

Initial Discussions

Sometimes the initial discussions with your spouse regarding a separation or a divorce are the most difficult you will have in the entire process. These discussions may occur because your spouse has advised you that he/she wants a separation or divorce, or, conversely may be as a result of your desires and intentions.

How to handle those discussions and what do you include in them

In those cases in which there is a history of temper, rage or violence, the format of the discussion is particularly important. In such cases, the discussion should take place in a public setting such as a coffee shop or restaurant. In advance of the discussion, you should put in place a plan in which you have enlisted the aid of a trusted friend or family member who you can contact and who will obtain assistance for you if necessary. If you are not going to return to your home following the discussion, you should make arrangements, in advance of the discussion, to have your personal items, basic clothing, your checkbook and other vital information in your possession.

Fortunately, in the majority of cases, such extreme pre-planning is not necessary. Although there may be some initial anger, hurt feelings and recrimination, most couples will be able to move past those reactions and evolve to some reasonable level of communication. Assuming that you are able to move forward, the matters which you should then begin to discuss with your spouse are:

A. How you are going to tell your children.

A joint approach which assures the children that the divorce is not their fault and that, notwithstanding the divorce, both parents will remain significant participants in their lives is by far the best and most assuring conversation you can have with your children. It is important not to cast blame on either parent or to degrade or insult the other parent.

B. Short term access to funds.

Each party should have short term access to necessary funds for day-to-day expenses, spending money and the like. Certain accounts or funds may incur penalties or fees if withdrawn. Certain funds may also be considered joint property and you may be required or even ordered by a court to pay the other spouse back.

C. Continuation of payments for basic bills.

Simply because you and your spouse have elected to separate or divorce, does not mean that your mortgage, telephone, electric, automobile payments, credit cards and other bills do not have to be paid. You should come to some fair interim arrangement for the allocation of those bills. If you do not, the consequences of non-payment will initiate action by the banks, utility companies & credit card companies which will unnecessarily complicate the matter and adversely effect your credit.

D. Parenting time and obligations.

In most cases, both parents should have continuing, meaningful contact with the children. You should approach those discussions with an eye toward your respective work responsibilities, work schedules and, perhaps more importantly, the children's schedules and their needs. In many cases it is equally important that each of the parents participate and assist in transportation to and from

school activities, extracurricular and sporting activities and other responsibilities for the children. For one or the other of you to leave all of those responsibilities to your spouse is certainly unfair to your spouse, and, most importantly, extremely unfair to your children and their right to have their lives and activities proceed without unnecessary interruption as a result of your marital issues.

E. Continuation of medical, life, car insurance policies.

Both parties should maintain the insurance policies in the same manner as existed prior to the decision to separate and divorce. Generally, both parties will benefit financially with lower rates and premiums by obtaining insurance as a marital unit. There is no reason to not take advantage of this savings until the divorce is final. In addition, under certain circumstances, the law may require the policies to remain unchanged throughout the divorce process.

In addition to these basic issues which *should* be included in your discussions, there are certain issues which *should not* be discussed. For example:

A. This is not the time to rehash all of your spouse's faults and shortcomings. This is the time to have some constructive discussions on a going forward basis. You are not going to convince your spouse that he/she is the sole basis for the breakdown of the marriage and insistence to do so will simply create unnecessary animosity and impair your ability to direct the conversations toward constructive issues.

B. Do not make unnecessary or unreasonable threats. It is relatively common that under the stress of the moment, a party will make threats to the effect that "you will never see these children again," "I am going to take everything you have," or "you'll never get another penny from me." Such statements are not only foolish, impossible to achieve, and seldom in anyone's best interest, but set an extremely confrontational tone and impediments for future discussions.

C. Do not say or do anything you would be embarrassed to have the Judge see or ultimately hear. From this point forward, your conduct and statements become relevant to the overall litigation process and will undoubtedly be disclosed to the Court. Immature, hostile and confrontational statements are often irreversible and create an inappropriate and lasting impression that will not work to your advantage as the matter proceeds. Those "colorful" and detailed e-mails to your spouse which may have seemed appropriate when you sent them will be regretted months later when read by a hearing officer or judge.