



Divorce Advisor

Financial advice for family law

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Concerns of the Older Divorcing Client

Many older couples stay married because they are on a fixed income and it's just not financially feasible for them to split up and have two separate households. But in cases where they do want to get divorced, it can be a struggle to determine how they can afford it. Even if one or both spouses are still working, clients who are close to or at retirement age face some unique issues and challenges.

Health Issues: Declining health is one of the biggest issues of older clients. The divorce process is made more difficult if one or both spouses have a serious illness or a disability, or even dementia. It is difficult to discuss the issues of divorce including splitting assets and figuring alimony with an elderly individual who cannot process all the information.

If your client has cognitive issues, find out if he or she has signed a Power of Attorney. Many times, this power is with the other spouse, and obviously in a divorce we do not want the other spouse making decisions for our client. It may be possible for a court to appoint someone to make decisions for that person in the divorce action.

Elder Abuse: Elder abuse is an important topic. We typically think of the spouse as the perpetrator when we think of abuse. But it could also be a member of their family, and that can be a little tricky. It can be difficult to figure out if the family members are really concerned about the elderly person or more concerned about their own pocketbook. You may need to bring in someone to help make sure that the correct geriatric assessments are being made and their needs are being addressed.

Retirement Issues: Many times, when people retire, they have no additional earned income and don't have enough assets to retire on. They live their whole life thinking, "Were going to retire at age sixty-five and we're going to have fun, and travel, and not work anymore because we're tired of working." It's very difficult to convince them that they may not have enough to retire on. It's difficult for them to really grasp the concept that expenses and inflation and lifestyle just don't match up with their

retirement assets. That's why it's so important for the Certified Divorce Financial Analyst to show, with charts and graphs, the financial result of income vs. expenses. This is a real eye-opener for the client.

Social Security: It is important to remember that Social Security is NOT an asset subject to division. You cannot divide a Social Security account in a divorce action.

However, although Social Security is not divisible as an asset itself it is an economic circumstance that can be considered in the division of the other assets. If one spouse is in pay status on Social Security and the other spouse is not, that could have an impact on how the underlying property assets are divided.

Social Security also affects support. A spouse is entitled to receive the greater of their own Social Security benefit or one-half of their ex-spouse's benefit (as long as they were married for 10 years.) This could impact the need for support. In addition, if both spouses are in full pay status and one is getting much more income than the other, one option could be to move some of that Social Security (after being received) from one party to the other.

"Gray divorces" have increased greatly over the years, posing new issues and challenges such as the ones mentioned above. Working with a Certified Divorce Financial Professional can help your client navigate the divorce and transition into retirement with financial security.

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Jill has been assisting clients going through divorce since 2004. She has helped attorneys and their clients work through the financial aspects of divorce, bringing clarity and fairness to the process.



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