UNDERSTANDING THE LINGO OF DIVORCE

DIVORCE TALK



WOMEN'S WEALTH ADVOCATE

I HEARD MY LAWYER TALKING BUT I DIDN'T UNDERSTAND A WORD SHE SAID.



We know how confusing a divorce can be. It is a legal procedure that has terms with special meanings, or uses familiar words differently.

Here is a divorce glossary of some terms and phrases to help you navigate this strange new world. It won't make you a lawyer, but it may help you understand more of what he/she's saying, and be more confident in your attorney meetings.



ACTION

The legal term for a lawsuit.

ADD-ON EXPENSES

Money that's paid for the benefit of your children in addition to child support. Add-on expenses cover expenses like tutors, extracurricular activities like sports teams, dance and other private lessons, summer camp, college, private school, even unreimbursed medical expenses.

AFFIDAVIT

A written statement sworn to under oath and signed before a Notary Public

ALIMONY

Financial payments made to help support a spouse or former spouse during separation or following divorce. Paid by the spouse who earns more, to the spouse who earns, less for a specified period of time, often determined by the length of the marriage. Also called spousal support, separate maintenance or spousal maintenance, depending on where you live.

ALTERNATIVE DISPUTE RESOLUTION (ADR)

Method of resolving legal disputes without going to trial, in a less adversarial manner. These include mediation, arbitration and collaborative process.

APPEAL

Process whereby a higher court reviews the orders of the lower court

ARREARAGE

The amount of money that is past due for child support or maintenance

CHILD SUPPORT

Money that a non-custodial parent pays to the custodial parent for their child(ren)'s support: food, clothing and shelter, until the kids attain the age of majority (as set by your state, often 18 or 21) or become emancipated. (see below).



CHILD SUPPORT GUIDELINES

Guidelines established by statute or rule in each jurisdiction that set the formula for calculating 'presumptively correct' amount of child support, generally based on the parents' income and the needs of the children.

CONTEMT OF COURT

Willful and intentional failure to abide by a court's order, punishable in a number of ways, including fines, jail sentences, etc.

CONTESTED CASE

Any case where you can't reach agreement, and a court must decide one or more issues.

COURT ORDER

Written document issued by a court; effective when signed by judge/ magistrate and filed with Clerk.



CUSTODY

Custody can be legal, which means that you have the right to make important decisions about your child's welfare, or physical custody, which means that the child lives with you. Custody is not always limited to just one parent. A child may live with you, but both parents have input to the major decisions required to raise a child.

DECREE

The court's written order finalizing divorce.

DEFAULT

Failing to answer a complaint or petition for divorce. Failing to file an answer or appear in court as required can result in the court awarding everything requested by the filing spouse. Also, failing to make timely support payments as outlined by a court order.

DEFENDENT

The person being sued by the **Plaintiff**, against whom legal papers are filed, also sometimes referred to as the **respondent**.

DEPOSITION

Part of the **discovery** process in a legal proceeding. Your attorney asks your spouse questions while his/her attorney is present, or vice versa. The information is taken under oath, although the meeting may be held at any convenient location. A stenographer takes a written transcript of the proceeding.

DISCOVERY

A legal proceeding's information exchange process, including requests for documents and the taking of depositions. If documents are not provided willingly and in a timely fashion, a **subpoena** may be issued for the information.

DISSOLUTION

Another word for divorce; the legal dissolving of the marriage.

DIVORCE

The legal termination of a marriage.

DOMESTIC VIOLENCE

Abuse or threats of abuse occurring between members of the same household. Abuse can be physical, mental, emotional or financial.

EMANCIPATION

When a child is no longer under the control of his/her parents or guardians. In the eyes of the law, parents are required to take care of their children until their children reach the age of majority, at 18 or 21, depending on the state. Emancipation terminates these parental obligations and duties of support toward the child. Although each state is different, a child is often considered emancipated when he/she has joined the armed forces, gotten married, works full-time, or they've reached the **age of majority**.

EQUITABLE DISTRIBUTION

The division of marital assets in a way that is considered fair to both parties. Equitable does not necessarily mean equal. Refers to the way that marital property is divided where **community property** is not the rule.

EX PARTE

Without the other side being present.

GROUNDS

The reason alleged for granting the complaint of divorce, such as adultery, cruelty, felony conviction and abandonment. A **no fault divorce** can be granted on **grounds** such as irretrievable breakdown of the marriage, irreconcilable differences, incompatibility, or after a period of separation, depending on the state.

GUARDIAN AD LITEM

A person appointed by the Court to investigate and report his/her opinion as to the child's best interests relating to the divorce.

HEARING

Proceeding before the court to resolve disputed issues by decision of the court.

HOLD HARMLESS

A situation in which tne spouse assumes liability for a debt and promises to protect the other from any loss or expense in connection with it.

INDEMNIFICATION

The promise to reimburse the other for losses they may have incurred after a promise to hold harmless.

INTERROGATORIES

Written questions your attorney may serve to be answered by your spouse instead of a deposition, or vice-versa. It's a formal document which must be notarized.

JOINT LEGAL CUSTODY

The sharing, by both parents, of the right to make important decisions about their child's welfare.

JOINT PHYSICAL CUSTODY

The sharing, by both parents, of the actual physical care and custody of their child. Practically speaking, a child may spend 3 nights with one parent, and 4 nights with the other.

JURISDICTION

The authority of that specific court to rule on matters and issues presented.

LEGAL CUSTODY

The right of the parent/guardian to make important decisions about the raising of your child, on issues such as health care, religious upbringing, education, etc.



MARITAL PROPERTY

Generally, all income or property earned or acquired during the marriage; everything else except “separate property” (see below). It includes anything and everything that was acquired from the date of the marriage until the time that there’s a divorce action, so furniture, money, a business, cars, real estate, stock, retirement accounts, etc.

MEDIATION

A form of Alternate Dispute Resolution (ADR), It’s process by which a neutral third party (Mediator) facilitates negotiation between the you and your husband, helping you both come together in mutual agreement on all the aspects of your divorce.

MOTION

Is a legal procedure to bring a limited, contested issue before a court to get a decision by the judge.

NONCUSTODIAL PARENT

The parent who does not have physical custody of the child(ren).

NONMARITAL PROPERTY

Also called **separate property** (see below).

ORDER

The court's written ruling on issues; requires you to do what is stated; effective when signed and filed with Clerk of the court.

PARENTING COORDINATOR

A third-party, sometimes but not always a lawyer, who helps the parents/guardians reach an agreement regarding custody or other parenting issues of the children. The parenting coordinator can make a decision or recommendation on behalf of the child.

PARENTING TIME

See **Visitation.**

PARTY

A person named in the action whose rights or interests will be affected by the orders; in other words, you and your spouse.

PLAINTIFF/ PETITIONER

The person who initiates divorce or marriage dissolution proceedings.

PLEADING

A formal, written application to the court for relief. Complaints, answers, counterclaims, replies, and motions are all pleadings.

PRO SE

Person who goes to court representing himself/herself.

PHYSICAL CUSTODY

The day-to-day rights and responsibilities associated with having your child in your home and being responsible for his/her care and upbringing.



PRENUPTIAL AGREEMENT

An agreement entered into before marriage that states each party's rights and responsibilities should the marriage terminate by death or divorce, also called a **premarital agreement**. You and your husband predetermine how the assets would be distributed and if you would receive maintenance or alimony, should there be a divorce.

POSTNUPTIAL AGREEMENT

An agreement entered into **after** the marriage date, setting each of your rights and responsibilities should the marriage terminate.

QUALIFIED DOMESTIC RELATIONS ORDER (QDRO)

Pronounced "kwah-dro," an order issued by the court to divide retirement benefits.

RESIDENCY

Most jurisdictions require that you are a resident for a specified period of time before you may file for divorce there. Only three states -- Alaska, South Dakota and Washington --have no residency requirements.

RESTRAINING ORER

An order issued by the court requiring the person named to refrain from doing something, often issued in conjunction with domestic violence or custody disputes. It could cover harassing, texting, stalking, etc.

SETTLEMENT CONFERENCE

A meeting at which the parties and their lawyers attempt reach agreement on the terms of your divorce and settlement before trial, often ordered by the court.

SPLIT CUSTODY

A form of custody in which some or one of the parties' children is/are in the custody of one parent and the remaining child(ren) is/are in the custody of the other parent.

SPOUSAL SUPPORT OR SEPARATE MAINTENANCE

Financial payments made by the spouse who makes more money to help support a spouse or former spouse during separation or following divorce. Also called **alimony**.

STIPULATION

An agreement entered into by the divorcing spouses that settles the issues between them and is often entered into the court's final order or judgment and decree.

SUBPOENA

A document served on a person or witness requiring appearance at court; Subpoena Duces Tecum requires the person subpoenaed to bring documents to court with him/her.

SUMMONS

A written notification that a legal action has commenced and requires a response within a fixed time period.

TEMPORARY MOTIONS

Requests to the court by your attorney for relief with issues that are being worked on while the case is in process. Often these are for support payments, including child support and maintenance, or to rule on who can live in the family house if they can't live together while the divorce is being negotiated. They are called 'temporary orders' because the final terms of the divorce will replace them.

TESTIMONY

Statements made under oath by a witness in court.

TRANSCRIPT

A typewritten record of testimony of a witness.

TRIAL

A formal court hearing before a Judge to decide disputed issues.



VISITATION

The time that a noncustodial parent spends with their children. It may be called “Parenting Time”. Visitation may be granted to people who are not parents, such as grandparents, relatives, other persons who can show that they have an abiding interest in the welfare of the child, have a history of interaction and continuing contact with the child.. Under certain circumstances, visitation may be limited to situations that are supervised by a third party approved by the court.



MARRIAGE IS ABOUT LOVE. DIVORCE IS ABOUT MONEY.

YOU DON'T HAVE TO DO IT ALONE!

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