



WHAT YOU ALWAYS WANTED TO KNOW **ABOUT DIVORCE,** BUT WERE **AFRAID TO ASK**

By Audrey B. Schneiderman, Esq.

When one is facing divorce, he or she is cranky at best, but, more realistically, overwhelmed, bewildered, confused, and terribly alone. All too often, important questions go unasked and unanswered. To that end, I have compiled some of the questions that need to be asked.

Question: How should I choose an attorney?

Answer: There are many ways to choose an attorney who fits your circumstances. Often the prospective client gets the name of an attorney through a friend or through an advertisement. Only two or three attorneys should be interviewed, more than that becomes cumbersome and overkill. When interviewing a lawyer, concern yourself with how comfortable and how at ease you feel in his or her presence. Recently, a prospective client came to interview me and said, "You are not telling me what I want to hear." Consequently, I did not hear back from him. Don't dismiss someone just because what you hear is not what you like. Rather, look to see who allows you to ask questions.

Question: What is meant by "no fault"?

Answer: Florida is a "no fault" state, which means that neither spouse needs a reason to get divorced. While it takes two to get married, it only takes one to get divorced.

Question: Will I receive support for my children and myself?

Answer: Often, once the proceedings begin, the spouse with the greater earning capacity will voluntarily provide temporary support to the other (including child support).

If not done so voluntarily, the attor-

ney for the needy spouse will go into Court, seeking temporary relief. The Judge will assess the finances of the parties and order both temporary alimony and temporary child support, and could also include an award for temporary attorneys' fees, and assign child's needs and activities as well, i.e., school or camp tuition.

In Palm Beach County, prior to asking the Court for temporary relief, the Court requires mediation, which facilitates settlement of these temporary support issues without Court intervention.

Question: Who pays attorneys' fees?

Answer: In Florida, attorneys' fees are awarded on the basis of "need and ability to pay." Translation – the spouse with the greater ability to pay must pay attorneys' fees for the other. The rationale behind this is that if one spouse has no income because he/she has been the "stay at home" parent, he/she will not be at a disadvantage because he/she cannot afford an attorney. Both parties are on an equal playing field.

Question: Can I leave my home and, if so, will I be charged with abandonment?

Answer: One spouse can leave the home and not be afraid of losing his/her home. The marital home will still be considered a marital asset and subject to equitable distribution, whether or not the parties are both currently residing there together.

Question: Will I be entitled to one-half of our assets?

Answer: Florida is an "equitable distribution" state. This means that there is a presumption that marital

assets should be divided equally. However, if one spouse has an unusual or extraordinary interest in a marital asset (i.e., one spouse contributed much more than the other), the Court may consider, at its discretion, this contribution and divide the asset other than 50/50.

While the divorce process is both foreign and frightening to most, finding the answers to your questions should not be dependent upon outsiders. The assistance of a professional to guide you through the maze of the Court system is vital to the successful conclusion of this unfortunate stage of your life and, thereby, leaves you with the ability to move forward. **stb**

—Audrey B. Schneiderman has been practicing law in Palm Beach County for 15 years. She is a partner in the law firm of Feldman & Schneiderman, P.L., with emphasis on family law. She is a graduate of the University of Wisconsin and Rutgers School of Law. Reach her at 561-392-4400 or at aschneiderman@feldmanlawoffice.com.



AUDREY B. SCHNEIDERMAN, ESQ.