, many clients have sought my help after trying to complete their simplified divorce because of problems with particular court requirements. Even if you want to handle your own dissolution of marriage and minimize the costs, it's always wise to at least consult with a lawyer. You might have to pay for the consultation, but they can look over your documents. They can tell you if everything is adequate and that little bit of time and money spent consulting with a lawyer to review everything could prepare you well enough to file with the court.

### ***Uncontested Divorce Under Florida Law***

In Florida, a simplified divorce means you have no property to divide and no children in common. An uncontested divorce means two people have reached agreement on all of the issues in their case and they just need to go to court and get the final documents finalized.

### ***At What Point In A Divorce Process Do We Sign The Papers?***

In a divorce, the papers get signed when the parties reach a settlement. There is a lot of work that goes into

getting to that point, whether it's filing the pleadings or exchanging information with the other side.

### ***How Long Will It Take For The Divorce Or Custody Decree To Be Finalized?***

Once you reach an agreement, the only remaining thing to be done is to schedule a hearing with the judge. It's called a final hearing, which lasts about five minutes, and it can normally be done within 10 days after you have signed the final settlement agreement.

### ***The Official Divorce Date And Its Significance***

The official divorce date is the date when the judge signs your final judgment. It does not have a lot of legal significance. It can be important if you're waiting to marry someone else. It also changes your tax status from that point. Another thing it does is ending the opportunity for the two of you to continue on the same health insurance.

### ***Will A Judge Or Court Ever Deny A Divorce?***

As long as both parties agree on the divorce and all the documents have been properly filed with the court, a

judge cannot deny a divorce. If a spouse goes to court and declares irreconcilable differences, regardless of whether the other spouse agrees, the divorce will be granted. The judge is going to make sure that all legal requirements have been followed. If there are children involved, a parenting plan is required.

### ***Do I Have To Return To The State I Got Married In To Get A Divorce?***

You do not have to return to the state you got married in to get a divorce. Florida's jurisdictional requirement states that a person is required to have lived in the state for six months prior to filing for divorce. Anyone who has lived in Florida for six months can get divorced in Florida regardless of where their spouse lives. For example, if a couple is married in another state and only one of them moves to Florida, as soon as that person has lived in Florida for six months, they can file for divorce in Florida, serve the other spouse in the other state and proceed with the dissolution of marriage.

## ***How Many Meetings Does It Take To Complete The Divorce Process?***

I meet with a client, initially, and explain to them the entire divorce process. I tell them what I'm going to need from them. In Florida, there's a list of documents, called mandatory disclosure, which both sides must exchange. You meet initially, you prepare for mediation, and beyond that, most of the work is done either by the lawyers or by the clients on their own.

## CHAPTER 3

# WHAT IS MEDIATION? WHO IS IT BEST SUITED FOR?



Mediation is a process where both parties and a neutral person will work together to settle issues. In Florida, mediation is mandatory for everyone going through a divorce case before they have an opportunity to get their issues resolved by a judge. Generally, all of the discovery has been exchanged and both parties have a position on what they want and what they don't want. You will go to mediation with your attorney. The other party will be there with their attorney. Everything that happens at mediation is confidential and



rejected offers cannot be brought up in court later. Mediation is a very effective tool and more than 95% of cases settle before they have a trial with a judge.

### ***When Can Both Sides Start Mediation?***

Normally, as soon as both sides feel comfortable with the information that they have about the other side, they have enough knowledge to enter into mediation negotiations.

### ***How Can I Persuade My Ex To Opt For Mediation In A Divorce Case?***

Mediation is much less expensive than having a full-blown trial with a judge. The more fighting that happens, the smaller the marital estate will become.

### ***Role Of The Mediator During A Divorce Process***

It is the mediator's job to get to know each side's position and then to try and move the sides towards a settlement that they can both live with. At the end of the mediation, neither side should feel like they had some huge victory. The best mediation is one where both parties walk out feeling like they lost a little. That means that the mediation agreement was probably fair because each side had to give in a bit.

## ***Consultation With Other Attorneys During The Mediation Process***

Normally, you are just going to consult with your own attorney. As long as you have confidence in your attorney, that attorney should be able to tell you everything you need to know. Some cases may involve other experts that you may want to speak with but as far as legal advice goes, you should be fully comfortable with the attorney that you are entering the mediation with.

## ***Will Mediation Work If My Spouse Is Obstinate?***

Mediation is mandatory in Florida, so even if it's not going to work, you must try. In my experience, no matter how tough one of the sides is, a good mediator will get some movement. The goal is a full settlement but short of that, mediation does have other aspects that can help the case move forward, even with a party who doesn't want to participate.

## ***Is Mediation Less Expensive Than A Trial?***

Mediation is much more cost-effective than going to court. The preparation that goes into mediation and the time at mediation is always less than what it's going to take to prepare for and put on a full trial in front of the judge.

## ***Is Going To Court Necessary For Mediation?***

The entire mediation process happens outside of court and it is fully confidential from the court. The only thing the court is going to know about mediation is that you went to mediation and that you either settled the case or you did not.

## ***Are There Any Drawbacks To Mediation?***

There are no drawbacks to mediation and in Florida, it's mandatory before you get to see the judge. If you go to mediation and one or the other side doesn't have the necessary information in order to make informed decisions about the issues that need to be settled, then mediation is a waste of time. The most important aspect is that both sides are comfortable with the level of information that they have and they are going into mediation with the ability to resolve the issues.

## ***Can Complex Divorce Cases Be Handled Through Mediation?***

Some of the most complex cases are settled in mediation. Mediation can take as long as you need and can

happen over the course of several sessions. When you're at mediation, you have an attorney on each side with a client and the mediator is fully invested in resolving your case. When you take a complex case to the judge, you're spending a few hours with the judge and asking him or her to make decisions on complex matters that are going to affect you for the rest of your life whereas, in mediation, you can take your time.

## CHAPTER 4

# CAN WE STAY ON SAME HEALTH INSURANCE POLICY AFTER DIVORCE?



Once you get divorced, you cannot continue on a family policy. The divorced spouse is going to have to either get insurance through their employer or out on the open market. You can continue to cover your children if you have children, but the two spouses will no longer be on the same health insurance policy.

## ***Should I Remove My Spouse From My Health Care Coverage Plan Before Filing For Divorce?***

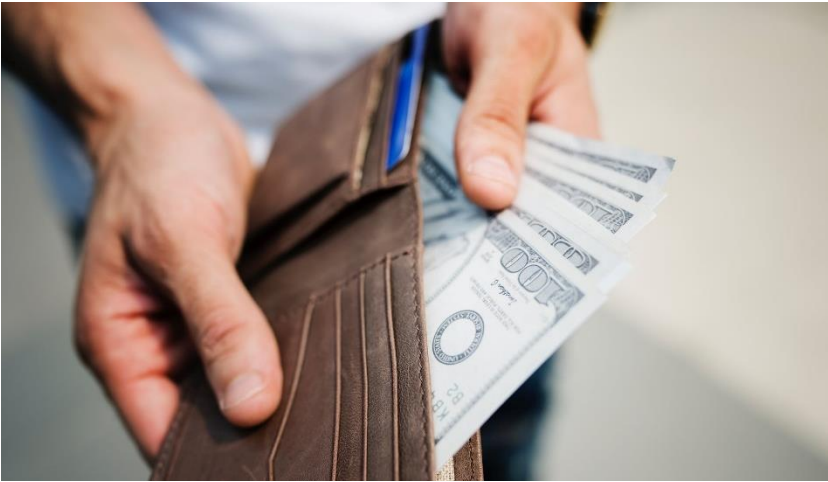
The typical practice is for both parties to continue to maintain the financial status quo. If you are providing health insurance through your employer to your spouse, you're going to continue that health insurance up until the divorce is final. One of the reasons for that is if you try to take your spouse off your policy, the insurance company is going to ask why, because that spouse has to have the ability to get insurance somewhere else. As long as they're married to you, you're going to be looked at as the primary source for insurance for that person. It is not a good idea to cut off your spouse's health insurance before the case is finalized.

## ***Will The Other Side Continue Having Healthcare Coverage For My Children?***

If the children are already on your insurance policy, you absolutely must continue to cover the children on your health insurance policy. It is the right of the children to have health insurance, as long as it is financially available.

## **CHAPTER 5**

# **WHEN DOES ALIMONY BEGIN? CAN I GET SUPPORT DURING SEPARATION?**



You can get temporary support while your divorce case is pending and then, you can get alimony after the case is over. If there's a need for temporary alimony, it's addressed very early on in the case and when you get to the end of the case, the temporary support reward can be reviewed and possibly changed.

## ***How Is Alimony Calculated In Florida?***

In Florida, there is no formula for alimony. It comes back to one party's need and the other party's ability to pay.

## ***Who Will Pay Alimony In A Divorce Case?***

The higher wage earner may have an obligation to pay alimony to the lower wage earner and that is where the financial affidavits come in. Each side would look at their financial affidavit, look at the bottom line after their income and expenses, and one party has to have a need. Equally important, the other side has to have the ability to pay. There are cases where a spouse does have a need for alimony but the other party doesn't have the ability to pay, so the people just have to move forward without alimony.

## ***Length Of Time Paying For Alimony And Factors That Impact It***

In Florida, there is a specific law on the length of alimony and it is based on the length of the marriage. You cannot get alimony for longer than the length of the marriage. There are three categories. There's a short term marriage, which is up to seven years, and those cases involve no alimony. Then, there's a medium-length marriage, which is



seven to 17 years. Those cases are looked at on a case by case basis and they may get alimony, based on one party's need and the other's ability to pay. The longest you're going to get alimony in a 17-year marriage is 17 years.

Once you pass the 17-year mark, you are into permanent alimony territory and you can get alimony for the rest of your life or have an obligation to pay alimony for the rest of your life. Every person has a right to retire, so when you reach retirement age, if you have a permanent alimony award, that alimony is going to be revisited and adjusted or terminated, depending on your financial circumstances at that time.

### ***Who Pays Child Support In A Divorce Case?***

Child support in Florida is based on the net incomes of both parents. The other important factor is how many overnights the child or children spend with each parent. The child support formula is part of Florida law. It is a mathematical formula. In general, the higher earner is going to pay the lower earner child support, depending on what the overnights are.

## ***Can Child Support Orders Ever Be Modified?***

Child support in Florida is always modifiable until the child reaches the age of 18 or finishes high school. You can modify child support any time there has been a substantial change in circumstances that were unanticipated when the child support was previously calculated. If you just quit your job, it is not a reason to modify child support. On the other hand, if you become disabled and you can only work half as much as you used to be able to work, that is a legitimate reason for modifying child support.

## CHAPTER 6

# DOES AN EXTRA MARITAL AFFAIR IMPACT ALIMONY?



An extramarital affair does not impact alimony in a divorce case. When it comes to divorce, Florida is a no-fault state. In other words, the reason a couple is divorcing does not matter. The legal standard is irreconcilable differences.

The only effect that an extramarital affair can have on a divorce is if one of the spouses is spending marital money on their paramour. The other spouse could be entitled to a credit for half of the money spent on the

extramarital affair. But it doesn't automatically mean that the spouse is going to receive spousal support or alimony.

### ***Does Having An Affair Mean I Will Not Get Any Spousal Support?***

An affair does not impact the court's decision on whether or not a person receives spousal support or alimony. In Florida, alimony or spousal support is based on the need and ability to pay. If you are the lesser earning spouse, and you have a need to meet your monthly expenses, and your spouse makes more money and has the ability to help support your needs, then the court can order alimony. Many other issues are considered to justify an alimony award, but an affair is not going to have a direct impact on whether alimony or spousal support is awarded.

### ***Is It True That The Man Never Gets Alimony?***

It is not true that men are never awarded alimony or spousal support. Spousal support in Florida is based on the need and ability to pay regardless of gender. In divorces, there is usually one spouse who is the higher earner and one spouse that is the lesser earner or a stay at home spouse. In all divorces, the court is going to look at the

lesser earning spouse's needs and ability to meet their monthly financial obligations, and whether the higher-earning spouse can pay or contribute to the other spouse's needs to meet their monthly financial burden. There are cases where one of the spouses may, in fact, have a need because they were a stay at home spouse, but the other spouse doesn't earn enough money to give that support. Alimony is always going to be determined on a case by case basis, and just because one person makes more money doesn't automatically mean that they have to provide alimony or spousal support.

## **CHAPTER 7**

# **FACTORS THAT IMPACT THE DIVISION OF ASSETS AND DEBTS**



The beginning point for dividing assets and debts in Florida is called equitable distribution, which generally means half of the assets go to each party. Both sides will have an opportunity to make arguments if they believe that they should get more or less of any particular asset. However, you should go into the divorce proceeding prepared to walk away with half of the assets. The assets and liabilities are characterized as marital or non-marital. A non-marital asset is something that you had

before the marriage and kept separate. It would still remain your non-marital asset. Marital assets are everything that accrued during the marriage. All of those assets and liabilities accrued during the marriage are going to be divided, more or less, half and half. It's called equitable because sometimes, one party may take more of the assets or less of the liabilities, depending on the overall financial circumstances.

### ***Are Pension And Retirement Programs Divided The Same As Other Property In A Divorce?***

Pension plans and retirement programs are considered marital assets and they are divided. An important factor to understand with pension plans is that the spouse who is the nonparticipant in the plan cannot walk away with more of the pension than the participant. Another factor is that the participant in the pension plan must be vested.

### ***What Happens If I Owned a Property Before Marriage And Then Put It Into Joint Tenancy During The Course Of The Marriage?***

In Florida, if you have something before the marriage that is your own, the best thing that you can do

is keep it separate throughout the marriage. Then, in the event of a divorce, you get to keep it. It is common to have something that is non-marital and during the marriage, you co-mingle. Perhaps you own a house and you've owned it for five years. Then, you get married and you put your wife's name on it and you live in the house for 10 years. Now, you're ready to get divorced. Since you owned the house five years before the marriage, the best you can do is try to get the value that it was at for the first five years subtracted from the remainder of the equity. Any time you are trying to advocate that something is a non-marital asset, the burden is on you to prove that it is non-marital, including showing how you kept it separate during the marriage.

### ***How To Get My Things Out Of The Home If The Other Party Is Still Living There?***

The best thing to do is to reach some kind of agreement with your spouse. If that is not going to work, then you can go to court and go in front of the judge to get a specific time and a specific list of what you're going to get. I always encourage my clients to agree on what can and can't be taken. You can always take your personal



belongings. As far as bigger things, like furniture or fixtures that are attached to the wall, that will get divided up before the end of the case.

### ***Can I Take Anything If I Move Out Of My House During A Divorce?***

If you make the choice to move out of the house, you can absolutely take your personal belongings. You should not be taking any household items, like furniture or fixtures, without the agreement of the other party.

### ***Can I Maintain My Living Standards If My Divorce Is Handled Properly?***

Maintaining the same standard of living, even if a divorce is handled correctly, might not be possible. People who live together as a financial unit usually do not continue to live at the same level when they split up unless they are wealthy. For instance, two people living in the same home share the electric bill, the rent or mortgage payment, food expenses, and other utilities, and as soon as they separate, so do those bills, costs, and expenses. There will be two separate utility bills, rents or mortgages, food costs, and so on.

However, over time, if the spouses start to earn more money, they can again achieve their desired standard of living in the future. But early on in the breakup, when all of the expenses become doubled, it's just not feasible for the two spouses to continue to live at the same level.

## **CHAPTER 8**

# **REQUESTS FOR MODIFICATION AFTER A DIVORCE IS FINALIZED**



There are two issues in divorce, in general, and those issues are money and children. A post-judgment matter in Florida could either involve modifying some sort of monetary issue or timesharing. Another area that I deal with would be enforcement cases. In an enforcement case, someone was ordered in the final decree to pay alimony or pay child support and they're not doing it, so you have to go back to court and get the judge to force

them to comply with the obligations that they were ordered in the final judgment.

### ***Circumstances When Custody And Visitation Orders Be Modified***

In Florida, the standard for changing things post-judgment is an unanticipated substantial change in circumstances, so it has to be a change that is substantial and was unanticipated at the time the original agreement was entered into. Another important factor that the court always considers in any child issue is whether the modification is in the best interest of the child or children.

### ***Where The Petition For Modification Be Filed?***

In Florida, you usually have to go back to the same circuit where your divorce was filed to file a petition for modification. You can handle modifications of Florida divorce decrees where either of the spouses lives, where the children live, or where the property in question is located. If you get divorced in one circuit but by agreement, one or both of you move to another circuit within the state of Florida and the kids move also to that

other circuit, you would then go to the circuit where the other parent and the children live.

### ***Does The Same Judge Who Handled My Divorce Has To Handle Modification As Well?***

In general, when cases are assigned to a judge, they're assigned to a specific division, so that when you return to court, as long as that same judge is still sitting in that division, you will see the same judge.

You can hire anyone you want to handle a post-judgment matter. My recommendation is if time has passed, then you should hire whoever you are comfortable with. If it is literally right after a final judgment that was handled by an attorney, that attorney may have some special and unique knowledge.

### ***Can A Request To Modify A Decree Be Challenged In A Divorce Case?***

Any time a modification is filed, it is served on the other party and that party has an opportunity to respond. They will absolutely have an opportunity to present their case in opposition to the modification.

## ***Adjustment Of An Omitted Asset In A Divorce Decree***

If an asset or a liability was completely left out of the decree, you can return to court and ask for that asset or liability to be divided up.

## **CHAPTER 9**

# **WHAT IS FULL CUSTODY UNDER FLORIDA LAW?**



In Florida, there is no such thing as full or complete custody. Custody has been changed to time-sharing. Time-sharing means that both parents share parental responsibility for a child. However, one parent could have majority time-sharing over a child. In Florida, both parents have to confer and agree on all major decisions regarding the child. Significant decisions include health, medical, and sometimes religious decisions. It's not realistic to go into a case and ask for

full custody or sole parental responsibility. Sole parental responsibility allows one of the parents full control of all decision making regarding his or her child, but the circumstance is rare and very difficult to prove. The issue can arise in cases where one of the parents is absent or incarcerated for a long period of time, and they're not available to participate in any decision making. However, assuming that both parents are available to participate in decision making, the law in Florida is shared parental responsibility, and you will not have full control over your child.

In regard to child support and time-sharing, a parent is not allowed to cut off child support because he or she is not receiving time sharing. A parent is also not allowed to restrict time sharing because they are not receiving child support. If you are having a problem with time-sharing and child support, and you can't work it out with your partner, you'll have to go to court and pursue enforcement of either the payment of child support or time-sharing. But you are not allowed to restrict one to accomplish the other.



## ***Factors The Court Considers When Calculating Parenting Time***

In Florida, as mentioned above, they have actually removed the word custody from the law. They now call it timesharing. The factors that the court looks at are what the traditional parental responsibilities were during the intact marriage: who did more, who did less, and who is more available. Parents need to be available to spend time with their children when they are with them. The court will look at the historical relationship between the parents and the children. The court will also look at which parent is more likely to facilitate contact with the other parent. If you have a parent who is going to hinder contact between the children and the other parent, then the parent who's causing the hindering may end up with less timesharing.

## ***Do Courts Favor The Mother In All Custody Matters?***

It is incorrect to assume that courts favor the mother in all custody matters. In fact, most of the laws in Florida have been rewritten to refer to either mother or father.

Parents have rights to their children regardless of gender, with the exception of cases regarding paternity. The mother, in paternity cases, has full legal rights until the father goes to court to pursue his paternity rights.

### ***Will My Children Have A Say In Who They Are Going To Live With?***

The majority of the time, a child does not have a say in regard to who they want to live with. Ninety-nine percent of the time, the court is not going to hear or take into account a child's wishes. There are very limited circumstances where you can try to move the court to allow the child to speak or make their wishes known, but in general, the issues regarding children are to be determined between the parents.

### ***Can A Child Ever Be Forced To Testify In Court?***

In Florida, a child is never going to be forced to testify in court during a divorce or paternity proceeding. A motion and hearing order would need to be submitted even to entertain the possibility of a child speaking to the judge.

## ***Is There An Age Where A Child Has Any Input In Parental Time Sharing?***

A child does not have any legal input in parental time-sharing, even if they are teenagers. By the time children become teenagers, however, it may be unrealistic to force them to do what the court order says, regardless of the consequences. Communicating with the court or judge directly about these matters may not be possible because Judges try to avoid speaking directly with minors.

Parents may be forced to face the reality that a child's behavior or choice is going to affect what's going to happen regardless of a court order. The child may insist on staying with one parent or refuse to go with the other parent, in which case, there could be other legal remedies such as therapy or counseling that can prove helpful.

## ***What To Do If My Ex Doesn't Comply With The Terms Of Our Divorce Or Custody Decree?***

Once you have a divorce or custody decree and the other side is not complying, you can go back to court on what is called a motion for enforcement or contempt, depending on what the issue is. You will go back to court

and present to the judge what the problem is. The judge will order the noncompliant party to do what they are supposed to do or to remedy whatever the situation is.

## **CHAPTER 10**

# **RELOCATION WITH MY CHILD AFTER A DIVORCE**



Relocation is the most difficult and expensive issue in family law. It is the one area of family law where one party really does win and the other loses, in the sense that one of those parties is going to be spending less time with their children. There is a specific law in Florida on relocation and there are specific rules that you need to follow in order to relocate. The court is always going to look at what is in the best interest of the child or the children. The court can prohibit the parent from taking the

child with them, in which case the child would stay with the parent who is remaining local.

In determining the child's best interests, they're going to look at issues like how long the child has been in the geographic area. They'll consider what the relocation will do to the quality of the relationship between the child and the non-relocating parent. If you are the parent who wants to relocate, you need to be ready to show the court what is going to happen and what you are going to do to make sure that the quality of the relationship with the parent who's getting left behind is going to stay strong. That burden is going to be on you.

### ***Adjustment In Parenting Time And Child Support In Relocation With My Child***

When a relocation happens, all of the financial aspects are reviewed. The child support will be recalculated. The overnights will probably be changing. In Florida, you can include travel expenses and other things related to the long-distance timesharing and have them offset against the child support amount.

## ***Can I Appeal A Relocation Decision Granted By The Court?***

Everything in family law is appealable. Some things have a higher or lower rate of success but if relocation is granted, you can absolutely appeal that decision.

## CHAPTER 11

# DOES IT MATTER WHO I HIRE TO REPRESENT ME?



Divorce does not have to be expensive. However, the more issues that you and your spouse have that are not agreed upon, the more expensive it's going to be. Many couples hire separate lawyers to represent them, which can add to cost and time. On any issue, the quicker you agree on matters and move on to other matters, the less expensive it is going to be. Regarding who you hire to handle your case, it is very important that you hire someone that is competent, that knows what they are doing, and that will advise and



guide you on what issues are worth spending more time on. Conceding or compromising versus fighting will minimize the total amount of money you are going to pay attorneys.

The attorney you hire is a significant decision because costs will vary depending on the lawyer. Some lawyers will fight over every single issue regardless of whether it's legitimate or not. Other lawyers will not fight enough. When I get hired, I explain everything to the client upfront so that they can make informed decisions on every issue that we choose to contest. We will do a cost-benefit analysis to determine whether spending more time and money fighting a particular issue is worth it, or whether it is a smarter and better financial decision to reach a compromise.

### ***What Sets Your Firm Apart In Practicing Family Law In Florida?***

My extensive experience and litigation skills set my firm apart in family law. But, most importantly, my honesty and integrity are qualities I'm proud to possess. When I meet with someone at the beginning of the case, I tell them exactly what to expect out of their case. I give them my legal opinion and try to estimate their legal costs to the best of my ability.

I'm open with my clients throughout the litigation and advise them on the best solutions for their specific circumstances. When you're going through a divorce, costs can add up, and time is money. Therefore, I want to minimize the time that I spend on their case while maximizing the result that they're going to get from the efforts that I put forth.

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# NOTES



# I FEAR MY MARRIAGE IS ENDING! WHAT NEXT?

## A Step-By-Step Guide To Divorce In Florida

*"My future wife had created a PNA that I needed a family lawyer to review. Mr. Lieber was recommended to me by an attorney friend. It was a great recommendation. Mr. Lieber was able to accommodate my schedule and meet when it was convenient for me. He was very upfront and honest about his costs and how much time his services would take. He thoroughly reviewed the document and provided me comprehensive feedback and suggestions with thorough explanations. He was very patient with me with any questions that I had, or any alterations that I needed from the document."*

– Jason

.....

*"Having some experience with family attorneys I found Rand Lieber to be well-grounded, level headed and most unusual in the family law business; he put my family's financial consideration before his own. He is a level headed litigator with a bright mind and common sense. I would not hesitate to recommend hiring Rand to deal with most any adversary in the family law arena."*

– Bob



### Rand Lieber, Esq.

My name is Rand Lieber, and I've been practicing law in the state of Florida for 24 years. During my first six years, I was a prosecutor in Florida prosecuting criminals as an assistant state attorney. For the last 18 years, I've been practicing family law exclusively. I started out working for someone that was very

prominent in the Family Law sector in Miami. He taught me how to practice family law, and I learned that I was good at it. I'm an exceptional listener with outstanding litigation and courtroom skills that I developed during my six years as a prosecutor to enhance my ability to help people with their family law issues. I have worked for different firms throughout my legal career until I decided to open my own firm, which I named Splitsville Family Law.

It's important that clients and lawyers reach an understanding when they are considering working together. They should be on the same page and think similarly. For instance, I know my firm's name is out of the norm, but that is the kind of client I am looking to work with. I am interested in clients who understand that I am a strong litigator that will fight for them. Furthermore, I am also honest and transparent with them throughout their case in order to obtain favorable results.

### Splitsville Family Law

2455 Hollywood Boulevard  
Suite 305  
Hollywood, FL 33020  
(954) 928-9995  
[www.splitsvillefl.com](http://www.splitsvillefl.com)